Legislative Council

Wednesday, 14 May 2008

THE PRESIDENT (Hon Nick Griffiths) took the chair at 2.00 pm, and read prayers.

LEAD EXPORTS — PORT OF FREMANTLE

Petition

Hon Simon O'Brien presented a petition, by delivery to the Clerk, from 90 persons requesting that the Legislative Council oppose the export of containerised lead concentrate through the port of Fremantle.

[See paper 3985.]

CARERS ADVISORY COUNCIL REPORT — COMPLIANCE WITH THE CARERS RECOGNITION ACT 2004

Tabled Paper

HON SUE ELLERY (South Metropolitan — Minister for Seniors and Volunteering) [2.02 pm]: I present for tabling the report of the Carers Advisory Council to the Minister for Seniors, titled "Building Tomorrow's Partnerships Today", regarding compliance with the Carers Recognition Act 2004. I am pleased to note that Carers Advisory Council representatives are in the gallery today.

[See paper 3983.]

PAPERS TABLED

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

PUBLIC TRANSPORT AUTHORITY AMENDMENT REGULATIONS 2008 — DISALLOWANCE

Notice of Motion

Hon Ray Halligan gave notice that at the next sitting of the house he would move —

> That the Public Transport Authority Amendment Regulations 2008, published in the *Government Gazette* on 29 February 2008 and tabled in the Legislative Council on 13 March 2008 under the Public Transport Authority Act 2003, be and are hereby disallowed.

WESTERN AUSTRALIAN ABORIGINAL CHILD HEALTH SURVEY

Motion

Resumed from 7 May on the following motion moved by Hon Barbara Scott —

> That this house urges the state government to —
>
> (1) take seriously the "Western Australian Aboriginal Child Health Survey — Strengthening the Capacity of Aboriginal Children, Families and Communities", volume 4;
>
> (2) set some realistic and achievable time frames for the implementation of the recommended actions;
>
> (3) establish an inter-government agency approach to prioritising the recommended actions; and
>
> (4) ensure programs build capability in families and communities with Aboriginal and Torres Strait Islander children.

HON SUE ELLERY (South Metropolitan — Minister for Child Protection) [2.03 pm]: I seek your guidance, Mr President. Before the debate on this motion was interrupted, Hon Shelley Archer was in the process of making some comments. Hon Shelley Archer is not in the chamber today, but I know that she would like to have the opportunity to continue her remarks. I seek leave of the house for Hon Shelley Archer to continue her remarks at a later stage.

Leave granted.

The PRESIDENT: Order! The question now is that the motion be agreed to.

Points of Order

Hon NORMAN MOORE: Mr President, I am not aware of any other member who wishes to speak on this motion. If no other member wishes to speak—I am surmising here—does that mean that the motion will now be put, or does that mean that the motion will not be put until the next sitting of the house?

The PRESIDENT: If there are no other speakers, the question will be put, and it will go one way or the other. If Hon Shelley Archer is not here prior to when the debate ceases, then that is how the system will operate.

Hon BARBARA SCOTT: Mr President, do I as the mover of the motion have a right of reply?

The PRESIDENT: Yes. The question is that the motion be agreed to. There are no other speakers on the motion. Therefore, does Hon Barbara Scott wish to exercise her right of reply?

Hon BARBARA SCOTT: Mr President, I am not sure whether it is appropriate that I do that when the debate has not been finalised.

The PRESIDENT: Order! I have invited the house to consider the question. There are no other speakers. It seems that Hon Barbara Scott wishes to close the debate by exercising her right of reply. Alternatively, someone may wish to move that the motion be adjourned, which will then make it an order of the day. I am in the hands of the house. The fact that a member who wants to speak on the motion is not here is really a matter for that member, although she has been given leave to speak at a later stage. The question is that the motion be agreed to.

Hon SIMON O'BRIEN: Mr President, as a point of clarification, I am very interested in this debate, and we have heard some interesting contributions from a number of members. I am sure that Hon Barbara Scott wants to close the debate, and to take the opportunity to thank members for their interest and to respond to some of the issues that have been raised. Perhaps it was not clear that we were about to come to the final opportunity to do that. I just want to say that I have appreciated the debate very much —

Hon Kim Chance: As we all have.

Hon Ken Travers interjected.

Hon SIMON O'BRIEN: Hon Ken Travers is asking me to canvass the entirety of the debate. If there is general agreement around the house that members wish me to speak at length, I will do that. However, I think Hon Barbara Scott is in a far better position than I to do that.

Hon Ken Travers: It will be the highlight of the debate when you sit down!

Hon SIMON O'BRIEN: When I sit down, it will probably be the highlight for me as well! Thank you, Mr President.

Debate Resumed

HON BARBARA SCOTT (South Metropolitan) [2.07 pm] — in reply: This motion has taken up quite some time of the Legislative Council. This is a very important issue for all Western Australians. In moving the motion, I have asked simply that the government of the day take note of the recommendations of the Western Australian Aboriginal Child Health Survey and give some priority to those recommendations. My great disappointment is that this government clearly has not responded to the serious issues that are confronting Aboriginal children in Western Australia today. I was interested to hear the remarks of Hon Shelley Archer, and I would certainly like to pursue with her some of the matters that she has raised by way of questions to the Minister for Local Government, and others, about those issues. I have highlighted in *Hansard* the questions that Hon Shelley Archer asked of the government. The minister responded by moving an amendment, which opposed what I was suggesting. As we know, that amendment was defeated.

I note with interest that this morning's newspaper highlighted the reports of John Sanderson. Apart from raising the issues of housing and health and education intervention in the initial debate, I spoke about providing employment for Aboriginals. The government is sitting on another report produced by John Sanderson, special adviser to this government, which it will not release. I have yet to see that report.

In moving this motion on the Aboriginal Child Health Survey, I highlighted the issues that seemed to be most important. If we can get people into jobs, Aboriginal communities would be far better off. If the minister is aware of the report from Lieutenant General Sanderson, I ask whether there are any answers to the questions that might have shed some light on his recommendations. He is obviously a very highly regarded person in the community. That is why the government invited him to write a number of reports. I have all of his reports with me. He wrote reports about the directions that he suggested that would, if taken, solve some of the issues in the Aboriginal communities in Western Australia. The health survey conducted by Kulunga Research Network of the Telethon Institute for Child Health Research covered the issue of employment. Housing was a big issue. There was very little in this budget that pointed to a solution.

I maintain that the motion moved in my name that urges the state government to take seriously the "Western Australian Aboriginal Child Health Survey—Strengthening the Capacity of Aboriginal Children, Families and Communities" needs to be taken seriously. We need to set some realistic and achievable time frames for the implementation of the recommendations and we need to establish an intergovernmental agency approach to prioritising those actions. Whilst the minister canvassed in her response some of the moves and changes that indicate that there is some intergovernmental cooperation, there still seems to be very little change in the

education achievements of Aboriginal children and very little change in housing for Aboriginal families. When I speak about Aboriginal families—the minister made this very clear in her response—I am not talking about all Aboriginal families. This survey was of 5 000 families in Western Australia. It was the most extensive survey ever conducted. We know that there are very good functioning Aboriginal families. The fourth volume of the results of the extensive survey by the Telethon Institute for Child Health Research documented the health, wellbeing and education of four to 16-year-old Aboriginal children in Western Australia today. It looked at the percentage of children who were underachieving in the development of their capacities and competencies. The high percentage of children who are not achieving an acceptable level of competencies and capacities is of major concern to me. Sincerely and realistically, we need to be doing more than is being done at the moment. As I said, I would have been interested to listen to Hon Shelley Archer explain whether she was satisfied with the answers that were given to her.

I will not recount the percentages of the appalling results that are detailed in the report. The summary document sets out very clearly issues such as the socioeconomic wellbeing of Aboriginals, the life-stressing events that many of them have to live through and the lack of housing, proper nutrition and educational outcomes for Aboriginal children in Western Australia.

Although there has been a response from the government, it is not good enough. It is an appalling record. The World Health Organisation, an international organisation that assesses where our children are at, says that our Aboriginal children are well down on the radar compared with many other countries. The report says that there are significant differences in characteristics of communities with Aboriginal children across levels of relative isolation, from urban settings to areas of extreme isolation. There can be vast differences in the level of maintenance of language and traditional culture, the experience of neighbourhood community problems and access to services and facilities. There are many neighbourhood and community problems with drug abuse, alcohol abuse, family violence and families splitting. It was often reported to the investigators that primary caregivers were living in areas of moderate isolation. That was one of the community problems. They had problems of break-ins, car stealing and noisy and reckless driving. Youth gangs were most commonly reported by primary carers in Perth. Racism is a neighbourhood problem. These problems do not occur just in the isolated Aboriginal communities. This health survey looked very deeply into education outcomes and made recommendations to increase the competencies of a high number of Aboriginal children in Western Australia.

I talked about life-stress events. Most of us deal with only one or two life-stress events, whereas in the 12 months prior to the survey, it was found that one in five—that is 22 per cent—Aboriginal children aged zero to 17 were living in families to whom seven to 14 major life stress events had occurred over the past 12 months. These events interfere with developing competencies in children. I ask members: why can most of us in this chamber raise competent children? If we examine the competencies of the normal population we can see that it is almost unfair to expect normal competencies to develop in the 22 per cent of Aboriginal children who live with major life stressors. It is just not possible for them to develop the normal competencies that other functioning families, including Aboriginal families, can develop.

I talked also about the day-to-day interventions that are recommended for mothers and babies in the early pre-natal and post-natal years that are supported by the science I presented from the eminent Dr Fraser Mustard. There is now incredible neuroscience that can provide parents with parenting skills that in the past were expected to be natural or innate—skills that, fortunately, many of us have been given. We did things naturally with our babies, such as feeding and clothing them well, speaking to them, reading to them and creating a stimulating environment for them. There is now neuroscience that tells us that early brain development is absolutely critical to later competencies, which can determine such matters as intelligence quotient. Having studied psychology many years ago, I was of the conviction that a child's IQ was set from birth. However, that has been disproved by neuroscience, which tells us that the development of the brain can be influenced by understanding the brain pathways. There is a phrase that comes to mind: use it or lose it.

I am afraid that the months and years have gone by and we are now talking about a survey that was conducted in 2006. My motion urges the government to urgently implement some of the recommendations of the Western Australian Aboriginal Child Health Survey, or at least prioritise them and consider them important, so that the lives of the percentage of Aboriginal children who are so very far behind their peers can be turned around, because unless they succeed early they will not succeed at all.

As I said, a series of questions on notice were asked by Hon Shelley Archer about programs that were put in place. I found some of the answers to those questions dismissive and unacceptable. For instance, Hon Shelley Archer asked about the homemaker-type program that was to be culturally appropriate. Although the program has been extended, many answers to Hon Shelley Archer's questions used terminology such as the minister would answer in further detail at a later stage. That is not to me all that acceptable. Hon Shelley Archer asked questions specifically about the recommendations in the report on the survey. Hon Ljiljanna Ravlich answered a number of the questions about homeownership and other matters. For instance, a question was asked about recommendation 22 of the report, which stated —

> The ongoing implementation of the Overcoming Indigenous Disadvantage . . . framework should require Australian governments to identify the dollar amounts and proportions of spending dedicated to addressing each of the OID headline indicators . . .

The minister replied —

> At the 14 January 2008 meeting of Commonwealth and State Treasurers it was agreed that all jurisdictions will cooperate in the development of a national framework for reporting expenditure on Indigenous services. The purpose of developing a national framework for reporting expenditure on Indigenous services is so that Commonwealth, State and Territory Governments have a greater understanding of the level and patterns of expenditure in relation to Indigenous people. This information can then be used in combination with other performance information such as the Report on Government Services and the Overcoming Indigenous Disadvantage Report, to determine how appropriately targeted and effective their programs are in reducing Indigenous disadvantage.

Although that is all well and good, the government still has not, as I said at the outset, prioritised the recommendations or an action plan. In my conversations with Professor Fiona Stanley, she said that this fourth report was a blueprint for government to overcome the disadvantages and the areas of concern for Aboriginal children. Although the minister's response to me was that in fact Fiona Stanley had said there had been a big change, as recently as April this year at an Oxfam function Fiona Stanley was still very strong in her belief that there was a huge gap between some children in Aboriginal communities and their peers that needed to be filled. That, in itself, is an indictment on governments for their failure to recognise that this is not an issue that we can sit and talk about in committees with it forever sitting on the agenda as a topic to be discussed; it is a matter that must be acted upon.

Therefore, in speaking to my motion, I must say that I am convinced that the Telethon Institute for Child Health Research has done and continues to do a remarkable job for the children of Western Australia. My motion as it stands urges this state government to take these recommendations seriously and to set some realistic and achievable outcomes. I am sure that my colleague Hon Peter Collier would agree that probably the very first place to begin would be to examine the numeracy and literacy levels of Aboriginal children and to make an attack on those levels very early on. That will not happen if the first intervention is testing at year 3; it must happen much earlier than that. I have set out how we can do that. This report refers to intervention with new mothers in an attempt to avert the situation that occurs too often of Aboriginal girls having babies at a very young age, and how to put in place practical interventions to teach those mothers very basic nutrition, how to manage finances, how to look after babies, how to breastfeed and how to make sure that they and little children have a safe place to sleep. A safe place to sleep, to grow, to play and to learn should not be something that this state, and this nation generally, should find insurmountable. I know it is not easy; it is complex. Nevertheless, the purpose of placing my motion on the notice paper a year ago was to motivate the government. I am still not convinced that the government has sought to prioritise these as urgent matters and set a time frame for the implementation of recommendations made in the Western Australian Aboriginal Child Health Survey. I urge the government to release John Sanderson's report on Aboriginal employment that was spoken about today. As we know, if Aboriginal people who are able to be employed are sitting around in Aboriginal communities where the indicators are that children are not attending school, not being fed, not achieving properly at school and are being neglected, we need to know how we can employ them. Why has the government spent all that money on engaging someone as competent as John Sanderson to provide a report, only for the government to sit on and not release it? There must be something in it that reminds the government of a job not being done properly.

With those words, I urge every member to consider that this is an issue about a high percentage of Western Australian Aboriginal children who are falling between the cracks into what we call "the gap". As a state, and a nation generally—this government in particular—we should hang our heads in shame by not doing what the Western Australian Aboriginal Child Health Survey actually recommends. Many children will be caught in that gap. If we wait six months, a year, two years or three years, it will be almost too late. By then, the children will be three, four, or five years of age, which is too late to redirect their lives into successful situations in which they have competencies similar to those of the majority of the population. I urge the house to support this motion and to send a very strong message to the government of the day that the survey is a very large blueprint for action, and should not be the subject of many more intergovernmental or other meetings. The recommendations are clear and they should be looked at with a view to asking: how do we implement these recommendations to address these urgent issues that cause so many of our children in Western Australia to fall behind what should be an acceptable standard of health and education in the first instance? The government should be shamed into taking hold of this document and making sure that those very important but simple recommendations are taken on board and funded. I ask that members support this motion so that it sends a very strong message to the government; namely, that many children of Western Australia, especially Aboriginal children, are living in Third World conditions with no sight of achieving competencies or capabilities that will find them a job in the future or

lead them into heading competent families so that, in turn, the next generation can nurture and raise children who will develop those competencies that we take for granted in most communities in Western Australia.

This report has highlighted something that is shameful for Western Australia. I have offered a number of suggestions throughout my remarks for housing and intervention programs that I know work. I have endeavoured to highlight the 23 major recommendations in the report. I urge the government to take another look at the recommendations and see what it can do about implementing them. I commend the motion to the house.

Question put and passed.

ALCOA — SUPPLEMENTARY PROPERTY PURCHASE PLAN

Motion

HON ROBYN McSWEENEY (South West) [2.35 pm]: I move —

> That given the serious concern expressed by landholders regarding the compensation processes related to the current Alcoa expansion, the Standing Committee on Environment and Public Affairs be required to conduct an inquiry into the fairness and just terms of the supplementary property purchase program, and to report back by 14 August 2007.

This motion was placed on the notice paper on 19 June 2007, some 11 months ago. The reason for doing this was the concern of landholders about the fairness of the process. This motion has absolutely nothing to do with the United States public health campaigner Erin Brockovich nor the health problems that some people have been diagnosed with. Hon Bruce Donaldson and I spent four or five years looking into the liquor burner problems and the problems that arose with Alcoa at Wagerup, and I do not intend to go over that report. Areas A and B are well known to us; we covered them in the report, although later some changes were made to include other parts of the community. It took a long time and was extremely thorough. My sympathy went out to those people who were diagnosed with health problems and I stress once again that this motion has absolutely nothing to do with health or Erin Brockovich. My sole interest was in private property rights and whether Alcoa was treating people fairly under the supplementary property purchase program known as the SPPP.

In my opinion, the motion achieved what I wanted it to; namely, to get Alcoa and the government working faster than they were doing some 11 months ago. I thank Hon Kate Doust for arranging a briefing on the SPPP scheme for me, Hon Barry House and Hon Nigel Hallett. The briefing was probably two months ago now and I expect things have moved on even since then. I am satisfied with the progress and how the negotiations are continuing. I can only go on what the government advisers have told us, although I certainly have no reason to doubt what I have been told. I trust the negotiations that are taking place with the farmers on the like-for-like scheme will continue to be dealt with fairly and expediently. I have a great deal of sympathy for the farmers who are leaving their properties and understand how hard it will be to find like-for-like places—in some cases it will be almost impossible. Perhaps it should not really have been called a like-for-like scheme. Hon Nigel Hallett pointed out that the SPPP was for only the farmland component and improvement, but did not cover the cost of the house. He may comment on this later. From my point of view, this seemed to be unfair, as the house should be part of this process. From a woman's point of view, the house is traditionally her castle, especially on a farm. I am generalising, but have been around farms for many years now and the house is an important part of any farm. How much are houses worth these days—half a million dollars? I expect some farms that are part of negotiations contain nice houses. It is up to the government to satisfy the community that it has done the right thing with the SPPP scheme for, and by, the community that surrounds Alcoa.

I have a recent briefing note from Hendy Cowan that I will read into the record. It contains four headings. The first is the fairness and just terms of the compensation arrangements. The second is the main issue obstacles preventing the implementation of the SPPP and the third is the number of property owners who have availed of the SPPP and the number of property owners who are still without a settlement. The fourth is any recent or proposed negotiations between Alcoa and the remaining property owners. The briefing note states —

> **a) the fairness and just terms of the compensation arrangements;**
>
> The Deed of Undertaking — Expansion of Wagerup Alumina Refinery makes provision for two payments to be made to eligible property owners who participate in the Supplementary Property Purchase Program (SPPP). If an eligible property has been valued by a licensed valuer using the current market value method and the owner accepts the price contained in the valuation report, Alcoa is obliged to purchase the property for that price . . .
>
> Where the owner of an eligible farm property wishes to relocate their farming business away from the vicinity of the Wagerup refinery, the owner may be entitled to receive an equalisation payment to assist in moving to a new "like for like" property . . .

> While there is no reference in the Deed of Undertaking to compensation, if this question can be interpreted in such a way that relates to the fairness and just terms of those provisions in the Deed of Undertaking that govern payments to eligible property owners, several matters stand out.
>
> 1) The current market value method . . . used by licensed valuers in assessing the value of an eligible property delivers what is known as "affected market value". When properties are valued using this method it is usual for property owners in the vicinity of the refinery to claim their property has been undervalued and that a "fair market price" has not been reached.
>
> 2) With regard to an equalisation payment, with two exceptions, those property owners who exercised the Farm Business Continuation Option (FBCO) in their SPPP application have been unable to move to a new "like for like" property because of a dispute between the Administrator and Alcoa over the methodology that may be applied to determine the eligibility for and amount of any equalisation payment. Until the dispute is resolved all SPPP applications in which the eligible property owner exercised FBCO have been suspended.
>
> 3) The number of eligible SPPP applicants has been greater than anticipated and it has not been possible to comply with the timelines contained in the deed. There have been incidences where the provisions of section 6.2 of the Deed have been invoked by Alcoa and eligible properties have not been purchased.
>
> **b) the main issue(s) obstacles preventing the implementation of the SPPP;**
>
> There are two matters that have delayed the completion of the SPPP
>
> 1) More than 200 property owners submitted an expression of interest in participating . . . Of those 188 were deemed to be eligible and between them they owned more than 400 properties. At the commencement of the Program, the Government provided the names of two licensed valuers . . .

I will not read their names because it is not important —

> The Government and Alcoa were notified in April 2007 that the work required to conduct more than 400 valuation reports would extend the Program beyond the 30 June 2007 cut-off date. A third valuation company . . . was added to the list of approved valuers, but it has not prevented some eligible property owners receiving their valuation well after 30 June 2007. At that time Alcoa did indicate that provided property owners registered before the due date (3 April 2007) and were deemed eligible to participate in the Program, every endeavour should be made to complete their application according to the terms of the Deed.
>
> 2) The suspension on 1 June 2007 of that part of the Program that relates to those property owners who exercised FBCO in their SPPP application. During the early stages of the Program when applying the provision contained in Schedule 3. Sections 3.1, 3.2 and 3.3 to determine an equalisation payment that may be paid to an eligible farm property owner who wished to move to a "like for like" property, the amount of such a payment, when calculated usually represented more than 50 % of the value of the farming components of the eligible farm property. Alcoa has objected to my determinations and refused to pay all but two of the equalisation payments. All SPPP applicants who exercised FBCO have had their applications suspended until there is agreement between the Government and Alcoa about how the equalisation payment may be satisfactorily determined.
>
> **c) the number of property owners that have availed of the SPPP and the number of property owners remaining without a settlement;**
>
> 203 property owners applied to participate . . . 188 were deemed eligible and their properties have been or are to be valued. I am not aware of the number of eligible property owners who have accepted their valuation (the "offer" by the company) and are yet to reach settlement. However, there are 34 property owners who have either not received their valuation or have not conveyed to me their acceptance of the "offer" by the company.
>
> . . .
>
> I am not party to any negotiations which may take place between Alcoa and eligible property owners. As Administrator it is my task to determine those property owners eligible to participate in the Program. If they are eligible then their properties are valued according to the provisions in the Deed. When the property owner receives a valuation report and agrees to sell the property, Alcoa is informed and the company assumes responsibility for completing the purchase.

That was a briefing note from Hendy Cowan, who is the administrator of the SPPP program. I can only go back to what I said before. From the briefing I was given, I am satisfied with the progress and how the negotiations are continuing. I can only go on what the government has responded to in the house. I believe that the negotiations have continued. I await the government's response.

HON PAUL LLEWELLYN (South West) [2.46 pm]: I take the house back a few months to the origin of this motion to put it into context. I moved a disallowance motion in this place relating to the expansion of Alcoa's refinery operations at Wagerup from 4.6 million tonnes to six million tonnes, which would have represented a significant expansion of the operations at Wagerup and resulted in considerably more emissions coming out of the Wagerup refinery. That expansion must ultimately result in a greater number of impacts on the local community. The Greens (WA) and I believe that a fair and just mechanism is needed to compensate people whose lives, communities, lifestyles, children and homes have been disrupted because of an agreement between the state of Western Australia and the American company Alcoa. That decision has compounded the future impacts on those communities—prima facie.

When negotiating compensation for a property purchase program, the buyout must be on fair and just terms. When the Premier, Alan Carpenter, and the then Minister for the Environment, Mark McGowan, announced the expansion of the refinery, they laid out not only the new conditions the refinery was meant to operate under, but also the provisions for a compensation or buyout package. I will quote from a media statement issued by the Premier and the now Minister for Education and Training when he was the Minister for the Environment —

> The Western Australian Government has given the green light to another massive resources project, granting environmental approval today to Alcoa's proposed Wagerup expansion.
>
> Premier Alan Carpenter said the approval included 42 environmental conditions, which would result in Alcoa Wagerup being the most regulated refinery in the world.
>
> The conditions on the proposed expansion would ensure no overall increase in emissions and would require Alcoa to achieve an estimated 36 per cent reduction in total refinery odour emissions and a 12 per cent reduction in emissions of volatile organic compounds.
>
> Mr Carpenter also announced the appointment of former National Party leader and Deputy Premier Hendy Cowan to oversee the implementation of a new land purchase program, fully funded by Alcoa, for residents in the vicinity of the Wagerup project.
>
> The proposed expansion was expected to create up to 260 permanent jobs in the Wagerup region, with the construction phase generating 1,500 jobs.
>
> The Premier said the approval was part of a six-point package negotiated by the State Government and agreed to by Alcoa to address environmental, economic and social concerns in Yarloop and surrounding areas.

Alcoa's emissions have primarily impacted on Yarloop, and that has been the focus of the community campaign to achieve fair and just terms. Their lives have been impacted on as a result of a government decision to expand a facility that is already having adverse impacts on that community. The statement continues —

> Mr Carpenter said today's decision showed the Government was keen to secure major projects for WA but not at the expense of the environment or the health and welfare of local communities.

That the government does not want to secure major projects for WA at the expense of the environment is arguable. The Greens could list the extraordinary range of environmental impacts of allowing this very large expansion of the Wagerup refinery. I refer to the impact on the northern jarrah forest; the impact of mining operations on our water catchment areas; and the impact on the northern jarrah forest ecosystem as a result of the spread of dieback. The clear-felling and strip mining of the northern jarrah forest would not happen this way anywhere else in the world. I refer also to Alcoa's emissions file. Nearly 70 per cent of the state's gas resource is burned at Alcoa's facility, which creates greenhouse gas emissions. The crushing, boiling and burning of caustic soda in the production of the alumina liquor and the emissions that come from the liquor burners is causing a toxic cocktail that has to have environmental and health impacts on the community. This issue is a bit like the lead contamination issue in Esperance. If we muck around with this stuff, we will experience downstream environmental and health impacts. I will take the Premier at his word that the government is keen to secure major projects for Western Australia but not at the expense of the environment or the health and welfare of local communities. We now have to deal with the health and welfare of certain local communities. I will not trawl through the considerable body of evidence that proves that the health and welfare of people in the south west region has been impacted on. No-one can dispute that if 25 per cent of global alumina production is put into four alumina refineries on the Swan coastal plain and if a refinery that has already reached its carrying capacity of the local airshed is expanded, the adverse impact of those refineries on the health and welfare of people in the local community will be exacerbated. The refinery cannot be expanded without expanding the impact that it has on the local community. There has already been a considerable impact on the Wagerup and Yarloop communities, not least because of the previous compensation packages that were put in place by the government and Alcoa. In the context of this debate, the supplementary property purchase program arrangements are far less generous than any of the previous arrangements. I will lay those out. The Premier's press release continues —

> "The well-being of people in Yarloop and surrounds has been central to our thinking and is reflected in the six-point package," he said.
>
> The package includes:
>
> - 42 conditions which would see the Wagerup facility subject to the toughest and most stringent environmental requirements on a refinery anywhere in the world;

I love it when the government claims that Western Australia is better at something than any other state or country. I am ready to accept that the Wagerup refinery is the best and cleanest alumina refinery anywhere in the world. However, it continues to have an indisputable impact on surrounding communities. Those communities are entitled to an exit package on fair and just terms. The opposition supported the government decision to expand Alcoa. However, Hon Robyn McSweeney moved a stopgap motion, which reads —

> That given the serious concern expressed by landholders regarding the compensation processes related to the current Alcoa expansion, the Standing Committee on Environment and Public Affairs be required to conduct an inquiry into the fairness and just terms of the supplementary property purchase program, and to report back by 14 August 2007.

For all intents and purposes the supplementary property purchase program has largely been completed. People have been paid out, sometimes accepting payments under duress. The question is: were those payments made on fair and just terms? The matter is not over simply because some people have been paid. I have heard Hon Barry House, Hon Nigel Hallett and Hon Robyn McSweeney debate other property rights issues in this place. They have all argued that we should take a profound stand to protect the property rights of individuals and to protect the interests of people when they are involved in property transactions. The SPPP package issue is not over just because Alcoa has paid 154 of the 189 applicants and because only 35 have to be signed off on. The question is: were the payments made on fair and just terms? This is a matter of principle. We are not talking about Alcoa's emissions profile, the possibility of a damages claim against Alcoa or speculation that an American woman will take up the cause of the people concerned. Am I waving my hand around too much?

The PRESIDENT: Hon Paul Llewellyn has the call. I am merely indicating to a member how she can get to her seat without breaching the standing orders.

Hon PAUL LLEWELLYN: And without me bashing her on the head with my hand, because I was getting rather passionate.

The PRESIDENT: If Hon Paul Llewellyn wishes to continue to speak, he should do so; otherwise, I will give the call to another member.

Hon PAUL LLEWELLYN: Thank you, Mr President; I see your point. We are making the point here that for the supplementary property purchase program to be founded on fair and just terms, it sits with an analysis of the exact terms and outcomes of those particular transactions, not whether they were done or not. From the documentation that Hon Robyn McSweeney read from, and I have similar documentation, the administrator of the program has been far from happy about whether he has been able to deliver fair and just terms to the community. There is therefore a problem. I believe that this motion should be supported on principle by both us and the Liberal Party, because there is a case to be answered.

I have been asking a string of forensic questions in this place of the government about the terms of that SPP program, and we are not getting straight answers.

Hon Kate Doust: Are you saying that the government is misleading you?

Hon PAUL LLEWELLYN: I am saying that we are not getting straight answers, and we are certainly not getting timely answers; in fact, we are getting contradictory answers on the matter. I can support that, and I will support that, if the parliamentary secretary would like that.

Putting aside the environmental arguments and whether there were or were not tangible and measurable health impacts, a very large community of people has been dislocated because the government and Alcoa have chosen to expand a refinery. That community is entitled to compensation, as the Premier and this agreement act have quite clearly laid out. Quite clearly, the people are entitled to special treatment to enable them to shift out of harm's way and out of the shadow of the Wagerup refinery. If that is the case, the only argument is: are we all satisfied that they have not been poorly done by? We can take it from the minister, the parliamentary secretary or the advisors from the Department for Planning and Infrastructure, and whoever else, that they are completely satisfied that they have administered and signed off on all the deals, but we cannot take it that there has been a fair process. I will lay that out now.

Hon Kate Doust: If you are saying that it is not fair, what do you think they should have been compensated? Is the member not interested in answering that question?

Hon PAUL LLEWELLYN: Mr President, the community has laid out what it wanted from this process. Remarkably, and very humbly, they have laid out not an ambit claim but a reasonable claim, which says that all they wanted to do was to be able to move out of that area because of the health impacts and the fact their community was disintegrating around them. They wanted to move out of harm's way near that refinery and to find a nice place to live and have quiet enjoyment, because that is what they had prior to Alcoa and the government agreeing to put a refinery in their backyard in 1978 and the operation of that refinery. Before then, they had quiet enjoyment of their homes. People of this community are entitled to that, and under this arrangement they are entitled to find an equal place to live out the rest of their lives. Many of these people have suffered impacts on their health, lifestyle and so on, but they are not making an issue about that. However, it provides a sound case for them wanting to be moved from that area on fair terms.

If members want to know what the community thinks, not what Hon Paul Llewellyn the member for the South West Region believes that they want, members should go to the Community Alliance for Positive Solutions Inc website, which shows the alliance has 300 supporters and 70 paid-up members and that numbers are growing. Those figures are from spring 2005. They set out their goals on that website. Some residents have expressed concern about relocating the town. They wanted to pick up Yarloop and put it somewhere else out of harm's way. That would have amounted to building a subdivision somewhere further away from the coast, not something that would have cost multi-multimillions of dollars. This entire community could have been taken 25 kilometres away out of harm's way to an entirely new subdivision and it would have been satisfied; but, no, the method chosen has been to pick them off one at a time and pay them for their properties at the affected value. In other words, if they had a property that was worth $100 000 and Alcoa put a refinery there, the property would get a bad name, in a similar way to having bad neighbours, and so the property value would go to $80 000. They would be paid $80 000—the affected value. How fair is that? I say that it is not very fair. Where is the justice in it? If they were to be paid $80 000, Yarloop and the Waroona area would be the only area in Western Australia in which property prices have gone down. How fair is it that a compensation payment should be based on the affected value? That is what needs to be inquired into, not whether some bureaucrats have ticked all the boxes, checked all the squares and made the case that nearly everyone is out of the area so "she'll be right mate" and it is all okay; it is not so, and that is not the matter before us. The group calls itself the Community Alliance for Positive Solutions. How generous is that community? It is a community that has been poisoned by Wagerup refinery, suffering health impacts and community disintegration. It formed an alliance called the Community Alliance for Positive Solutions. The group writes —

> Therefore, CAPS propose that:
>
> 1. The recommendations of the CSIRO Research study of July 2003, as approved by the community, be implemented by ALCOA as soon as possible, with emphasis on the health and social impact.

Perhaps some of that has been done, but I doubt whether all of it has been done. It continues —

> 2. The entire towns of Yarloop/Hamel be designated a buffer zone, which will require a total relocation of the towns, and all impacted residents to be compensated. The choices of compensation will encompass:

They might have changed their views in two years, but I am reading from their original log of claims. It continues —

> a. No resident of any impacted area to be out of pocket for any expenses incurred in relocation.

That is fair. Why should they have to pay all the stamp duties, transfer costs and the costs of moving? That is not unreasonable. It continues —

> Value of the new residences and features of the property be the total replacement value of the current residence and property plus compensation and relocation costs.

It seems fair and just to me that they be given fair compensation. If that has not occurred, the standing Committee on Environment and Public Affairs should inquire into the terms of the transactions that have taken place.

The CAPS document continues —

> b. Residents remaining in impacted areas until the buffer zoning is completed will be compensated with necessary transport, financial assistance, and other support needed to maintain their quality of life.

These people want to maintain their quality of life. The document continues —

c. The construction of a new town, including buildings and infrastructure, for the residents of impacted areas who wish to remain as a community intact, offering a similar lifestyle to that to which they are accustomed, located within 20 km of their current location.

That is just outside the airshed of the Wagerup refinery. Is that a fair and reasonable request? Hon Barry House has argued endlessly in this place about fairness and justice. I certainly think that is a fair and reasonable request. It is certainly not unfair to Alcoa, the profits and share prices of which have skyrocketed in the current environment, but which is now penny-pinching when it comes to the community that it is impacting upon. It is a matter of establishing the baseline for what is fair and just in this matter.

The document continues —

d. Residents who wish to relocate to a community other than the new location —

That is the town that they are proposing —

will receive total replacement, relocation costs and compensation.

Even ruling out compensation, one would think that compensation for total replacement and relocation costs is a fair and reasonable request. We have been given sufficient evidence to believe that these people have not received total replacement and relocation costs. Therefore, the motion moved by Hon Robyn McSweeney should stand—the Environment and Public Affairs Committee should conduct an inquiry into the fairness and just terms of the supplementary property purchase program. Hon Kate Doust wanted to know what we thought would be fair and just. The people of Yarloop and surrounding areas are not asking for a lot. They are just asking to be given a fair go and a like-for-like transfer out of the shadow of a refinery that is poisoning them—or, if it is not poisoning them, is impacting on their quality of life. That is a fair and reasonable request.

I turn now to the supplementary property purchase program package. Members would know that a petition has been tabled in this Parliament that is in almost identical terms to the motion moved by Hon Robyn McSweeney. A decision by this house to support the motion moved by Hon Robyn McSweeney would trigger an inquiry by the Environment and Public Affairs Committee into the fairness and just terms of the supplementary property purchase program. I want to look at the history of the various programs that have been run in the Yarloop-Waroona area and at how the program for buying out the houses of people in that area has become less and less generous over time. Despite what the Premier said in his statement, the supplementary property purchase program is the least generous program of all. In 2002, in the original compensation program for area A, the duration of the program was originally five years, but it was extended by the Alcoa board of directors to cover the operating life of the refinery. The compensation payment was based on the unaffected value of the property, plus 35 per cent, with two valuations—one by the owner's valuer, and one by Alcoa's valuer—both paid for by Alcoa. Stamp duty costs were also payable, as were relocation costs of 7 000.

In 2003, in the compensation program for area B, the duration of the buy-back program was five years. People were not expected to decide within six months or one year whether they wanted to sell their home and pull up stumps and move their family to another location. They had five years in which to decide. As I have said, in 2002, in the case of area A, they also had five years, and that was extended to the life of the project. In 2003, the compensation payment was also based on the unaffected value of the property, with the same two valuations as I have described for area A. Alcoa subsequently took the properties that it had purchased from people who wanted to move out of the shadow of the refinery and resold them to people on the condition that they could not lodge a complaint against Alcoa about the emissions. That is remarkable. I have put that on the public record. What is fair and just about that?

In the latest buy-back program—the supplementary property purchase program—the duration of the program has been decreased from five years, to seven months in which to register, three months in which to accept an offer, and four months in which to settle. This is supposed to be the more generous program! It is no wonder that Alcoa was surprised when 189 people, on 400 separate lots, applied for compensation, when it had expected only 20 or 30 people to apply. It is no wonder that Alcoa could not meet the time frames, because there were not enough valuers per square inch around the south west to do the valuations quickly enough! However, the government has doggedly held onto that time frame. The government has also been extremely ambiguous about the way in which it is managing this program in association with Alcoa. For the benefit of members opposite, I understand that one valuation—there used to be two—was paid out by Alcoa on the affected value. That is quite remarkable. Was there a dispute about that? Even if all the transactions are completed, I suggest that the government and Alcoa colluded and negotiated a worse package than they did in 2002. The government is too tight to pay out a few million dollars from the multibillion dollars of revenue and profits that Alcoa has received for its operations. That is not even the point. The real point relates to the fairness and justice of this matter.

The main point is that the SPPP is the least generous of all the buyout schemes, with each scheme progressively watering down the financial recompense. The SPPP has holes in it like a colander. I personally would not sign off on it because it is completely slanted in Alcoa's direction. The scheme has no Harvey index, meaning that the

land has been indexed such that it is valued as an unaffected area. The properties were valued at the affected price. In other words, Alcoa polluted the property, then got to buy it at a cheap price because it polluted it in the first place. Yarloop and surrounds is probably the only region in the south west area where property prices have gone down in the past few years. We need a well-structured inquiry into this program to see whether it was fair and just and whether people who were impacted by a decision of the government and Alcoa were disadvantaged by that fact alone. The scheme had a six-month use-by date, compared with five years for other schemes. The administrator was so overwhelmed by the response that it was agreed that Alcoa would extend the date because of a backlog of claims. I understand that Alcoa did not even sign an agreement for the extension. That arose in a dispute between Alcoa and the government about the manner in which the SPPP was being carried out. When offers were made and accepted by sellers outside the original date, Alcoa was picking and choosing between whom it accepted and whom it did not accept.

I will refer to the test case of the Blythes, two of the many people who contacted my office. Members should remember that these are ordinary, decent, good-living Western Australians who have been impacted unfairly and whose lives have been thrown into a shambles. They have held out because they did not want to leave Yarloop and the surrounding area, a pretty rural area where some in the community have lived for 25, 30 or 40 years. Some were born and bred in Yarloop and have a deep sense of pride in their community. They would take people into their houses and share their food and drinks. These are ordinary people who drive bobcats, buses and trucks around the place and work for Alcoa. They have now had enough of living there because their lives have become such a mess—their children, husbands and wives are sick, but they did not know what they had got themselves into.

I have before me the time line of events for Karen and Geoff Blythe of Lot 73 Salisbury Road, Cookernup. I will read some notes that were prepared for me about this case because it makes sense to hear the full story. It states that the Blythes have well and truly fallen through the holes of the SPPP. In October 2006 Karen and Geoff Blythe registered an expression of interest to participate in the SPPP. In October 2006 the administrator deemed the Blythes eligible to participate in the SPPP. In November 2006 a valuation was forwarded to the Blythes, with an offer to purchase their property for between $500 000 and $525 000. In December 2006 the Blythes objected to the valuation, citing a valuation—we should remember that there is one valuation in this program—of $725 000. In December 2007, one year later, the Blythes finally agreed to the lower price because they had had enough and they wanted to move on. The price offered was around $550 000. This family did not want to leave the area of Cookernup so they held out to get a fairer price so that they could at least move away and buy another property. They were not getting sufficient money to get a like-for-like exchange, so they held out. They might have exceeded the date of acceptance. When I asked questions in Parliament about whether the date had been exceeded, the parliamentary secretary said that the program had been extended. However, that is not what happened during the course of events that I am about to set out. In December 2007, one year later, the Blythes agreed to a lower valuation of $550 000 so that they could move on. The administrator wrote the Blythes a letter on 19 December 2007 saying that under the provisions of the SPPP, a valuation submitted by the administrator to Alcoa was an offer and acceptance to purchase the eligible property at the valuation amount.

On 25 January 2008, the Treasurer, Hon Eric Ripper, wrote to the Blythes saying that there was no deal because they were out of time and that the matter should have been dealt with before June 2007, in spite of the fact that the administrator had written to them and that they had a document saying that the letter represented an offer and acceptance. There is an inconsistency there that needs investigation, and it relates to the fairness and justice of the process.

These are our concerns. Firstly, why were the Blythes told by the Treasurer, Eric Ripper, in a letter dated 25 January 2008 that they had missed the 30 June 2007 deadline, when the supplementary property purchase program administrator was still dealing with their property, as evidenced by the letter of 19 December 2007? Secondly, Mr Ripper's answers to the Blythes' questions show that the deadline had been extended on the finalisation of the SPPP, given the high number of applications from property owners. Thirdly, the Treasurer said on 18 March 2008 that the new dates had yet to be finalised. We call on the Treasurer to instruct Alcoa to honour the terms and spirit and the fairness and justice of the SPPP purchase.

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

Hon PAUL LLEWELLYN: My question without notice 192 to the parliamentary secretary representing the Minister for State Development dated 18 March 2008 asks very clearly —

> . . .
>
> Given that Alcoa has not signed an agreement to extend the original SPPP deadline, what is now the legally binding requirement for Alcoa to uphold applications that were registered under the original SPPP time frame, but that are not finalised due to the time limitations of that original agreement?

The answer was —

> Alcoa and the government have accepted the need to extend the time line in the deed of undertaking. The new dates are yet to be finalised. The original time line was not achieved because of the unexpectedly high number of applications from property owners and the unavailability of valuers.

The unavailability of valuers! Why did the Blythes get a letter saying that the time had run out for them when the SPPP administrator was still dealing with the property? I will read out that letter of 19 December 2007 to Geoffrey Blythe from the administrator —

> Dear Mr Blythe,
>
> **RE: SUPPLEMENTARY PROPERTY PURCHASE PROGRAM** . . .
>
> **PROGRESS IN THE PROGRAM — PURCHASE OF YOUR PROPERTY BY ALCOA**
>
> Thank you for your participation in the Supplementary Property Purchase Program . . . . Your signed 'Acceptance of Property Valuation' has been received by this office. Advice has been forwarded to Alcoa that you have agreed to sell your property . . .

Value	Certificate of Title	Property Location	Parcel identifier
$550,000	1474-379	Lot 73 Salisbury Rd, Cookernup	Lot 73 on Plan 35368

> In accordance with the SPPP Guidelines, Alcoa is obliged to make the necessary sales documentation available to land owners early in the purchase process. This will consist of a pro forma contract drafted by Clayton Utz, based on the REIWA General Conditions of Sale 2002 document. Please review this document carefully to ensure that the conditions of sale including the price, settlement date and other matters such as lease back arrangements are in accord with any agreement you have negotiated with Alcoa.
>
> You should also receive within the next two weeks early advice from Alcoa that they have been forwarded instructions to purchase your property and are proceeding with the necessary documentation.
>
> If you have any further queries about the sale process please feel free to contact this office.
>
> Yours Sincerely,
>
> Tanya McKay
>
> on behalf of
>
> **Hendy Cowan**

A letter of 25 January 2008 to Mr and Mrs Blythe from the Deputy Premier states —

> Our Ref: **M72024**
>
> Mr G and Mrs K Blythe
>
> PO Box 294
>
> Harvey WA 6220
>
> Dear Mr and Mrs Blythe
>
> **SUPPLEMENTARY PROPERTY PURCHASE PROGRAM** . . .
>
> I refer to your letter to the Premier dated 18 December . . . regarding the SPPP. I am responding on behalf of the Premier, as matters associated with the Wagerup refinery and the SPPP fall within my portfolio responsibilities.
>
> It is my understanding that the SPPP Administrator, Mr Hendy Cowan and Alcoa have discussed the circumstances of your situation, but that the company has declined to purchase the property because you did not indicate your wish to accept the valuation amount before the 30 June 2007 deadline set out in the Deed of Undertaking signed between Alcoa and the Premier on behalf of the State of Western Australia in March 2007. While I acknowledge that this may be a source of some considerable personal distress for you, I am advised that Alcoa is entitled under the Deed to make this decision.

Is that complying with the spirit and intention of the SPP program? Is that world's best practice, as outlined by the Premier in his original statement when he announced this program? I would say no. Is that single case grounds for a clear vote to inquire into this matter? I would say yes. The letter says, and I repeat —

> While I acknowledge that this may be a source of some considerable personal distress for you, I am advised that Alcoa is entitled under the Deed to make this decision.

The letter goes on —

> However, I would like to comment on several of the issues that you raise in the letter.

I do not think I need to go through the letter. I seek leave to table the letter, the answer to the question I read out and the letter from Hon Hendy Cowan, the administrator, in relation to this case of the Blythes.

Leave granted. [See paper 3986.]

Hon PAUL LLEWELLYN: I refer also to question without notice 63 asked by Hon Robyn McSweeney on 26 February 2008 to the parliamentary secretary representing the Minister for State Development about the supplementary property purchase program. She asked —

> I refer to Alcoa's supplementary property purchase scheme and to Mr Hendy Cowan, who has overseen the SPPS.
>
> (1) How many properties have been purchased by Alcoa?
>
> (2) How many properties are still under negotiation?

That is the question we need to look at. It continues —

> (3) Has a report on the SPPS been given to government by Hendy Cowan?
>
> (4) Has any public report been provided by Hendy Cowan on the SPPS?
>
> (5) Will the minister provide me with a brief overview of what has been achieved so far with the SPPS?

The answer to the second question is most enlightening, but I will read the answers to the first and second questions —

> I thank the honourable member for some notice of this question.
>
> (1) At 22 February 2008, Alcoa advised that it had purchased 52 properties.

I remind members that there were 180 property owners and 400 property titles. The answer to the second question is interesting. It states —

> (2) None. Under the provisions of the deed of undertaking, a valuation submitted by the administrator to Alcoa is an offer to purchase the eligible property at the valuation amount.

We need to recognise that this relates to the letter that the Blythes received from the administrator, which was, effectively, an offer and acceptance.

The question was: how many properties are under negotiation? The answer was none. I will read the rest of the answer again —

> Under the provisions of the deed of undertaking, a valuation submitted by the administrator to Alcoa is an offer to purchase the eligible property at the valuation amount.

In other words, that was the trigger, yet the Blythes received a letter several weeks later advising that Alcoa had said that the time limit had passed; therefore, it would not uphold the spirit of the agreement.

The question then is: what will we do with the motion moved by Hon Robyn McSweeney relating to the supplementary property purchase program? Her motion was moved at the time we were talking about the expansion of the refinery; it was a circuit breaker to the debate in light of the opposition' view that it would accept the expansion of the refinery but was concerned about the fairness and just terms of the purchase program. It was a pretty clear case. Hon Robyn McSweeney's motion reads —

> That given the serious concern expressed by landholders regarding the compensation processes related to the current Alcoa expansion, the Standing Committee on Environment and Public Affairs be required to conduct an inquiry into the fairness and just terms of the supplementary property purchase program, and to report back by 14 August 2007.

I do not think that any fair-minded person in this chamber could accept that the supplementary property purchase program has been conducted in a fair and just way with all of the natural procedural fairness and justice that is required of such a major decision by the state of Western Australia. It is incumbent on the government to say that it will put its program on the table for scrutiny in relation to the fairness and justness of the terms and of every transaction that happens as a consequence of this.

HON KATE DOUST (South Metropolitan — Parliamentary Secretary) [3.44 pm]: I will make a few comments about the words that have been said on this motion today. I thank Hon Robyn McSweeney for her comments and those Liberal Party members from the south west who have met both me and the advisors to work through this matter. It is a serious matter, and I know that they are very concerned about their constituents, just

as our south west members are. I note also Hon Robyn McSweeney's comments about the report that was completed by the Standing Committee on Environment and Public Affairs. I, too, was part of that committee. Its investigation was conducted over a very extended period and it came down with an extremely broad report. The investigation resulted from referral by Hon Jim Scott at the time. It was an inquiry that seemed to grow day by day, as did the issues that were canvassed. In fact, I think that by the end of it, a number of the recommendations we made to try to address some of the matters had been already dealt with because the inquiry took so long.

At the time of that inquiry, the company did indeed take on board the matters that the committee raised about the land management strategy, and it sought to address the local community's concerns, particularly in areas A and B, which were set aside—area A being the area closest to the refinery and area B surrounding that perimeter. The company established a payment for the purchase of properties. I will go through that in detail because I want to make quite clear what happened then and where the SPPP has moved on from outside those areas. I thank Hon Robyn McSweeney because when she moved this motion, it was a fairly contentious matter. We debated the SPPP in this house, also, I think earlier last year, and that was pretty much at the beginning of the process. I understand that, as time moved on, some issues and perhaps some misunderstandings arose about the direction the SPPP was taking. At the time Hon Robyn McSweeney moved this motion there had probably been a breakdown in the understanding of that direction. I think that is what encouraged her to move the motion.

Since that time, things have changed and have moved on. There has been a lot of discussion between the administrator, Hendy Cowan, and Alcoa to try to resolve the differences in understanding about how the SPPP should be administered and implemented. I think that over the past couple of months matters have been resolved. In fact, I will provide some detail today about the current state of the purchases. A little later on, I will also comment on Hon Paul Llewellyn's remarks.

We need to go back to some basics. The reasons this has come about have been broadly canvassed. When we talk about why this is happening in Wagerup, we need to understand the value to the community that that company plays in terms of employment. I understand that, prior to the announcement of the proposed expansion, there was direct employment of 700 employees and about 250 contractors. They accounted for about 70 to 75 per cent of local workers. In 2007, the royalties were estimated to be $17.9 million, which is of great benefit to the state. Alcoa estimates that it spends about $40 million in the local community each year. When the Standing Committee on Environment and Public Affairs conducted its inquiry, it was able to obtain quite detailed information about the moneys donated to each of the shires in that area. Alcoa had demonstrated a long period of generosity to and involvement in the local community. Many of the employers around the country could probably look to the model of community engagement Alcoa has established.

The expansion of the Alcoa refinery will provide some additional benefits. During the expansion, an additional 250 local jobs will be provided, an estimated 3 000 direct and indirect jobs will be created for Western Australians, a construction workforce of 1 650 will be employed and an additional $11 million per year will be raised in royalties. Members need to keep that in mind. I am not saying they are the only reasons why we should support what Alcoa is doing, but I genuinely believe that, as a result of the inquiry by the Standing Committee on Environment and Public Affairs, Alcoa took on board the comments made by the committee and its recommendations and that it has sought to address the concerns raised and engage with the community about the problems the community was experiencing at the time.

The issue we are dealing with today is not about the health issues that were debated at that time; it is about an additional property purchase. Members must be clear about certain distinctions. The SPPP was never intended to provide compensation for property owners as a result of the government's approval of the expansion of the Wagerup refinery. The SPPP was to assist the landowners who wanted to move away from the refinery. Reasonable and fair offers were made to the landowners who lived in areas A and B so that they could move away from the area if they wanted to. The company purchased a number of properties that, in some cases, it sought to lease to other tenants. The same offer applied to the residents living in area B, although the rate was different because that area is further away from the plant. There was quite a take-up of those offers also.

As has been mentioned, the SPPP comes in two forms—the farm operators' buyout scheme and the residential properties buyout scheme. Those arrangements operate in different ways. Valuations were provided for and they could be either accepted or rejected. The process took a while and I understand that Alcoa was surprised and overwhelmed by the sheer number of people who indicated an interest in getting an evaluation and possibly moving away from the area for a range of reasons. Some people might have decided that they wanted to move to another farm in a different area and seek other opportunities, and other residents might have decided to go somewhere else. People make those types of decisions for a range of reasons. I am not too sure whether many people were put under the type of duress implied by Hon Paul Llewellyn. I am unsure of the type of duress he was talking about. He said that people were put under duress to sell their properties.

Hon Paul Llewellyn: That is not true; I didn't say that.

Hon KATE DOUST: The member said "duress"; in fact, he said it a couple of times today.

Schedule 3 of the deed that was drafted to deal with the SPPP states —

> 2.5(a) The SPPP is to be implemented so as to cause minimum impact on the local property market, disruption to the local community or impact Wagerup Refinery.
>
> 2.5(b) The SPPP will not be established or implemented so as to provide a financial incentive for people to sell to the company rather than through the established property market.

Local residents have raised a number of concerns about the SPPP. The company, through the administrator, has been trying to deal with those concerns. An issue that has been alluded to is the disparity of the SPPP schemes in areas A and B. The reason for the different treatment of the property owners is that area A immediately surrounds the refinery and is therefore more susceptible to noise and emission impacts than is area B, which comprises the towns of Hamel and Yarloop, both of which are more distant from the refinery. Hamel, Wagerup, Yarloop and Cookernup are the four localities in which the SPPP operates and are more distant from the refinery than area B. The SPPP area has moved away from the refinery. It is not just areas A and B, which are close to the refinery—it applies to areas further away from that. To be fair and just, each area must be treated differently regarding how people are—I use the word "compensate" loosely—provided with assistance.

Another matter is the property costs. Alcoa will purchase properties under the SPPP at market value that is established by licensed valuers, but the property owner is responsible for all the usual associated expenses including stamp duty and relocation costs when purchasing a new property, just as would apply to any purchaser of a property elsewhere in WA. However, as a seller under the SPPP, there is no need to pay any marketing costs for the property or to pay a commission to a selling agent, as would normally be the case.

There were also some problems regarding the property valuations. Some owners were dissatisfied with the valuations provided by the independent valuers, which they considered to be lesser valuations than those provided by local real estate agents. This is to be expected, as the independent valuers provided an objective and fair market valuation, whereas a real estate agent's valuation might project the high end of the selling scale in an attempt to secure a listing.

They are some of the matters that have been raised. Since this motion was first moved there has been an extensive period of discussion, which I have already referred to. I am happy to provide members with a copy of an update I received on 5 May, even though I have scribbled on it. It is a summary of the SPPP status as of 5 May 2008. I will read it out for accuracy and so that everyone will understand what it is. My briefing notes state —

> The following is Alcoa's understanding of the current SPPP status, based on data presented by the Department of Industry & Resources . . . and the SPPP Administrator's office.
>
> The SPPP includes a straight property purchase component and a farm "relocation" option, known as the Farm Business Continuation Option (FBCO).

I probably had the name of that wrong earlier. As of 5 May 2008, approximately 216 expressions of interest in the overall scheme had been received; approximately 190 applicants had proceeded to request a free valuation of their property; and approximately 70 property owners had accepted the valuation; and those properties have either been purchased outright by Alcoa or are in the process of being purchased.

Hon Kim Chance: Was that 70?

Hon KATE DOUST: Yes. Two properties have completed the FBCO. Almost all the successful straight-sale applications have been completed. The main matters still being processed are property owners who wish to complete the FBCO option and property owners who are now choosing to opt out of the FBCO in favour of a straight sale. I understand that some people have expressed an interest in doing that. In April, 37 property owners were still listed as potential FBCO participants. I understand that six or eight applicants have found what they consider to be like-for-like properties and wish to continue through the FBCO process.

Hon Paul Llewellyn: How many original applicants were FBCO?

Hon KATE DOUST: Have I read that? There were 216 expressions of interest in the overall scheme—190 proceeded to a free valuation; 70 accepted; and two completed the FBCO. Some landowners still registered for the farm business continuation option have chosen to opt out of the FBCO component in favour of a straight sale of their property. Others may choose not to proceed with the sale. The Department of Industry and Resources, the SPPP administrator and Alcoa recently held additional discussions to clarify the guidelines for the implementation of the FBCO, and action is now being taken to progress the outstanding applications. The FBCO issue was raised by members. I hope that that update satisfies some of their concerns. As I said, this advice was provided on 5 May and matters may have further advanced during the past week. This has been a fairly positive

move because the parties involved have been able to work on their differences of opinion, which is a step forward to achieving their goals. I hope that response provides some comfort to members.

I now turn to some of the comments made by Hon Paul Llewellyn. I understand why he wants to refer this matter to the Standing Committee on Environment and Public Affairs. The government will not support the motion for a referral. The government has been working to encourage Alcoa to resolve the issues with the administrator without having to refer them to a committee inquiry. If this matter were referred to a parliamentary committee, I would be concerned that Hon Paul Llewellyn would use it as vehicle to do a range of other things. We might end up with yet another voluminous—albeit wonderful—report. The work that is being done outside this chamber is achieving the result desired by members who are interested in this matter. We have been able to provide the information that was sought through our discussions.

I note that Hon Paul Llewellyn referred to the Blythe family. Although I have been given information about the Blythe family, I am not personally aware of their situation. I have been advised that the Blythe family was one of the first families to register and to be accepted under the SPPP. The family delayed its decision to accept the valuation that was provided. It accepted the original valuation more than 12 months after the deadline. Alcoa rejected the offer because it was forwarded after the deadline. I have been advised that the family accepted the valuation after an extensive time period that was over and above the deadline that was given. The company has been generous with the time frame and in trying to accommodate those who want to participate in the program.

I am always very interested to hear Hon Paul Llewellyn's views on Alcoa, because although he has said that he does not oppose the development —

Hon Paul Llewellyn: I do!

Hon KATE DOUST: Yes, he does. I made a mistake. Hon Paul Llewellyn would like to see —

The PRESIDENT: Order, members! The parliamentary secretary has the call. Not only did Hon Paul Llewellyn speak for 45 minutes, but also the house granted him leave to continue his remarks. Perhaps he can allow the parliamentary secretary to continue her contribution.

Hon KATE DOUST: Hon Paul Llewellyn is so personally opposed to having Alcoa operate in this state that he is an economic anarchist. He does not care about the employment opportunities and financial benefits that flow to his constituents in the south.

Hon Paul Llewellyn: I will take your name calling as a compliment.

Hon KATE DOUST: The member can do that if he likes.

Hon Paul Llewellyn never provides data to back up his arguments. His approach is that we should just accept what he says. From now on Hon Paul Llewellyn should provide empirical data to back up his claims. Given that Hon Paul Llewellyn is so passionately opposed to having anything to do with Alcoa and to it having a presence in this state, I imagine that he must have found it difficult to attend the Fairbridge Festival on Anzac Day, because that festival was held on Alcoa land. The member must have sought dispensation from the forest fairies to attend the festival. It is healthy to have these types of debates. However, the member should not slag Alcoa when it is trying to do the right thing by working through the issues. Nobody is perfect. At the end of the day, we gain a great deal from having Alcoa operate in this state.

Hon Paul Llewellyn: Stick to the facts.

Hon KATE DOUST: I do stick to the facts. I have read out the facts. I have talked about the number of people whom Alcoa employs, and I have referred to its community engagement. Alcoa has poured an enormous amount of money into its Wagerup, Kwinana and Pinjarra sites to rectify the problems. It has taken enormous steps forward to deal with the problems with the liquefier. Alcoa attempts to deal with issues when they are raised. It engages and works with the community. It has done everything it possibly can to provide for those who no longer want to live in the area concerned. Earlier Hon Paul Llewellyn asked why Alcoa did not relocate the town to somewhere else. During the three or four years over which the inquiry was conducted, that idea was never put on the agenda. It was never raised in evidence by a community member. I talked to Hon Bruce Donaldson about this matter some time ago. I had sympathy for the idea, but it was never raised so we never dealt with it. Alcoa has expended many millions of dollars to purchase property. It could become one of the big land developers in the region; indeed, I am sure it would scare away Nigel Satterley. How far does it have to go to appease people in the area? It is being fair and just. On the flipside, Alcoa could have decided that it was not going to expand. Moreover, it could have decided to shut down its Western Australian operations, thereby axing hundreds of jobs. If people had decided to move as a result of that, they might not have been able to sell their homes.

Hon Paul Llewellyn interjected.

Hon KATE DOUST: Forest fairies, dear, forest fairies.

The PRESIDENT: Order, members! Hon Paul Llewellyn should not be interjecting but perhaps the parliamentary secretary should not inflame Hon Paul Llewellyn. It is a matter of balance. Having said that, all members of the chamber are, I am sure, enjoying the interchange!

Hon KATE DOUST: I thank you for your guidance, Mr President. I will try to behave myself.

I conclude by saying that the motion has been quite helpful because it has encouraged the company to engage with the administrator to progress matters for those who live in that part of the south west. The government does not support the motion or the referral of this matter to the Standing Committee on Environment and Public Affairs.

HON NIGEL HALLETT (South West) [4.10 pm]: I will keep my comments fairly brief today because I know that Hon Barry House also wants to make a few comments. I acknowledge that Hon Kate Doust, Hon Robyn McSweeney and Hon Bruce Donaldson have all been members of the Standing Committee on Environment and Public Affairs, so they have a long history of dealing with the problems of the supplementary property purchase program. I think there were a few problems back in 2002. However, since Hon Robyn McSweeney gave notice of this motion to refer this issue to the committee, Alcoa has taken great steps to alleviate many of the problems. Under the guidance of Hendy Cowan, these issues have been worked through. Hon Paul Llewellyn raised issues to do with health and so on. It must be remembered that Alcoa runs one of the state's biggest beef herds. Alcoa's beef is tested on a daily basis as it is slaughtered. None of these chemicals shows up in Alcoa's beef. When Alcoa conducts production sales, its stock is one of the most highly sought after by producers around the state. If Alcoa were all bad, it would not be as successful as it is. We must remember what Alcoa puts back worldwide on a daily basis: $27 million of goods and services, 83 000-odd tonnes of bauxite and 27 000 tonnes of coal. It also recycles, which would please Hon Paul Llewellyn, 2 300-odd tonnes of aluminium, plus it provides many community projects in our region. Without Alcoa, as Hon Kate Doust alluded to, the communities would not be in the position that they are today. With those few comments, I thank you, Mr President.

HON BARRY HOUSE (South West) [4.12 pm]: It is important that this matter be resolved today. We have only a couple of minutes left, so I will take one of them to very quickly indicate a couple of matters. The supplementary property purchase program was initiated by Alcoa at the behest of government as a goodwill gesture, in a sense, in return for support of the Wagerup expansion. Let us get that in context, because that is what it was. It is a vastly different kettle of fish from what I often rail about in this house when I talk about fair and just compensation by government agencies in dealings with private landowners regarding planning schemes, resumptions and various matters. We can have that debate at another time. As other members have said, things have moved on. The vast majority of issues and particular instances in this case have been resolved. A few are outstanding, but that is because there will always be some disagreement.

Hon Paul Llewellyn interjected.

The PRESIDENT: Order, Hon Paul Llewellyn! I think you have had your say for a good hour. Hon Barry House has only a few moments, as he has indicated.

Hon BARRY HOUSE: As I have indicated, it is a vastly different kettle of fish. We must also consider the threat surrounding this issue of a class action by Erin Brockovich. It is inappropriate that a parliamentary committee consider a matter that may be litigated. Notice of the original motion was given about a year ago when there was considerable community concern among many of our constituents about what was happening. We did the right thing to get it on the notice paper and get it aired. However, in view of the effluxion of time and some of those other matters, I do not believe now that the matter requires support.

HON ROBYN McSWEENEY (South West) [4.14 pm] — in reply: Mr President, I am satisfied with the government's response. It has been one year since this motion was lodged, and I seek leave to withdraw the motion.

The PRESIDENT: Hon Robyn McSweeney seeks the leave of the house to withdraw the motion. Is leave granted? Leave is granted.

Hon GIZ WATSON: I said no.

The PRESIDENT: I am sorry. I did not hear Hon Giz Watson say no, but I accept her word. In that case, the question before the house is that the motion be agreed to.

Question put and a division taken with the following result —

Ayes (2)

Hon Paul Llewellyn	Hon Giz Watson *(Teller)*

Noes (27)

Hon Ken Baston	Hon Kate Doust	Hon Nigel Hallett	Hon Simon O'Brien
Hon Matt Benson-Lidholm	Hon Wendy Duncan	Hon Ray Halligan	Hon Ljiljanna Ravlich
Hon George Cash	Hon Sue Ellery	Hon Barry House	Hon Barbara Scott
Hon Vincent Catania	Hon Donna Faragher	Hon Robyn McSweeney	Hon Sally Talbot
Hon Kim Chance	Hon Adele Farina	Hon Sheila Mills	Hon Ken Travers
Hon Peter Collier	Hon Anthony Fels	Hon Norman Moore	Hon Ed Dermer *(Teller)*
Hon Bruce Donaldson	Hon Jon Ford	Hon Helen Morton	

Question thus negatived.

Sitting suspended from 4.18 to 4.30 pm

QUESTIONS WITHOUT NOTICE

FEDERAL BUDGET — CONDENSATE OIL EXCISE EXEMPTION

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

I refer the Premier to the federal government's budget announcement that condensate oil produced as a by-product from gas fields will no longer be exempt from oil excise, with a threshold production of 30 million barrels that has been surpassed by the North West Shelf field.

(1) Did the federal government discuss this decision with the state government prior to its announcement?

(2) Does the government support the changes; and, if so, why; and, if not, why not?

(3) What is the government's view on the possible impact of the tax decision on future gas exploration in Western Australia?

Hon KIM CHANCE replied:

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

(1) No.

(2)-(3) I refer the Leader of the Opposition to the Premier's comments in the Legislative Assembly today.

FEDERAL BUDGET — STATE REVENUE

452. Hon NORMAN MOORE to the parliamentary secretary representing the Treasurer:

I refer to the Treasurer to the commonwealth budget that was released yesterday.

(1) Will the Treasurer indicate whether that budget will deliver higher revenue flows to the state government than are anticipated in the state budget that was handed down last week?

(2) If so, will the Treasurer outline the major items for which the government will receive more revenue than expected?

Hon KATE DOUST replied:

I thank the member for some notice of this question.

(1)-(2) Overall, the commonwealth budget appears likely to deliver either additional funding or opportunities for additional funding to Western Australia over the budget and forward estimates period, although it is not quantifiable at this stage. The estimates of total goods and services tax revenue in the commonwealth budget for the budget and forward estimates period are consistent with Western Australia's budget forecasts. Compensation will be paid to Western Australia for the negative impact on North West Shelf royalties flowing from the removal of the crude oil excise exemption for "condensate", with a net benefit to Western Australia of $70 million over the budget and forward estimates period. Specific-purpose payment revenues are broadly in line with our budget forecasts, but this is a complex area to analyse. For example, there are additional commonwealth payments for the Perth-Bunbury highway and the Harvey Water piping project in 2007-08 and early in the budget period, but these have been brought forward from later in the budget period. During the coming months there will also be opportunities for states to negotiate on the base funding level and growth of the new specific-purpose payments and new national partnership payments, as part of the major reforms in this area to be implemented from 1 January 2009. The commonwealth has guaranteed that states will be no worse off from these reforms, and additional money may be available. The commonwealth has abolished corporations payments to the states relating to the transfer of companies regulation to the commonwealth in 1991. Although this involves a loss to Western Australia of around $18 million per

annum, the Department of Treasury and Finance believes that this should be offset by increases in other specific-purpose payments, in line with the commonwealth's guarantee that the states will be no worse off. A proportion of the new funds established by the commonwealth—the Building Australia Fund, the Health and Hospitals Fund and the Education Investment Fund—is expected to be made available to the states from 2009-10 through the Council of Australian Governments process. Although the commonwealth budget has not allocated any expenditure from these funds, the budget papers note that the contingency reserve includes a provision for anticipated expenditure from the new funds. A fuller assessment will be reflected in the state budget midyear review.

CHINA GREEN, SUBIACO

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

Can the minister advise the house —

(1) Has the government been warned or otherwise made aware of a possible class action against the Subiaco Redevelopment Authority over the Subiaco China Green issue?

(2) What is the government doing to ensure that expensive legal action is avoided?

Hon ADELE FARINA replied:

I thank the honourable member for some notice of the question. The minister has provided the following answer —

(1) Yes. However, no legal submissions have been provided to suggest any validity to back up any threats of legal action.

(2) The Subiaco Redevelopment Authority in its China Green draft master plan has made changes to its 2004 plan for the Australian Fine China site redevelopment to achieve higher standards of environmental sustainability and transit-oriented development, as aligned with the government policy Network City. The Subiaco Redevelopment Authority has sought legal advice on this issue and has received preliminary verbal advice that there is no basis for it to be held liable for undertaking changes to its plans, as it is a planning authority. Planning authorities have a statutory role and responsibility to review and revise planning schemes. There are no known precedents that would indicate that a class action of this nature would be successful.

AUSTRALIAN WOOL SALES — PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS PROTEST GROUP

454. Hon ROBYN McSWEENEY to the Minister for Agriculture and Food:

I refer to the claim by the United States-based group People for the Ethical Treatment of Animals that the use of clips to protect sheep from potentially fatal flystrike is no better than surgical mulesing, and that only the breeding of bare-breeched sheep is acceptable.

(1) I am becoming increasingly concerned about the effect this group is having on our wool production, with 30 international retailers refusing to buy Australian wool. What is this government doing to counteract the impact of this group?

(2) Will Western Australians farmers meet the deadline of 2010 for phasing out mulesing?

(3) Does the minister really believe that every wool producer in Australia will be producing bare-breeched sheep by the end of 2013?

(4) Mulesing is an acceptable farm practice. Why are we being dictated to by this unethical group?

Hon KIM CHANCE replied:

Can I say that I absolutely agree with the term used by Hon Robyn McSweeney. Indeed, I have been known to have used some stronger terms in the past.

The PRESIDENT: Order, members! Parts of the question were contrary to standing orders. I am sure the Leader of the House is not alluding to those.

Hon KIM CHANCE: No. I am sure I will manage not to do that, Mr President.

The tactics used by People for the Ethical Treatment of Animals worldwide are standover tactics and qualify in my view as the practice of commercial terrorism. I have no time for PETA whatever. The answer is as follows —

(1) The Wool Industry Task Force, which comprises industry representatives, announced in November 2004 that the wool industry would phase out mulesing by the end of 2010. To this end, the Department

of Agriculture and Food Western Australia is undertaking research to assist the industry to seek alternatives, as well as assessing management options to allow producers to protect their flocks against breech strike and supply the market with wool from un-mulesed sheep. The cessation of mulesing on DAFWA research stations is a proactive move aimed at assessing different strategies to prevent flystrike, thereby providing wool growers with best-practice extension packages. It follows from that that we do not expect that the whole Western Australian woolclip can be bred from bare-breeched sheep in that time line.

(2) A recent survey of producers indicated that 30 per cent were intending to phase out mulesing this year. The decision about when to cease mulesing prior to 2010 is for the individual producer. However, a heavy focus on extension and support will enable producers to change their practices with minimal disruption.

(3) The commitment to phase out mulesing by 2010 has been reaffirmed since November 2004 by the Wool Industry Taskforce and Australian Wool Innovation Ltd. AWI is providing producers throughout Australia with information on strategies to reduce the risk of flystrike without mulesing, including management, strategic chemical usage and genetic selection.

(4) Industry has accepted that mulesing will be phased out by 2010, and research and extension activities will continue to support industry to achieve this. It is likely that mulesing will in time become an unacceptable practice given that the Standing Committee on Primary Industries and Regional Services has discussed the need to modify state legislation to take account of the industry-led phasing out of mulesing.

I wish to add to that answer a little. Although mulesing remains an accepted practice within the code of practice, its existence as an accepted practice within the code is an automatic guarantee—an automatic defence—against prosecution. Although my answer referred to the primary industries standing committee, which is the CEO equivalent of a ministerial council—in our case, the Primary Industries Ministerial Council—that body makes recommendations for consideration only by the Primary Industries Ministerial Council. That council ultimately decides what is in the code of practice. At this stage, mulesing remains within the code of practice and remains a legal defence and is likely to remain so for some time. The 2010 position was effectively taken by industry and was not led by the government. Indeed, the government is quite concerned about the outcome of the mulesing ban.

APACHE ENERGY DEVIL CREEK DEVELOPMENT

455. Hon GIZ WATSON to the minister representing the Minister for Indigenous Affairs:

I refer to the development of the Apache Energy Devil Creek project and answer to question without notice 415.

(1) What was the content of the letter dated 18 April 2008 sent to Mr Ripley of Apache Energy and copied to Ian Allison of the Department for Planning and Infrastructure and Mr Ian Gordon Lam, manager of pastoral management?

(2) Did that letter advise that following the consideration and recommendation of the Aboriginal Cultural Material Committee, the minister declined consent to use the land in question due to lack of consultation with native title groups?

(3) Given the answer to question 415, why did the minister advise that the matter was still currently under deliberation when she had already given her response in writing to the proponent and others?

(4) Has the minister misled Parliament; and, if so, why?

Hon LJILJANNA RAVLICH replied:

I thank the member for some notice of the question.

(1)-(2) The letter to Apache Northwest Pty Ltd dated 18 April 2008 declined consent for the purpose of the construction and future operation of the Devil Creek gas plant and associated infrastructure due to insufficient consultation with two native title groups.

(3) On 23 April 2008 the minister wrote to Apache notifying that she had received advice from the Department of Indigenous Affairs that the Environmental Protection Authority had not completed an environmental impact assessment under the provisions of the Environmental Protection Act 1986. As a result, at the time the decision was made to decline consent, the minister was not authorised by law to make such a decision and that decision is therefore invalid. The minister then advised Apache that its section 18 application remained undecided and is therefore current.

(4) No.

COMMERCIAL WATER CHARGES — REGIONAL CUSTOMERS

456. Hon WENDY DUNCAN to the minister representing the Minister for Water Resources:

I refer to the minister's recent announcement of planned increases in commercial water charges for country customers ranging from 58 per cent to 107 per cent over the next five years for key south west and Great Southern communities.

(1) Why is the government intent on targeting regional communities with such severe price hikes when country commercial users are already paying about double the amount of their Perth counterparts?

(2) Why is the government insisting on full cost recovery for every utility given its so-called commitment to "ensure that recommendations made by the Economic Regulation Authority fully consider the needs of regional residents and businesses"?

(3) Can the minister explain why these changes were made in contravention of the government's regional development policy, which states that "the government has firmly committed to the principle of uniform energy tariffs and water prices to ensure that the cost and availability of energy and water enhances regional Western Australia's economic competitiveness"?

(4) Can the minister guarantee that this commercial increase is not just the thin end of the wedge to the introduction of cost recovery for all residential water users?

Hon KIM CHANCE replied:

I thank Hon Wendy Duncan for providing notice of the question. There is one word that I am not sure of so I will give two versions in the answer.

(1) The government is targeting very substantial community service obligations to help subsidise the cost of country water. I am not sure of the word "very". It could have been intended that that read "every" substantial CSO. I am not too sure about that part of the answer.

(2)-(4) With climate change and reduced rainfall, there is no way we can escape people's water bills reflecting the cost of providing water. This is leading to increased water costs right across the state, both regionally and in the metropolitan area. The Carpenter government is very cognisant of not disadvantaging people living in rural areas. To that purpose, this year's state budget contains subsidies of $301 million to keep down the cost of water and waste water services in regional areas of Western Australia.

EDUCATION — NEW PRINCIPAL SELECTION PROCEDURE

457. Hon PETER COLLIER to the minister representing the Minster for Education and Training:

I refer the minister to his media statement of 20 March 2008 entitled "Appointment shake-up for principals" and, in particular, to the minister's comment that the new system will give local communities and principals a far greater say while still having the appropriate checks and balances in place to ensure a fair recruitment system.

(1) Did the new selection process for around 600 principals commence at the beginning of term 2, 2008 as per the media statement?

(2) If no to (1), why not, and when will the new selection process be implemented?

(3) If yes to (1), what are the criteria for membership of the selection panel to appoint a principal in a school?

(4) If yes to (1), what is the process for selection of a principal to a school under the new system?

(5) If yes to (1), is the decision of the local selection panel for principals final?

(6) If no to (5), who makes the final decision on the appointment of a principal to a school under the new system?

Hon LJILJANNA RAVLICH replied:

I thank the member for some notice of this question. On behalf of the Minister for Education and Training, I provide the following response. The information sought is not available in the time required, and I therefore request that the honourable member place the question on notice.

STATE BUDGET — HOSPITAL CLINICAL RISK ASSESSMENT AND MANAGEMENT PROJECT

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

(1) What specific new funding has been allocated in the 2007-08 budget to implement the clinical risk assessment and management initiative across Western Australia's hospitals?

(2) Can the minister confirm that the recent tender to develop and implement the CRAM initiative has been let; and, if so, to whom?

(3) What is the cost of the tender?

(4) Can the minister confirm that the tenderer is required to complete the project by the end of November 2008?

(5) If not, why not; and when will the project be completed?

Hon SUE ELLERY replied:

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

(1)-(5) A total of $260 000 has been allocated across the 2007-08 and 2008-09 budgets to the clinical risk assessment and management project. The tender to develop and implement the CRAM initiative has not yet been finalised. However, I can confirm that the project is to be completed within six months of the appointment of the preferred supplier.

BUSSELTON JETTY PROJECT

459. Hon BARRY HOUSE to the Leader of the House representing the Minister for South West:

I refer to the response to the third section of question without notice 403 in which the minister advised that the project has an estimated budget of $20 million for public infrastructure, including the replacement of like-for-like items at Churchill Park.

(1) What public infrastructure is included in the $20 million budget?

(2) Does this figure include the purchase of land for users of Churchill Park?

(3) If so, what is the estimated land acquisition cost?

Hon KIM CHANCE replied:

I thank Hon Barry House for providing some notice of the question.

(1) Like-for-like replacement of sporting facilities, roadworks, drainage, power, water supply, construction of pavements, walkways, car parks, street lighting and general civic amenity improvements in the foreshore area, including landscaping, is included in the budget. The sum also allows for reconstruction of the Yoganup playground.

(2) No.

(3) Not applicable.

MUSEUM — RELOCATION

460. Hon BARBARA SCOTT to the parliamentary secretary representing the Minister for Culture and the Arts:

During the East Perth museum business case development process, what analysis of world trends in museum development was conducted —

(a) on the factors that drive the success of museums, including the issue of location; and

(b) into how non-central business district museums compare with CBD museums, particularly those in urban locations versus those in highly active, mixed-use CBD locations?

Hon ADELE FARINA replied:

I thank the honourable member for some notice of this question. The minister provides the following answer —

(a) Western Australia's museum for the twenty-first century will be a destination in its own right. The planning took into account the success of many international counterparts. This institution included most notably the following museums and their differing locations: the Canadian Museum of Civilization, Ottawa, Canada; the British Museum and the Tate Modern, London, United Kingdom; the Guggenheim Bilbao, Spain; the Auckland War Memorial Museum, New Zealand; and the Jewish Museum Berlin, Germany.

(b) The international museums listed above are all examples of successful museums located outside of the main CBD. Notable examples already in operation in Perth in a non-CBD location include the Aquarium of Western Australia, Scitech and Perth Zoo. All attract significant numbers of visitors, especially family groups and schools.

FEDERAL BUDGET — FARMING INDUSTRY DROUGHT ASSISTANCE FUNDING

461. Hon BRUCE DONALDSON to the Minister for Agriculture and Food:

With the federal budget now delivered and a reported article prior to budget day stating that funding assistance to the farming industry during severe drought conditions would be scrapped, I ask —

(1) Is the minister aware that this has or will occur?

(2) What negotiation between the state minister and the federal Minister for Agriculture, Fisheries and Forestry, Hon Tony Burke, have taken place or will take place on this issue now that the budget has been brought down?

Hon KIM CHANCE replied:

I thank Hon Bruce Donaldson for the question, and although I missed the first few words, I think I picked up the gist of the question.

(1)-(2) It seems to me that the answer is no, on the contrary, from what I have read of the federal budget today. To be fair, not much has been printed in the mass media, and I think what I read about the federal budget was in *The West Australian* today. I hasten to add that it may not have been in that newspaper; it may have been in a briefing note I received from the Department of Agriculture and Food. In fact on reflection it was. What I read in that briefing note indicated to me—and I need to read it much more carefully—that the budget provided for full roll-on facilities of the exceptional circumstances provisions. I will look at that further and as we get to understand the detail of the federal budget more, we will be more clear. However, certainly the indication to me was that not only would there be full roll-on of the current EC provisions, but also there was a sum—if I remember the figure correctly it was $512 million—for other claims that might occur in the near future. I will get back to the honourable member with more detail about that, but it certainly seems to me as though the answer to the question is no, I do not believe the budget has terminated the drought funding arrangements at the commonwealth level.

CARNARVON NORTH WATER ESTATE DEVELOPMENT — LANDCORP

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

I refer to stage 2 of the LandCorp Carnarvon north water estate development.

(1) Have titles been issued for the 17 lots sold at a public ballot in December 2005; and, if not, why not, and when will titles be released?

(2) Have titles been issued for the eight lots sold by auction on 5 August 2007; and, if not, why not, and when will titles be released?

(3) Have titles been issued for the eight lots sold by auction on Saturday, 15 September 2007; and, if not, why not, and when will titles be released?

Hon ADELE FARINA replied:

I thank the honourable member for some notice of this question. The minister has provided the following reply —

(1)-(3) No. Titles are expected to be issued within five weeks. The initial delay was due to satisfying detailed conditions required by the Department for Planning and Infrastructure marine branch. Final clearances from DPI marine branch and the Shire of Carnarvon were only recently received. These lots are all part of an original title that had a building design covenant attached. These lots and seven previously sold lots will need to have a covenant lifted prior to the issue of the new titles. LandCorp is now contacting all title holders to lift the covenant.

PIG STOCKFEED — ZINC OXIDE CONTAMINATION

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

(1) When did the minister first become aware of the detection of elevated lead levels in pig offal?

(2) Approximately when did the Department of Agriculture and Food first become aware of the elevated lead issue?

(3) How long did it take to track the cause to the use of contaminated zinc oxide in pig feed?

(4) Was the department involved in any product recall of zinc oxide or other products containing zinc oxide used as a stockfeed additive; and, if so, what action was taken?

(5) Was there a delay in advising the Department of Health, and if so why?

Hon KIM CHANCE replied:

I acknowledge that Hon Anthony Fels gave me a copy of this question just prior to question time, and I have been trying to get advice because it relates to dates and a sequence of events. Unfortunately, that advice has not come back to me in time, but I will provide the honourable member with those more accurate figures later today. However, it is a reasonable question to ask me without notice and I will do my best to answer it.

(1) I think it would have been late April when I became aware—so about two and a half to three weeks ago. It could have been a little longer than that, but I think it is safe to say late April.

(2) I think the Department of Agriculture and Food became aware in late February at least of the violative and non-violative levels of heavy metals in livers, which were picked up through the national residue survey.

(3) I think it was very soon after the confirmation of the multiple sources of offal with a lead trace. It followed shortly after, because first there was the confirmation of multiple sources, and that gave the indication that it could be a feed-source issue.

(4) I think this question about the withdrawal of the product was actually answered by Hon Sue Ellery yesterday. I think it was the Department of Health that issued the order for the product recall.

Hon Anthony Fels: No, I think the answer was that it didn't.

Hon Sue Ellery interjected.

The PRESIDENT: Order, members! This is question time, not a debate at large.

Hon KIM CHANCE: I am sorry, Mr President.

I will be able to confirm that later today, but I thought it was the Department of Health. In answer to the last part of the question —

(5) I do not think there was a delay in advising the Department of Health. No, I do not think so. Indeed, I think the health department would have been advised by the national residue survey at the same time as the Department of Agriculture and Food was advised; but, again, I can confirm that with better information on that matter.

CANE TOADS — KIMBERLEY TOAD BUSTERS

464. Hon NIGEL HALLETT to the parliamentary secretary representing the Minister for the Environment:

(1) What action is the state government taking to the recently discovered lungworm parasite *Rhahbias cf hylae*?

(2) What assistance is the state government providing to Kimberley Toad Busters to conduct further studies and obtain permits to dissect selected native frogs?

(3) What permits are required, if any, to toadbust in Western Australia on some or all of the following —

(a) private land;

(b) local-government-owned or managed land;

(c) crown land;

(d) waterways, river systems and wetlands;

(e) Department of Environment and Conservation managed non-national park lands; and

(f) national parks and nature reserves?

Hon SALLY TALBOT replied:

I thank Hon Nigel Hallett for some notice of this question, to which the minister provided the following answer —

(1) Lungworms have been known to exist in cane toads for more than a decade and are common in established toad populations. In 2007 Professor Rick Shine from the University of Sydney proposed that if lungworms could be found in toads near the frontline, they could possibly be used to reduce the fitness of the toads and the rates of spread. In 2008, Professor Shine sought assistance from the Department of Environment and Conservation in determining whether toads in the Northern Territory near Western Australia have the parasite. This request was passed onto Kimberley Toad Busters, who did an excellent job finding heavily infested populations around the Victoria River in the Northern Territory. DEC is currently finalising an agreement with Professor Shine to further investigate the opportunities that the lungworm offers for fighting the spread of cane toads towards WA.

(2) Since 2004-05, the state government has provided Kimberley Toad Busters with funding of $494 225, of which $433 225 has been provided in the current financial year. DEC has provided the Kimberley Toad Busters with copies of the necessary application forms for scientific research on native frogs, with the offer of assistance to complete. The department has also committed to processing the applications as a priority.

(3) (a)-(d) No specific permit is required; however, permission from the landholder for access would be appropriate; and

(e)-(f) a scientific permit for research—regulation 4—licence would be required pursuant to the Conservation and Land Management Regulations 2002. The Kimberley Toad Busters were issued with such a licence on 18 April 2008, and this is valid until 17 April 2009.

QUESTION WITHOUT NOTICE 438

Answer Advice

HON LJILJANNA RAVLICH (East Metropolitan — Minister for Racing and Gaming) [5.01 pm]: Yesterday Hon Barry House asked me a question without notice in relation to the High Court's decision about the Betfair matter and I would like to clarify some aspects of my answer. Betfair instigated the proceedings in the High Court to challenge the constitutional validity of the relevant sections of the Betting Control Act 1954. The Western Australian government, represented by the Solicitor-General, was required to defend this challenge, rather than appeal, as I inadvertently said yesterday. I would have corrected it in *Hansard* but it was run on the radio. All other states except Tasmania substantially supported Western Australia's position. The High Court's decision that the sections of the Betting Control Act passed by the WA Parliament, with the support of the opposition, are invalid is regrettable and may have broader implications for states' rights. In defending this action in the High Court, we acted in both the best interests of the Western Australian racing industry and our state's rights. It was fit and proper that WA defend this action, despite the outcome. To not do so would have been totally inappropriate.

QUESTION WITHOUT NOTICE 405

Correction of Answer

HON JON FORD (Mining and Pastoral — Minister for Fisheries) [5.02 pm]: On 7 May, Hon Bruce Donaldson asked question without notice 405 on the outcomes of the federal budget and illegal foreign fishing. The answer I provided to part (1) of the question now requires correction following the budget. I therefore provide the member with the correct answer to part (1) today. The question was —

> Will the state government continue to fund existing programs if the Rudd Labor government axes the funding for these programs?

The corrected answer is —

> No, the budget for border enforcement has risen from $383 million in the 2007-08 federal budget to $398 million in the 2008-09 federal budget, which includes the illegal foreign fishing component.

COMMITTEE REPORTS AND MINISTERIAL STATEMENTS — CONSIDERATION

Committee

The Chairman of Committees (Hon George Cash) in the chair

Standing Committee on Public Administration — Sixth Report — "Interim Report of the Standing Committee on Public Administration in Relation to the Inquiry Into the Governance of Western Australia's Water Resources"

Resumed from 7 May on the following motion moved by Hon Barry House —

> That the report be noted.

HON BARRY HOUSE (South West) [5.30 pm]: In speaking to the motion last week, I was nearing the end of my comments. I was referring to the recommendation of the Standing Committee on Public Affairs made on page 11 of that report. I remind members that this report was tabled in September 2007. The recommendation states —

> **The Committee recommends that the proposed Water Services Bill, Water Corporation Act Amendment Bill and Water Resources Management Bill be referred to the Standing Committee on Public Administration immediately following the second reading speech of the Minister or parliamentary secretary with carriage of the legislation and the Committee be empowered to consider the policy of the legislation.**

Members will recall that, at the time, the committee understood that the three bills were in an advanced stage of drafting and would be tabled in Parliament in the very near future; that is, from September 2007. It was the committee members' proposition, having informed themselves of various matters and done some work, that they were well placed to provide some parliamentary scrutiny of those bills and aid the legislative process. I understand that there was a verbal agreement to that from the minister, albeit I cannot find anything in writing showing that the minister agreed to the proposition that the bills be referred to the committee. However, I recall a conversation in which he indicated that he would be supportive of that. There has been no formal government response to this report since it was tabled, so I cannot rely on anything in that vein. However, it is the committee's contention that we have gathered a body of information. We have done an extensive amount of research in preparation for the job of considering those bills in either the form we have suggested or perhaps another way; that is, the government might produce a green bill and refer it to the committee for analysis before the final draft. Either way, the committee is proposing that it is well placed to provide some analysis and scrutiny of that legislation. We have prepared for it and, in fact, we have gone further since this report and attended to several other matters in relation to the terms of reference.

In the committee's 2007 annual report that I tabled yesterday, there is a small section on pages 4, 5 and 6, I think, relating to the committee's ongoing activities. Further to that, a subcommittee of our committee consisting of Hon Matt Benson-Lidholm, me and staff has conducted a study tour and spoken to bodies such as the National Water Council, the Murray Darling Basin Commission and government departments in New South Wales, Victoria and South Australia. We have spoken to people involved in academic pursuits of water analysis in Adelaide, Melbourne and Canberra and to people involved with the Australian Water Association and Australian Water Services. The committee has an extensive volume of information at its disposal and is ready to act on the referral of these water bills when they appear. However, when they will appear is the $64 million question at the moment. We are not quite sure when they will be tabled. As I said, a year ago, we were expecting them to appear at any stage, but they do not seem to have advanced very much. That must be done. It is clear that Western Australia must get its legislative framework completed, and those three bills are essential to that. We want to play a role in it.

In conclusion, I thank members of the Standing Committee on Public Administration, Hon Ed Dermer, Hon Matt Benson-Lidholm, Hon Vince Catania and Hon Nigel Hallett, for their assistance in this report. I thank also the hardworking and very dedicated committee staff, Jan Paniperis, and the advisory officer, Ms Suzanne Veletta, who has been very diligent and professional in the way she has worked for the committee and assisted it in conducting its research, implementing the hearings and pursuing the matters that the committee has taken an interest in and for which it has a responsibility to the Parliament to pursue. I endorse the report and refer it to the chamber for its consideration.

Question put and passed.

2005 Election Statistics, Adjustment — Response by Acting Electoral Commissioner — Statement by Parliamentary Secretary

Resumed from 22 August 2006.

Motion

Hon NORMAN MOORE: I move —

That the statement be noted.

This statement was made by the then parliamentary secretary representing the Minister for Electoral Affairs and it relates to some information provided to the house following the 2005 state election when we were advised that two errors had been made in the counting of votes. Indeed, one was serious. It related to the East Metropolitan Region and involved 1 958 votes, which could have made a difference to the outcome if that mistake had been allowed to go unchecked. The other mistake related to the South Metropolitan Region, where six votes were incorrectly recorded. It is very unlikely that six votes would make a difference in the election of an upper house member. However, for the interest of members, I recall that a predecessor of mine won the electorate of the Lower North Province, albeit under the province system, by four votes in 1974. Sometimes a very small number of votes can have a significant impact on the outcome.

The statement indicates that although those mistakes were made, they would not have affected the result of the two regions, which is encouraging to know. I am pleased by the statement made in 2006 by the parliamentary secretary on behalf of the minister because it indicates that the Electoral Commission has undertaken a number of processes to ensure that this type of mistake does not occur again. One can only hope that the processes that will be put in place will ensure that we do not have a problem of this nature in the future. It might not be bad for all members to acknowledge that in the event that there is a very close result in the election of Legislative Council member, they might give some serious thought to requesting a recount, which this statement suggests is as an option for candidates who are concerned about the processes that led to the result. I am pleased that this

statement was made at that time and we look forward with some interest to see whether the problem will have been overcome by the next election or whether similar problems will arise.

The statement also refers to the Compu-Vote system and says that the program has been designed to calculate the quota and transfer values according to the Electoral Act 1907 and was successfully used without error in the 1996 and 2001 state general elections. I argue that in 2001 a mistake was made in my region. We have already debated that so I do not intend to argue about it now. The Electoral Commission continues to state that the Compu-Vote system was used without error. I am saddened that on that occasion there was not a Court of Disputed Returns to find out whether an error was made.

Question put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Thirty-first Report — "Inquiry into Legislative Amendments to the Corruption and Crime Commission Act 2003 — The Role of the Corruption and Crime Commission in Investigating Serious and Organised Crime in Western Australia"

Tabled on 13 November.

Motion

Hon RAY HALLIGAN: I move —

That the report be noted.

This report is particularly important. I believe all members in this chamber, and indeed the Parliament, should take note of it. This was an inquiry into legislative amendments to the Corruption and Crime Commission Act 2003 and specifically the role of the Corruption and Crime Commission in investigating serious and organised crime in Western Australia. Members are aware that a great deal of concern has been expressed about organised crime in this state, particularly through the media, and that more must be done to curb it. The committee felt that the Corruption and Crime Commission might wish to use some of its powers to undertake that task.

The committee's inquiry began in November 2005 and concluded in November 2007. A number of hearing and briefings were held and submissions received. Legislation was analysed and some travel was undertaken by members to ascertain what was happening in the other states. The report is comprehensive. I commend the staff of the Joint Standing Committee on the Corruption and Crime Commission, Katherine Galvin and Roy Tester, who did an amazing job in obtaining the information and putting this report together.

The report mentions a number of issues, but I will relate only a few. The report states —

> The Committee is of the unanimous view that Government should adopt the definition of 'serious and organised crime', derived from the *Australian Crime Commission Act 2002* (Cth) and complementary legislation as amended by the Committee.
>
> - The definition provides the requisite level of accountability in the application of exceptional powers;

Members are aware of the exceptional powers that the CCC has. The report continues —

> - It ensures some uniformity of legislation with other Australian jurisdictions given the existence of complementary state legislation to the *Australian Crime Commission Act 2002* (Cth);
> - The WA Police generally access exceptional powers via the Australian Crime Commission in favour of the Corruption and Crime Commission, given in part, the functionality of the definition;
> - The definition simply stated, meets most of the aforementioned elements common to the definitions of 'organised crime' in Australian jurisdictions;
> - The definition meets most of the concerns raised by the Corruption and Crime Commission and the Western Australia Police regarding the limitations of the existing legislation;
> - A precedent exists (inserted by Amendment No.73 of 2006 s97) in the *Liquor Control Act 1998* for use of the definition for 'serious and organised crime' as per the *Australian Crime Commission (Western Australia) Act 2004*;
> - Aspects of the terminology incorporated within the *Australian Crime Commission Act 2002*(Cth) and complementary legislation have been subject to legal challenge, providing some case law precedent in the event of further legal challenge, perhaps creating a deterrent for intended appellants and a guide to law enforcement agencies in the application of the legislation;

- The definition provides for the investigation of lesser offences committed in the course of serious or organised crime activity; and
- The definition provides an extensive list of serious and organised crime offences, able to be amended by regulation to meet the changing organised crime environment.

Members may now realise that there is more to "serious" and "organised" than just those few words. The committee believes that, as far as this definition is concerned, linking Western Australia's Corruption and Crime Commission Act with the commonwealth act will be of benefit. The report continues —

> The Committee accepts that there are significant benefits to be gained in addressing serious and organised crime through empowering commissions with a complementary role to traditional policing services. The Committee therefore recommends that the *Corruption and Crime Commission Act 2003* be amended to empower the Corruption and Crime Commission with an investigative crime function subject to a reference group. This would enable the following:
>
> - The Corruption and Crime Commission to assist the Western Australia Police in applying exceptional powers in a manner comparable with the Australian Crime Commission;
> - The Corruption and Crime Commission and Western Australia Police to conduct joint investigations of serious and organised crime in circumstances where it is appropriate to complement traditional policing methodologies through use of exceptional powers or the specialist expertise of the Commission;
> - The Western Australia Police to refer serious and organised crime matters to the Corruption and Crime Commission and vice versa (although the Corruption and Crime Commission already refers such matters to the Western Australia Police as required);
> - The Corruption and Crime Commission to conduct independent investigations of serious and organised crime;
> - The Corruption and Crime Commission to pursue serious and organised crime matters arising from its misconduct function;
> - The Corruption and Crime Commission to pursue incidental offences encountered in the course of a primary offence of serious and organised crime;
> - The Corruption and Crime Commission and Western Australia Police to pursue, via the definition of 'ancillary offence', prescribed activities contributory to the commission of a serious or organised crime offence;
> - Other law enforcement agencies to refer serious and organised crime matters to the Corruption and Crime Commission and the Corruption and Crime Commission to refer matters to external law enforcement agencies or other relevant agencies (e.g. Customs or the Australian Taxation Office) as required; and
> - The Corruption and Crime Commission and Western Australia Police to pursue individuals involved in serious criminal offences using exceptional powers and Corruption and Crime Commission specialist expertise (if required).
>
> It is not the intention of the Committee that this amendment should limit the current powers of the Western Australia Police to independently pursue serious and organised crime.

It is about using the expertise of both agencies to look into this extremely difficult area so that the agencies can complement one another in undertaking this specialist role. The report continues —

> The Committee is of the opinion that empowerment of the Corruption and Crime Commission with an investigative crime function would only be intended for the purposes of supplementing traditional policing methods with exceptional powers and expertise. The Committee does not consider therefore that empowerment of the Corruption and Crime Commission under the Criminal Property Confiscation Act 2000 would in any way affect the current functioning of the Western Australia Police under that Act.

As I have mentioned, there is much more detail in the report. I encourage members to read it. It covers an area of considerable importance to the people of Western Australia and, therefore, it should be of considerable importance to members of Parliament. The report contains a number of recommendations. Recommendation 1 reads —

That the definition of organised crime in the *Corruption and Crime Commission Act 2003* be amended to more effectively meet the intent of the Act under Section 7A (a).

As I mentioned, the definition of "organised crime" must be substantially the same as the definition in the Australian Crime Commission Act 2002. Recommendation 1 sets out the definition in full. Recommendation 2 reads —

That the *Corruption and Crime Commission Act 2003* be amended to include a definition of *serious crime,* that being a criminal activity that involves an indictable offence punishable by a specific term of imprisonment and that further consideration needs to be given to what the specific term should be.

Obviously, more work needs to be done in this area. When the Attorney General responds to this report, this should be given some consideration. Recommendation 3 reads —

That the *Corruption and Crime Commission Act 2003* be amended to include a definition of *Incidental Offence* to enable the investigation of less serious offences identified in connection with an offence of serious or organised crime, and that consideration be given to the following terminology:

Incidental Offence — If the head of a Corruption and Crime Commission operation/investigation suspects that an offence (the incidental offence) that is not a serious or organised crime offence may be directly or indirectly connected with, or may be part of, a course of activity involving the commission of a serious or organised crime offence (whether or not the head has identified the nature of that serious or organised crime offence) then the incidental offence is, for so long only as the head so suspects, taken, for the purposes of the Act, to be a serious or organised crime offence.

To many that would just sound like a total jumble of words, but if members analyse them, they will find that they do provide the investigating officers—whoever is in charge of that operation or investigation—greater opportunities than they currently have. Unfortunately, to date many offenders have been able to slip through that particular net, so there is need of something of the nature recommended in recommendation 3. It continues —

Recommendation 4

That the *Corruption and Crime Commission Act 2003* be amended to include a definition of *Ancillary Offence* to enable the investigation of prescribed activities contributory to the commission of a serious or organised crime offence, and that consideration be given to the following terminology:

Ancillary Offence, in relation to an offence (the *primary offence),* means:

(a) an offence of conspiring to commit the serious or organised crime offence;

(b) an offence of aiding, abetting, counselling or procuring, or being in any way knowingly concerned in, the commission of a serious or organised crime offence; or

(c) an offence of attempting to commit a serious or organised crime offence.

Recommendation 5

That the *Corruption and Crime Commission Act 2003* be amended to enable the establishment of a reference group comprised of the Commissioner of Western Australia Police and the Commissioner of the Corruption and Crime Commission. The reference group will provide bipartisan support to serious and organised crime references and determine organised crime priorities and related terms of reference; and

That provision be made for delegation of responsibility to the Acting Commissioner in exceptional circumstances when either the Commissioner of the Western Australia Police or the Commissioner of the Corruption and Crime Commission is unable to participate in a reference group meeting.

I will read out a little later a letter signed by both those commissioners. The report continues —

Recommendation 6

That the *Corruption and Crime Commission Act 2003* be amended to enable the Corruption and Crime Commission to have the necessary powers to conduct serious and organised crime investigations, either jointly with the Western Australia Police or independently, subject to bipartisan support from the reference group; and

That without limiting the circumstances in which this may apply, this include:

- enabling the Corruption and Crime Commission to assist Western Australia Police in the conduct of crime examinations; and
- the pursuit of serious and organised crime encountered in the course of public sector misconduct.

Recommendation 7

That section 91 of the *Corruption and Crime Commission Act 2003* be amended to ensure appropriate levels of statistical reporting on the reference group.

Recommendation 8

That the *Corruption and Crime Commission Act 2003* be amended to enable the Parliamentary Inspector of the Corruption and Crime Commission to undertake appropriate monitoring and auditing of the reference group.

Recommendation 9

That the Government ensure that all relevant agencies are provided with adequate resources to enable them to combat serious and organised crime and to provide appropriate levels of accountability in the exercise of their powers.

Recommendation 10

That the Corruption and Crime Commission establish a structure that provides for clear lines of demarcation between the crime and misconduct functions and that consideration be given to control of:

- the flow of related intelligence information;
- the location of investigative areas and personnel; and
- independently operated information systems and operational management practices.

Recommendation 11

That the Attorney General's Review under section 226 of the *Corruption and Crime Commission Act 2003* consider:

- The issues raised in this report relevant to the contempt provisions of the *Corruption and Crime Commission Act 2003* and other related matters tendered in submissions to this review; and
- Whether inclusion of a 'protection clause' similar to that provided for in the *Crime and Misconduct Act 2001* (Qld) in relation to disclosure of evidence is required in the *Corruption and Crime Commission Act 2003.*

Recommendation 12

That the Corruption and Crime Commission be empowered under the *Criminal Property Confiscation Act 2000* to the same extent as the Western Australia Police.

Recommendation 13

That the conduct of legal proceedings in relation to confiscations by the Corruption and Crime Commission under the *Criminal Property Confiscation Act 2000* remain with the Office of the Director of Public Prosecutions.

Recommendation 14

That prior to commencing action under the *Criminal Property Confiscation Act 2000,* the Corruption and Crime Commission should ensure that it has made adequate arrangements for the management and storage of seized assets.

Recommendation 15

That the Office of the Director of Public Prosecutions report on the activities of the Corruption and Crime Commission under the *Criminal Property Confiscation Act 2000.*

I think that members will agree that each of those recommendations is quite serious and deals with the very serious problem of serious and organised crime that exists, might I suggest, in not only Western Australia, but also many states of Australia. Page 87 of the report contains the heading "Serious and organised crime investigations linked to public sector misconduct". That is the avenue by which the CCC will be brought into these actions if these recommendations are agreed to and, of course, the legislation is amended. The report goes on to state —

> One of the principal arguments of the CCC for an expanded investigative crime function is the operational requirement to investigate serious and organised crime in the context of public sector corruption. WA Police in its initial submission attested that the CCC is currently empowered to explore the relationship between misconduct and organised crime. The CCC, charged with carriage of the *Corruption and Crime Commission Act 2003,* hold a contrary view that the Commission's investigative

> powers are limited to public sector misconduct. The Committee is of the view that it is unclear of the extent to which the CCC is able to investigate serious and organised crime linked to public sector misconduct.

That is one reason that the committee has made some of those recommendations that I have just read to members. I would now like to refer to a letter, which is appendix 6 of the report, signed by both the Corruption and Crime Commissioner and the Commissioner of Police. It is dated 19 September 2007, and reads, after the heading "Serious and Organised Crime Proposal and Defining Organised Crime" —

> On 1 August 2007, the Corruption and Crime Commission appeared before the Joint Standing Committee of the Corruption and Crime Commission in order to respond to a number of specific questions to do with organised crime asked by the Committee. In preparation for that meeting the Commission provided to the Committee a report with written responses to the questions as well as proposing a model for the conduct of serious and organised crime investigations in conjunction with the Western Australia Police.
>
> Following that appearance, the Commission has engaged in extensive consultations with the police. These consultations included writing to the police along similar lines as the Commission's written submissions to the Committee. This included the proposal for the model for the conduct of serious and organised crime investigations in conjunction with the Western Australia Police.
>
> As a result of its consultations the Western Australia Police and the Corruption and Crime Commission have agreed to the proposed model subject to the amendment to the wording of the recommendations to include approval by the "reference committee". The recommendations contained within the proposal have now been amended to reflect our agreed position.
>
> Additionally, Western Australia Police and the Commission have agreed to a proposed definition for serious and organised crime. This definition reflects the contents of the Australian Crime Commission Act 2002 excluding the 'federal' crime types and adding the crime types of paedophilia and terrorism to better reflect the evolving nature of organised and serious crime and the jurisdiction of the state of Western Australia. In addition, the proposed definition includes the concepts of 'ancillary' and 'incidental' offences as defined under the ACC Act. See Attachment 2.
>
> We are pleased to forward to the Committee our agreed position on the above matters.

As members will realise, it was a very important breakthrough that those two very strong and important agencies are now prepared to work together to look at serious and organised crime. It is now up to the government, through the minister, to bring forward amendments to the act to reflect the recommendations set out in report 31, which will place those two agencies in a position in which they can undertake the role that I think each and every one of us would like them to undertake.

I commend the report to members. The report was two years in the making, and it contains an enormous amount of information. The report should be read and re-read, because crime will continue to exist in this state—some serious, some organised, and some serious and organised—and something needs to be done about that. This report presents a way forward. I urge members to back the committee in this instance, because, as members know, the committee is an arm not just of this house, but of this Parliament. I therefore hope, as a member of that committee, that the Parliament collectively will support this report. I also hope that there will be communication with the minister, and that the amendments proposed in this report will be acceded to and put through this place as quickly as possible. I am aware that the minister is working on the Gail Archer report. That report includes other recommendations. However, we need to ensure that something is done in the short term rather than the longer term. As I said earlier, this report took two years to bring together. I would not like another two years to go by before amendments are made to the act. I hope members will read the report, and that when the opportunity presents itself, they will make it known to the minister in charge of this act, Hon Jim McGinty, that amendments need to be made to the act as quickly as possible.

Question put and passed.

Finalists in the Western Australian Inventor of the Year Award —
Statement by Minister for Agriculture and Food

Resumed from 31 August 2006.

Motion

Hon BARRY HOUSE: I move-

> That the statement be noted.

This statement by the Minister for Agriculture and Food, Hon Kim Chance, follows on from a question that I had asked the previous day about the eligibility of a finalist in the 2006 Western Australian Inventor of the Year

Award. I had asked that question because an issue had been raised with me, in my capacity as shadow Minister for Science and Innovation, about the eligibility of Mr Ben Newman, who I believe came second in that year's Inventor of the Year Award. The contention had been put to me that Mr Newman might not have met the criteria because he was based in Melbourne. The minister's statement spells out clearly that it is a condition of entry for all finalists that they fulfil the following criteria—be a resident of Western Australia; be developing the project in Western Australia; and have a product or idea at the pre-commercialisation stage of development without an established sales stream. I am prepared to accept at face value from the minister's statement that Mr Newman had developed the technology in Western Australia, the prototypes had been produced in Western Australia, and the initial sales of 300 products had been made from a Western Australian base. Mr Newman then moved to Melbourne to pursue further opportunities. However, the statement goes on to say that Mr Newman has now returned to Western Australia. I have no means of doing anything other than accept that at face value. If the minister has some advanced information about that situation, it would be good to know. I am not sure that it is absolutely essential, but it would be good to know.

As I have said, Mr Newman had moved to Melbourne because of deficiencies in the opportunities and potential available to him in Western Australia, and because of the prospect of better opportunities in a larger city and a larger market. As I have said, I am not sure of Mr Newman's current status and whether he is still living in Western Australia or has returned to Melbourne. I also am not sure of the progress of his invention and his business. His invention was, by the way, a brake for skateboards. From what I have seen of skateboards, it is certainly necessary to have a brake on those things, so that is obviously a pretty valuable invention. He has called his product Brakeboard. I hope Mr Newman is doing well and his business is flourishing. There are many good news stories from Western Australia in the development of technology and innovative ideas.

I attended the launch of the Inventor of the Year program earlier this year at Burswood Casino. This program offers valuable incentives to young Western Australian entrepreneurs in particular. At the launch, one of the finalists in the 2007 Inventor of the Year Award—I think he also came second—reported on the progress of a hearing device that he had developed here in Western Australia. That hearing device filters sounds in a noisy environment so that it is possible to hear distinct voices and conversation. That device actually makes it possible to hold a conversation with someone in a noisy environment, such as an industrial site or an entertainment venue, without that conversation being totally lost in the bewildering array of noises in that environment. I cannot recall this young fellow's name. His invention makes it possible to take a telephone call on a busy building site, for instance, or in a very noisy environment and clearly hear the voice on the line without it being lost and without shouting. The unit he developed was about the size of a mobile phone, which fits onto a belt. This proven technology was developed to the prototype stage here in Western Australia. He had initiated sales. The unit had enormous potential. When I spoke to him after the launch he illustrated what the problem was in Western Australia to a very large extent. He was very nervous about the next stage. He wanted to retain his intellectual property and knowledge in a private company and develop the unit. He and his mate had virtually invested their lives—he is a young fellow in his early 30s, I think—in the next step. They mortgaged their homes, were prepared to invest all they could lay their hands on and borrow and hopefully get to the next step without floating the company and attracting public capital. They did not want to do that. I applaud them for making that decision. I certainly wish them well.

Both these cases illustrate that there are people in Western Australia who are as innovative as anyone anywhere else in the world. In most respects they are better than anyone else in the world when it comes to invention and developing technology and innovative products. This incident highlights and illustrates the problems that we have in Western Australia. They were set out in the ministerial statement. There is a list of reasons Ben Newman initially decided to leave Western Australia and transfer to Melbourne. They were set out in the ministerial statement, which states —

> Melbourne is important for a number of reasons. It is the location of Australia's leading surf/skate sports companies; there are more opportunities to promote the product on television; there is a more competitive market for industrial designers and tooling companies; liaison professionals there have experience in manufacturing in China; and venture capital groups are more prominent in Melbourne than in Perth.

It went on to say that Mr Newman had returned to WA. That list of reasons is important because it gets to the heart of the issue faced by a lot of very smart, innovative, bright young Western Australians. They get a product of their own invention or perhaps another's invention to a certain stage but find it difficult, if not impossible, to get to the next stage of production and commercialisation. Some of the factors that apply are the obvious ones such as Western Australia, Perth in particular, having a smaller population and a smaller market compared with places such as Melbourne, Sydney or Beijing. That is probably right. There are more opportunities for promotion via television or marketing and specialised staff, including engineers, experts and professionals, in a bigger market such as Melbourne. The important factor that needs highlighting is the lack of venture capital in Perth. That is an issue that is raised with me constantly as the opposition spokesman on issues relating to this area. That

points to the need for government action. I know that some things are done, and are done very well, but there is clearly a gap in the market for some capital being available to young, bright industrialists, inventors, engineers or medical scientists to take their inventions to the next stage. The awards are great. They provide an incentive and should be applauded. More help is required to move a product from an invention to a commercial reality through the availability of and access to venture capital. The government must provide support and facilitate these sorts of things by providing the advice, knowledge and research that is necessary.

Even though the ministerial statement was given nearly two years ago—it is a little dated—there are still valuable lessons to be learnt from that situation. I certainly wish Mr Newman well. I do not know how he is going with his invention or his production. I certainly hope he is flourishing and doing very nicely. I asked those questions as a result of concerns that were raised with me at the time. It could well be a useful example of how inventions are treated, how technology is encouraged in Western Australia and, more importantly, what we have to do to keep those bright young people with their intellectual property in this state.

Hon KIM CHANCE: I support the motion moved by Hon Barry House. He quite properly asked questions about the eligibility of a contestant in this award. I agree with him prima facie that Mr Newman did not meet two important criteria, one relating to residence and the other relating to commercialisation status. I want to compliment the departmental officers who worked their way through those issues. As Hon Barry House has indicated, what appeared to be a disqualifying set of circumstances was able to be set aside.

I wholeheartedly support the comments made by Hon Barry House about the need to keep these bright young people here in Western Australia and to provide them with an industrial set of circumstances to develop their inventions in Western Australia. As Hon Barry House says, venture capital is extraordinarily hard to get in this market. Whether that is a matter of organisation of venture capital or whether it needs a framework to find a logical reference point—perhaps that is what we are missing—I am not entirely sure. It is a consequence of this being a very small market and venture capital being fairly dispersed and, to the extent that it exists, very mining oriented in this state. It is enormously difficult for any Australian industrialist to move through that minefield, which is pretty well defined by the bracket of proof of concept on one side and proof of market on the other, and it is particularly so for those in Western Australia unless they happen to fit within those areas in Western Australian industry that are more highly developed, such as the mining and heavy mechanical area.

Question put and passed.

Progress reported, pursuant to temporary orders.

Sitting suspended from 6.00 to 7.30 pm

BUSINESS OF THE HOUSE

Orders of the Day

HON KIM CHANCE (Agricultural — Leader of the House) [7.30 pm]: I move under standing order 129 —

> That order of the day 604, Select Committee into the Police Raid on the *Sunday Times,* be taken after order of the day 605, Fatal Accidents Amendment Bill 2008.

Although I realise this is a debatable motion, I do not think there will be a lot of debate on it. However, it is proper that I inform honourable members why I am asking the house for this accommodation. Order of the day 605 is the Fatal Accidents Amendment Bill 2008. I appreciate that this bill was initially read into this place only on Thursday last week and that it is the custom of the house for a bill to sit on the notice paper for one week prior to it being dealt with. However, a number of people have been waiting for the Fatal Accidents Amendment Bill 2008 with a great degree of anticipation. This bill deals with asbestos victims and the way in which their estate can be dealt with. From my discussions with members of the house, I know there is widespread support for this bill. I state very clearly that it is not my intention to in any way delay dealing with order of the day 604, which is a matter that I think will be dealt with quite quickly tonight. Once that order of the day has been dealt with, we will get on with the rest of the business of the house. Given the public interest in the Fatal Accidents Amendment Bill, I urge all members to support the motion.

Point of Order

Hon NORMAN MOORE: A number of orders of the day are ahead of order of the day 604 on the notice paper.

Hon Kim Chance: Yes, I will deal with them by way of a separate motion. I did not want to confuse the two matters.

Hon NORMAN MOORE: Is it possible to deal with this motion ahead of a further motion to delay all of the orders of the day concerning disallowance motions, Mr Deputy President?

The DEPUTY PRESIDENT (Hon George Cash): That is possible. My understanding of the matter—the Leader of the House can correct me if I am wrong—is that the Leader of the House wants to deal with order of

the day 605 in the first instance and, once that is completed, he then proposes to deal with order of the day 604 through to its conclusion prior to the rising of the house tonight.

Hon KIM CHANCE: That is correct. However, it is also my intention that at the conclusion of this question I will move back to the orders of the day dealing with disallowance motions and move a further motion. I wanted to move the two motions separately so that the issues could be separated.

The DEPUTY PRESIDENT: The Leader of the House first wants to deal with order of the day 605 and then order of the day 604.

Hon Kim Chance: That is my intention.

Debate Resumed

HON NORMAN MOORE (Mining and Pastoral — Leader of the Opposition) [7.34 pm]: As members know, the house decided yesterday, under standing order 128, that order of the day 604 would be the first order of the day for this day's sitting. I acknowledge the absolute right of the Leader of the House to rearrange the order of business on the notice paper under standing order 129, and I accept that. I am quite happy to proceed with the proposal put forward by the Leader of the House. However, I make the point to him that had he asked the opposition to deal with the Fatal Accidents Amendment Bill yesterday, we would have done so. Indeed, I understand that the shadow minister who is handling this bill on behalf of the opposition indicated to the Leader of the House that the bill could have been dealt with yesterday. This side of the house is very comfortable with dealing with that legislation, albeit that it has not been on the notice paper for a week and we could have dealt with it yesterday. I certainly hope that no silly nonsense is being played out, because one gets the impression that some manoeuvring may well have been going on that was designed to make it difficult for the opposition to have order of the day 604 dealt with. However, I am delighted with the comment by the Leader of the House, which confirmed a discussion we had earlier, that once order of the day 605 is dealt with—and it will be dealt with quickly—order of the day 604 will then be dealt with and concluded at this day's sitting. The Leader of the House has given me that assurance. On the basis of that assurance, we will support the motion.

HON GIZ WATSON (North Metropolitan) [7.35 pm]: The Greens (WA) will support this motion. Our support for the motion is consistent with our previous indication that this bill is important and that there is an urgent need for it to be passed by the house. As such, it should take priority in the business of the house tonight.

Hon KIM CHANCE: I express my appreciation to the house.

Question put and passed.

BUSINESS OF THE HOUSE

Orders of the Day

On motion by **Hon Kim Chance (Leader of the House)**, resolved —

That order of the day 600 and orders of the day 607 to 619 inclusive be taken after order of the day 161.

FATAL ACCIDENTS AMENDMENT BILL 2008

Second Reading

Resumed from 8 May.

HON SIMON O'BRIEN (South Metropolitan) [7.37 pm]: I indicate the opposition's support for not only the ultimate passage of the Fatal Accidents Amendment Bill 2008, but also its swift passage. I am sure members will appreciate that this will probably be one of the shortest contributions I will ever make to a second reading debate. The good news concerning this bill is not that; the good news is that this bill will correct an anomaly that adversely impacts upon the interests of some people who have already had enough difficulties to work through in coping with the afflictions suffered by near relatives as a result of asbestos-related diseases. In many cases, it is a husband, a wife or a father whose life is cut short by these diseases. The amendments this bill will make to the Fatal Accidents Act 1959 derive from an anomaly identified in the New South Wales case BI (Contracting) Pty Ltd v Strikwerda [2005] NSWCA 288. The bill seeks to close off an unintended consequence of that court decision. In essence, the unintended consequence is that the compensation available to dependants of asbestos disease victims under the Fatal Accidents Act regime would be impacted by general damages being taken into account. The second reading speech gives a typical example of how adverse impacts could affect someone such as a widow who has suffered, through her widowhood and the circumstances leading up to it, considerable pain. Parliament, through its successive decisions, has sought to give relief to survivors of asbestos victims by ensuring that they have a level of compensation, and the opposition does not want that eroded by the unfortunate implications that flow from the Strikwerda case.

Furthermore, the bill has another provision that was not presented in the other place during the second reading speech as it was a further anomaly detected during the course of the bill's admittedly very swift passage through

the other place. The second provision is to repeal section 10 of the Fatal Accidents Act 1959, which relates to causes of action surviving the death of an asbestos diseases victim. Clearly, the view, and decision, of successive Parliaments has been that there should be a capacity for actions to survive that eventuality sufficient to allow the matters of compensation to be available to the bereaved legatees of the asbestos diseases victim. The opposition notes that the provisions in section 10 of the Fatal Accidents Act 1959 are effectively supplanted by later amendment to section 4 of the Law Reform (Miscellaneous Provisions) Act 1941, which states, in subsection (1) —

> (1) Subject to the provisions of this section and the *Limitation Act 2005*, on the death of any person after the commencement of this Act all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate.

Then there are some specific exemptions in circumstances that are not relevant to the motives and policy behind this bill being debated tonight, so I will not read those into the record. Clearly, the decision to repeal section 10 of the Fatal Accidents Act 1959 seems entirely appropriate, as it always is, to remove doubt when sections of different statutes may be in conflict when considering the same set of circumstances. With all that in mind, the opposition supports not only the several amendments provided for in the bill, but also its expeditious passage. Despite the short time frame, the opposition has had adequate time to be satisfied that a committee stage will not be required, which is a matter for the house, and the bill should be second read forthwith.

HON GIZ WATSON (North Metropolitan) [7.45 pm]: I will be brief because from time to time legislation goes through this place that clearly has the support of all parties and has an urgent time imperative. Asbestos-related disease victims and their families deserve full attention from Parliament to have this bill passed as quickly as possible. That is why the Greens (WA) and other parties have agreed to debate this bill inside the normal seven days that would normally be allowed for a bill to rest before it is debated. The history of asbestos-related disease in Australia and around the world is very shameful. Coming from the building trade, I know that it is an issue that affects many people. Those who have worked with asbestos dread the possibility that they might end up with the consequences that many people have suffered. As a Parliament we owe it to them to ensure that these matters are dealt with as quickly and fully as possible, and I am therefore offering the full support of the Greens for this bill.

HON WENDY DUNCAN (Agricultural) [7.46 pm]: On behalf of the National Party, I place on record its support for the expeditious passage of this bill.

HON SUE ELLERY (South Metropolitan — Minister for Child Protection) [7.46 pm] — in reply: I thank members for their contribution to this debate. As mentioned by Hon Giz Watson, Parliament has the opportunity and the obligation—and I am pleased to see members stepping up to that—to provide something for a group of people in our community who have already been dealt a blow; that of contracting an asbestos-related disease. That Parliament is seeking to move quickly to fix something that can deal them a double blow is a good reflection of what we can do. In the public gallery tonight are Robert Vojakovic and members of the Asbestos Diseases Association. I acknowledge them and thank them for attending tonight. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Sue Ellery (Minister for Child Protection)**, and passed.

SELECT COMMITTEE INTO THE POLICE RAID ON THE *SUNDAY TIMES*

Establishment — Motion

Resumed from 8 May on the following motion moved by **Hon Norman Moore (Leader of the Opposition)** —

That —

(1) A select committee of three members be appointed, any two of whom constitute a quorum.

(2) The committee and the proceedings of the committee are subject to chapter XXII of standing orders, and the committee is to be regarded for all purposes as a committee appointed under that chapter.

(3) The committee is to inquire into and report on all the circumstances surrounding the police raid on the *Sunday Times* on 30 April 2008.

(4) The committee is to report by 12 August 2008.

HON KEN TRAVERS (North Metropolitan) [7.48 pm]: Before members vote on this motion I will make a few comments. I was sad that I was unable to comment last week, although the President had clearly put my name on the speaking list.

This is one of the most extraordinary motions for a select committee moved in my time in this place. In the Leader of the Opposition's comments last week he alluded to there being other examples in the past, but they must have happened well before my arrival in this place because I have never seen an inquiry conducted into an ongoing police investigation. The motion seeks to set up a select committee to inquire into and report on all the circumstances surrounding the police raid on the offices of the *Sunday Times* on 30 April 2008. It is one of the most extraordinary motions I have ever seen proposed in this place. It is even more extraordinary that it should be moved at this time. In the past, if people felt there had been some level of impropriety, there was nowhere else for them to go. However, these days they can go to the Corruption and Crime Commission. If a person believes that a public officer has done something wrong, that person can take the matter to the CCC. If a person believes that the CCC has done something wrong, that person can take the matter to the parliamentary inspector. Those avenues are now available to members of this place if they believe that some impropriety has occurred. However, when we listened to the debate on this motion last week –

Hon Barry House: So all those bodies are more important than the Parliament, are they?

Hon KEN TRAVERS: What does the member mean by that?

Hon Barry House: The CCC and the parliamentary inspector take precedence over Parliament?

Hon KEN TRAVERS: This is the point I want to get to, and Hon Barry House is drilling down into it. He is saying that there is a legitimate role for this Parliament to investigate how the police operate and to look at ongoing police investigations. Is that what Hon Barry House is saying, because that is how I am interpreting his comments?

Hon Barry House: No. You're saying that there are bodies to handle an inquiry.

Hon KEN TRAVERS: Absolutely. The point I am making is that if people in this place believe that some impropriety has occurred, it is appropriate that the matter be investigated by the CCC, not by a parliamentary committee. However, if we in this place are not happy with the outcome of a police investigation, should we investigate those matters, Mr House? Is that what the member is saying?

Hon Barry House: You're speaking.

Hon KEN TRAVERS: Now he goes quiet. Hon Barry House wanted to engage and interject, but now he is not prepared to engage in interjections, which is good. More importantly, I look forward to seeing whether he speaks on the motion. I will watch to see which side of the house he moves to when the motion is put to a vote. I suspect that he will not stand and put his arguments. He has made some comments by way of interjection, and when I drill down into them, what he is trying to imply becomes very clear. It is that if we as a Parliament are not happy with a police investigation, we should not refer the matter to the CCC or the parliamentary inspector; we should just set up a select committee to investigate the matter. If that is the will of the house, I look forward to the new world. I look forward to the opportunity of moving a motion in this place in the future to set up a select committee to inquire into a police investigation about certain issues—I will not mention any names. I suspect that many opportunities could arise out of this new process that members opposite want us to set up whereby we consider whether a police investigation is appropriate and is to our satisfaction because, as Hon Barry House says, we are the supreme body. Even though other bodies have been set up to look at such matters, we should conduct the inquiry ourselves. If a member of this place does not want to cooperate with a police investigation, perhaps we should set up a select committee to find out whether that is an appropriate course of action.

Hon Kim Chance: We have already done that.

Hon KEN TRAVERS: An inquiry into whether or not the member answered questions from the police?

Hon Kim Chance: Yes.

Hon KEN TRAVERS: When was that?

Hon Kim Chance: Not the police, the CCC—just before last Christmas. It was the Minister for Education and Training.

Hon KEN TRAVERS: That was not into an ongoing investigation at that stage, was it?

Hon Kim Chance: How do you tell? We're not supposed to know that.

Hon KEN TRAVERS: That is true. Again, those matters could have been referred to the parliamentary inspector at the time.

In the past when Mr Moore sat on this side of the house, he was very quick to move motions to ensure that select committees that were looking at broader policy matters did not in any way interfere with or obstruct or impede police investigations. When he was Leader of the House, he made sure that that applied to select committees that were looking at policy issues, not at the actions of the police. He was happy to do that then, but did he include that in the motion he moved in this place last week? No. That is fine. If that is the approach that this house wants to take, so be it. When the Leader of the Opposition spoke on this motion last week, he did not make one allegation of impropriety by a member of the government or a staff member of the government. The government has nothing to hide. If the Leader of the Opposition wants to hold an inquiry, he should go ahead and do it; we have nothing to hide. He can have his witch-hunt. He can dunk everyone three times, and, if they survive, they are witches and if they die, they are not witches, because that is essentially what he is talking about. The suggestion put forward last week when the motion was moved was that we must be guilty because the government did not say that it would support the motion, even though no allegations were made. The Leader of the Opposition's argument was that we must be guilty because we did not immediately support the motion to set up a select committee, even though he did not make a single allegation of impropriety or wrongdoing. Why was that? The Leader of the Opposition knows that if there was one skerrick of evidence of impropriety by members of the government in this process, he could have referred it to the CCC or the parliamentary inspector, because they have the experience, resources and capacity to investigate such matters in a full, proper and detailed manner. However, that is not what members opposite have chosen to do. They have chosen to set up a select committee. I suspect that this will be seen in the future as a sad day for this Parliament. It becomes interesting when we as a Parliament start looking at the activities of ongoing police investigations. The investigation has not even been concluded.

The policy issue that should arise as a result of the police raid on the offices of the *Sunday Times* is the role of shield laws, whether there is a need for them in this state and how they should operate. That raises a number of interesting questions. However, are those matters referred to in this motion? No. Members opposite are not even trying to turn this into a debate about a matter of policy; they simply want to deal with a police investigation. There is a very important debate to be had in our community about shield laws. I think there is a legitimate need for journalists to have the capacity to publish information that they are given and for them to be protected for publishing that information when the publication of that information is in the public interest. I accept that not every piece of information that is leaked is in the public interest. I suspect that the majority of journalists in this state receive on a daily basis hundreds of allegations that they do not publish because they recognise that it is not in the public interest to do so and that they could damage the commercial interests of the state and that that could be for the gratuitous benefit of others. We need to work through that issue in a constructive way. However, is that issue referred to in the motion moved by Hon Norman Moore? No, it is not. This motion simply seeks to look at an ongoing police investigation.

I understand that this matter will be put to a vote tonight. If it is the will of the house that that is the case, the government will not obstruct it. We will not be the same as the Liberal Party when it was in government. Members who are new to this place will find in *Hansard* examples of the former Liberal government's efforts to obstruct, defer and delay inquiries into policy issues. Why will the government not worry about delaying or deferring this motion? It is because it has nothing to hide. If the opposition wants to set the standard for appointing select committees into ongoing police investigations, I will get the typewriter out to put together some motions, try to get them through caucus and then bring them into this place to set up a few other committees.

Hon Robyn McSweeney: Typewriters are obsolete!

Hon KEN TRAVERS: There are many things that are obsolete.

Hon Robyn McSweeney: Yes, there are.

Hon KEN TRAVERS: Many of the opposition's policies are obsolete but we still refer to them, so that is okay.

I look forward to getting out there and thinking about other areas of inquiry, and what other select committees we could appoint to inquire into police investigations that I am not happy with. However, I suspect, on reflection, that I will remind myself of something I told myself when I first entered this place—to make sure that I was never brought down, to stay up high and not allow others to drag me down to where they want me to be. If I had serious allegations of impropriety against someone, I would make those allegations known to the Corruption and Crime Commission, as we are obliged to do under the Corruption and Crime Commission Act; or, if the allegations related to an officer of the CCC, I would take them to the Parliamentary Inspector of the Corruption and Crime Commission. The opposition can have a select committee if it so wishes. If I am not on the select committee—I hope I am not, because I have plenty of other things to do—I might make a point of turning up because I would like to be there and see the interaction between the committee and the Commissioner of Police. I hope the inquiry is not made private. Under the terms of reference it can be made public. I would love to go along and see the committee ask questions of the Corruption and Crime Commissioner. I look forward to seeing how that unfolds. I want to see the committee examine the Commissioner for Public Sector Standards,

because I suspect it would be fascinating to watch. If I were Commissioner for Police, I would be sitting there wanting to know what the hell this select committee was all about and asking it to tell me what it was that I had done wrong. I will not support the motion; I think it will waste the time of the house and of parliamentary staff who could be working on far more constructive issues of policy. There is nothing there; it is an attempt to create a smokescreen. One of the comments made by the Leader of the Opposition last week really told the tale of what this is all about. It is about using the processes for the establishment of a select committee to create a bit of a distraction. Let us remember what the Leader of the Opposition stated on 8 May; it appears on page 2655 of *Hansard* —

> It makes the Leader of the Opposition's offence of last week fade into insignificance.

That summarises what this motion is about. It is an attempt to create a smokescreen and a distraction. It is an attempt to say that there must be something wrong because the government opposes the appointment of a select committee. It is not because the government has anything to hide; it is because it does not think there should be inquiries into ongoing police investigations. However, if it is the will of the house to do so, let us get on with it, pass the motion and waste the resources of the Legislative Council.

HON LJILJANNA RAVLICH (East Metropolitan — Minister for Local Government) [8.03 pm]: I feel strongly about this matter and I want to put my views about it on record. This motion has a very similar ring to a previous motion which passed through this place some time ago and which involved me, as a minister, fronting a committee. Committees established by an opposition —

Hon Kim Chance: For political purposes.

Hon LJILJANNA RAVLICH: — for political purposes are very dangerous indeed. There may be some political opportunities to be gained by opposition parties involved in this process through the seeking out of information, the public nature of the proposed inquiry and the media interest that may be generated by the inquiry process. However, this is a very dangerous way forward for members of this house. As I understand it, when I was required to appear before a committee for an inquiry into not what I knew, but what I did not know, about the complaints management unit of the Department of Education and Training and an investigation by the CCC, it was the first time that a minister of the Crown from this house had had to front an opposition-controlled committee. That in itself is a very dangerous path to go down. One has to ask why I had to front that committee some 15 months ago. Clearly, if this was such a normal process, why had it never happened before as a matter of course to members of the Legislative Council?

I will come back to that issue, but I really want to get to the heart of the motion before the house. Hon Ken Travers is absolutely right; we know there is an ongoing police investigation and we know that it has not yet been completed. However, the political opportunism of members opposite and the Greens (WA) in this matter means that they have no regard for the fact that there is a police investigation underway. When I listen to the sorts of issues raised by members opposite on this matter, it is clear to me that they are ignorant of the Public Sector Management Act, the Corruption and Crime Commission Act, the processes of government, the operational requirements of the Public Sector Management Act and the operational requirements of the Corruption and Crime Commission Act. When one listens to the concerns raised by the opposition, it is apparent that the answers it seeks are simply available in Corruption and Crime Commission information documents or by trawling through the internet to the government's webpage and retrieving a copy of the Public Sector Management Act. It is simply all there.

Hon Simon O'Brien: Can you identify the document you are holding?

Hon LJILJANNA RAVLICH: This is the Corruption and Crime Commission's notification guidelines for principal officers of public authorities. This is what people should do when they suspect there to be crime, corruption or misconduct within the public sector. The point I make is that people have legal obligations to report not what has happened, but any suspicions they have about what may have happened. I want to spend a little time going through some of this matter because it is quite clear to me that people on the other side of the house do not understand the seriousness of the matter. They probably do understand the political mileage or advantage to be gained in having yet another inquiry in which they gloss over fact and present a report that has a political outcome. I do not think they understand the seriousness of what they are intending to do or the path they are going down.

One of the clear objectives of the Crime and Corruption Commission is —

> . . . to improve continuously the integrity of, and to reduce the incidence of misconduct in, the public sector.

This document, which is the Corruption and Crime Commission's "Notification Guidelines for Principal Officers of Public Authorities", clearly outlines that there is a duty on principal officers of public authorities, or indeed public sector employees, to notify the commission in writing of suspected misconduct under the act. That duty,

of course, is paramount, and section 28 of that act applies to the Parliamentary Commissioner for Administrative Investigations, the Inspector of Custodial Services, principal officers of a notifying authority etc. There is no doubt that when the question of what is misconduct arises, this document makes it quite clear that serious misconduct occurs when a public officer corruptly acts or corruptly fails to act. In respect of the question at hand, and in respect of this issue about the police raid on the *Sunday Times,* we do know that there was a leaked document. We also know that the issue of the leaked document was known, and therefore there was an obligation to report the fact that there had been a leaked document. Consequently, a course of events followed from that.

Quite clearly, processes are in place designed to ensure that the integrity of the public service and the public sector is protected. Processes are in place to ensure that individuals are protected. Processes are in place to ensure that the system as a whole works effectively, with the appropriate checks and balances in place.

I think that a select committee into the police raid on the *Sunday Times* will take us no further than where we currently are. It is a job which is best left to the police. It is a job that I am sure the police are more than able to handle. If, after the police investigation, there is ongoing concern in relation to this matter, that will be a separate issue. This inquiry will pre-empt the work of the Western Australia Police, pre-empt its findings and potentially interfere with a very, very serious investigation. I think that this house needs to reflect on the decision that it will make this evening.

HON NORMAN MOORE (Mining and Pastoral — Leader of the Opposition) [8.14 pm] — in reply: One would think that I, having been here this long, would know what the standing orders provide for, and I apologise for not being at my place in this house when required. I imagined that the minister was going to speak at greater length, but she did not.

Hon Ljiljanna Ravlich: I changed my mind.

Hon Simon O'Brien: It seemed like it!

Hon Ken Travers: We told you, Mr Moore, that we do not delay your legislation like you delay ours!

The DEPUTY PRESIDENT (Hon George Cash): Order, members! I want to try to get on to the other orders of the day at the house's convenience.

Hon NORMAN MOORE: I am also very anxious to do that, Mr Deputy President. The member may be aware that we just passed a bill in 15 minutes. The opposition and the government are quite capable of agreeing to pass legislation quickly when there is a reason to do so, and we will always provide that opportunity, as the Leader of the House well knows. Therefore, there was no need for Hon Ken Travers' silly comment.

I thank those members of the house who are supporting this motion. I indicate to Hon Ken Travers that a standing order 128 motion was moved on a previous occasion. The first time ever I can recall it happening was when Hon Tom Stephens, then Leader of the Opposition, moved to bring on a select committee into the finance broking industry at the same time that a judicial inquiry was being held. If Hon Ken Travers could just bear that in mind.

Hon Ken Travers: Does Hon Norman Moore also remember that he included a reference to not interfering or obstructing the inquiry?

The DEPUTY PRESIDENT: Order, members!

Question put and a division taken with the following result —

Ayes (15)

Hon Ken Baston	Hon Donna Faragher	Hon Robyn McSweeney	Hon Barbara Scott
Hon George Cash	Hon Nigel Hallett	Hon Norman Moore	Hon Giz Watson
Hon Peter Collier	Hon Barry House	Hon Helen Morton	Hon Bruce Donaldson *(Teller)*
Hon Brian Ellis	Hon Paul Llewellyn	Hon Simon O'Brien	

Noes (11)

Hon Matt Benson-Lidholm	Hon Sue Ellery	Hon Sheila Mills	Hon Ken Travers
Hon Vincent Catania	Hon Adele Farina	Hon Ljiljanna Ravlich	Hon Ed Dermer *(Teller)*
Hon Kim Chance	Hon Jon Ford	Hon Sally Talbot	

Pairs

Hon Anthony Fels	Hon Batong Pham
Hon Ray Halligan	Hon Graham Giffard
Hon Wendy Duncan	Hon Kate Doust

Question thus passed.

THE CLIFFE — REGISTER OF HERITAGE PLACES

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to a resolution that, pursuant to section 54(7) of the Heritage of Western Australia Act 1990, the property known as The Cliffe, which was permanently entered into the Register of Heritage Places on 19 July 2005, notice of which appears in the *Government Gazette* of 29 July 2005 at page 3365, should be removed from the Register of Heritage Places, and requested that the Council agree to a similar resolution.

FOOD BILL 2005

Report

Report of committee adopted.

LEGAL PROFESSION BILL 2007

Report

Report of committee adopted.

COMMUNITY PROTECTION (OFFENDER REPORTING) AMENDMENT BILL 2007

Second Reading

Resumed from 13 May.

HON PETER COLLIER (North Metropolitan) [8.22 pm]: At the conclusion of my comments yesterday, I was reading into *Hansard* a letter from Johnson Kitto about this issue. Before I continue reading that letter, I reiterate that the opposition supports the Community Protection (Offender Reporting) Amendment Bill 2007. However, Johnson Kitto identified an issue that perhaps could improve this legislation. I will continue to read from the letter before making a few comments to clarify that point and to encourage the government to support my amendment to this bill.

I concluded my comments by reading paragraph (2) of the information that B—the young man involved—is required to provide police. The letter continues —

> 3) His employment details, including the type of work, name of employer and the addresses or locations he works at;
>
> 4) The details of clubs and organisations he is involved with, which have members who are children or which conduct activities with children;
>
> 5) Details of any vehicles B owns or uses;
>
> 6) Details of any tattoos or permanent distinguishing marks.
>
> If B intends to visit another state or territory, he must provide information for his reason for travelling and the frequency and destinations of such travel.
>
> He is required to report his personal details to the police each year for the next four years, or more frequently if notified of that requirement by the Commissioner of Police.
>
> B must also report if he intends to leave Western Australia for seven or more consecutive days to travel elsewhere in Australia, or if he intends to travel out of Australia at all.
>
> This report must include details of where he intends to travel to, the approximate dates of the travel, the location at which he will be residing and for what dates, and the approximate date on which he returns to Western Australia. If he changes his travel plans whilst out of Western Australia, then this must also be reported.
>
> **Effect on B and His Family**
>
> As you may appreciate, when I advised B and his parents of the above requirements, they had some difficulty comprehending that the CPORA could possibly apply to B in this matter.
>
> Despite my advice that the reporting obligations are not a "punishment", B and his family (understandably) treat them as such. They feel that B is now officially registered and monitored as some sort of paedophile or community menace, in the same league as adult predatory offenders of the type which the CPORA was no doubt intended to protect the community against.
>
> The effect on B has been devastating: he has become sullen and withdrawn, and distances himself from activities involving his peers and his family. He is depressed and having a great deal of difficulty comprehending (as am I) why this legislation should have such a draconian and unwarranted affect on him.

In reality, the most formative years of B's development into adulthood will now be seriously and irreparably marred by the effect of this legislation on him.

There is, in my assessment, no benefit whatsoever to the community of the imposition of these measures on B. To the contrary, this legislation is seriously harming members of the community, namely B, and his family.

Other Issues

Respectfully, I draw your attention to article 3.1 of the *United Nations General Assembly Convention on the Rights of the Child* (to which the Commonwealth of Australia is a signatory), and which provide in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

The obligations and penalties of the CPORA on B are particularly repugnant to any notion of fairness or community protection, considering that whilst B is now a reportable offender, the following hypothetical offenders would not be:

1) A home invader / burglar who is a repeat offender;

2) A person with several convictions for drug dealing;

3) A person with one or more convictions for indecently assaulting males or females above the age of 18;

4) A person secretly photographing or otherwise recording private activities of adults (eg at beaches, public changerooms etc);

5) A person offering to sell or possessing objectionable pornographic material relating to adults;

6) A repeat offender arsonist;

7) A person living off the earnings of prostitution, or a person offering payment for sexual gratitude (providing children are not involved).

I am confident that most members of the community would regard that any of the above persons to pose a serious threat to various members of the community. Similarly, I am confident that most people would agree that B's conduct does not.

The operation of the CPORA against B also represents, in my opinion, a misallocation of policing resources, at a time when seemingly these resources are already stretched.

Reform of the CPORA

B is a victim of this well intentioned but misapplied legislation.

B and his family are stigmatised and traumatised by his inclusion on the Community Protection Offender Register. The ongoing reporting obligations of this legislation imposed on B are an unnecessary onerous and humiliating obligation which is both contrary to his own rehabilitation, (as if he needed it), and to the interests of the community.

While I appreciate that B's case is somewhat unusual, I am not confident that he is not, and will not, be the only victim of the CPORA, unless that legislation is amended.

I therefore respectfully urge you to consider the following amendment to the CPORA.

The amendment is virtually word-for-word the same as the amendment that was proposed by the opposition in the other place and I have on the supplementary notice paper. The letter continues —

The amendments suggested above would effectively grant a discretionary power to the Children's Court (or in some limited cases an adult court dealing with a young offender) by which the offender, though convicted, would not be subject to the CPORA. I submit to each of you that the court is in an ideal position to inquire into the criteria listed at section 53(3) of the existing Act, and has both the experience, and the means to inquire into these various criteria, and to hear submissions from both parties to the prosecution, and if necessary any external reporting agencies.

Such an amendment would have undoubtedly resulted in B and his family not being inadvertently victimised by the legislation as it presently stands.

I commend this amendment to you and respectfully suggest that this amendment (or similar) should be considered well before the fifth anniversary of the commencement day of the Act, as is the present statutory review period allowed by section 115(1).

I think that everybody would agree that this young man is not a serial offender. Quite frankly, I firmly believe that this young man should not be included on the sex offenders register. Unfortunately, as a result of this legislation—although I appreciate that it is probably unintentional—this young man is now on the sex offenders register because it is mandated that anyone on a class 2 offence must be included on the register. This is a young man who is gainfully employed. He has a very loving, caring, supportive family, but, unfortunately, he is caught up in the confines of this legislation. Surely, the Community Protection Offender Register is intended for serial sex offenders and for those who consciously commit sexual crimes or crimes against people in our community, particularly the youth and children in our community.

I will have more to say about this bill when we get to the committee stage. However, I have done a considerable amount of research regarding the letter from Johnson Kitto. I am firmly of the belief that the opposition amendment has merit. It is not a party policy direction, from my perspective. I firmly believe that we need to support this amendment to ensure that people such as the young man whom I have just identified are in fact excluded from the register.

Having said that, the bill does toughen up the act and, as I said, I am certainly supportive of that. However, I feel that it is very important that we ensure that justice prevails at every opportunity in our society. In this instance, this young man will be tagged for life as a sex offender. He will have to report for the first four years, but he will always have his name on that sex offenders' register. The original act captures people such as this young man whom it was never intended to capture. As I said, I will certainly speak on the amendment at length in the committee stage. I feel that the amendment is eminently sensible. However, having said that, the opposition will support the bill.

HON GIZ WATSON (North Metropolitan) [8.31 pm]: I will make a few comments on the Community Protection (Offender Reporting) Amendment Bill 2007 and indicate that the Greens (WA) will support the bill. This area of legislation is a delicate area in meeting the requirements to protect, as far as it can, the community, and in particular young people, children and youths, from the effects of child abuse, stalking and the other offences that this area of law addresses. I am aware that we need to have in mind the rights of individuals also, and that is the delicate balancing act that the Parliament has to perform to get this sort of legislation right.

I appreciate the briefing that I had on this bill. I have to say that I did not know a lot about the process that was in place in this state for the register of offenders and the monitoring of offenders. However, I am supportive of the additional amendments that this bill seeks to introduce. It tightens the reporting requirements in relation to the online environment and the travel movements of offenders, and it also extends the scope of reportable offences. The blessings and curses of the electronic environment mean that, as legislators, we have to keep ensuring that we are cognisant of the sorts of activities that happen online. Obviously, the cyber predator legislation that we dealt with in this place recently also gave us an opportunity to look at that. I believe that the amendments, as they have been explained to me, regarding a requirement for reportable offenders to disclose telephone numbers, email addresses, internet service providers etc, any names they might use in chat rooms and details of any websites or internet communications services where the offender's name, either real or assumed, is used are legitimate amendments to bring in under this legislation. I believe that the more restrictive requirements regarding travel plans and the fact that those on the register will be required to indicate what their travel plans are, even when they are of a shorter duration than that which exists currently, are an acceptable tightening of the requirements on those people who are on the offenders' register.

One of the reasons that the Greens are happy to support these amendments is that we are cognisant of the fact that, unfortunately, in this area of offending there is a high rate of recidivism. In looking at the principles involved in the responsibility to protect the community and at the same time recognise that every individual retains basic human rights, the requirements to report and the tight monitoring by police officers are appropriate. In the briefing, I raised some questions about how these provisions operate in very small communities in which, basically, everybody knows everybody else.

[Quorum formed.]

Hon GIZ WATSON: I do not have a lot more to say on this bill. It is a relatively short bill. I believe that the government should be commended for bringing in these amendments to tighten the requirements regarding the offender register and the operation of the offender register. I listened with interest to the contribution of Hon Peter Collier about his proposed amendment, and I will certainly be interested in listening to the detail of that in the committee stage. I am not unsympathetic to what the honourable member is seeking to address. I will be interested to see whether the amendment that he seeks to move will achieve that, having received some further information on this matter. Therefore, I will be happy to participate in that component of this debate. The Greens are equally concerned about very young offenders who find themselves in the circumstances that have been described in the correspondence that the honourable member read into *Hansard*. Therefore, we will be interested in participating in that discussion. However, with those comments, we are happy to support this bill.

HON JON FORD (Mining and Pastoral — Minister for Employment Protection) [8.38 pm] — in reply: I thank members for their general support for the Community Protection (Offender Reporting) Amendment Bill 2007. Hon Peter Collier went into some detail about what this bill sets out to achieve. Specifically, it tightens up the reporting provisions for people who are convicted of offences against children primarily. Although I will not go into that in detail, I will spend a bit of time responding to Hon Peter Collier's comments about the amendment which he wishes the house to support but which the government does not support. On the face of it members can understand the reason that somebody would be sympathetic to the letter that Hon Peter Collier read to the house. There is a time lag in all these things. Under the current legislation, which these amendments will not change, if an offender charged of a class 1 offence is found guilty, but the conviction is spent, which means that a penalty would not apply, that person's name would end up being on the Australian National Child Offender Register. This register is locked down and is not available to the general public. If somebody is found guilty of an offence and another person asks for a list of his or her offences, it would show that that person is guilty of the offence but would not show that he or she is registered on ANCOR. It is primarily for tracking offenders—watching what they do and notifying other jurisdictions of their movements. It is to be used as a major tool against paedophiles who travel overseas and across jurisdictional borders in an attempt to divert protection. It is a silent tool between agencies and is not something that the general public can gain access to.

Cases involving the offences of a minor are dealt with in the Children's Court. Such cases are not recorded in the public domain and the general public does not have access to the proceedings of that court, because it is about protecting the interests of the minor.

I come to the Johnson Kitto case. Under the provisions of the act the commissioner is required to assess each case to ascertain whether the reporting provisions should apply. In this case the commissioner decided the reporting provisions should not apply and he suspended them.

Hon Peter Collier: Is he still on the register?

Hon JON FORD: His name is on the register. The reporting provisions did not apply in this case; therefore, he does not have to go to the police station or notify the police when he goes out of the jurisdiction. The strict reporting provisions do not apply to that case. Still, his name is on that register.

Hon Peter Collier: For life.

Hon JON FORD: No, not for life in the case of a minor. Sorry, the member is referring to the reporting provisions. The member is correct; it is for life. The reporting provision has a statutory limit, but the name of the person remains on the register.

If we were to accept Hon Peter Collier's amendment, it would have the potential for a number of unintended consequences, one of which is the differentiation between what goes on between the jurisdictions. We would be the only jurisdiction that allows somebody to challenge the name of the person being put on the register and, if the magistrate decided that it should be removed from the register, it would be.

I was interested to hear Hon Peter Collier's contribution to this debate, because from the parents' view of the young man who found himself in trouble, they were amazed that he was found guilty of the schedule 2 offence; that is, indecent dealings. At the same time they wanted to entrust to the same person the decision of whether his name should remain or be removed from the register. I understand that they are upset. Anybody in this situation would be upset. However, the victim's family is also upset.

I am talking about making sure that the name of somebody who has been convicted remains on that register. We know it is not beyond reason because these people try to get across jurisdictional borders to escape detection. They move to another jurisdiction or go on holidays in another country to commit these offences, some of which are not minor in nature, but are horrific. It is a risky business. When we talk about minors, we think of somebody who is aged 12, 13 or younger, but we are also talking about 16 and 17-year-olds, who are generally regarded as young adults. The law states that when they turn 18 years of age, they are classified as adults.

Another case that was brought to my attention is very similar to the one I outlined. A 17-year-old was accused of placing his hands on the genitals of a 16-year-old girl who was sitting in the car next to him. A further assault was averted because she was able to get out of the car and move on. This person was convicted of indecent dealings with another minor and his name was placed on the Australian National Child Offender Register. The Commissioner of Police also decided that because the minor had not committed any previous offences and was of good character that the reporting requirements should be suspended. However, in the pursuing month, that person managed to be charged with the sexual penetration of a 13-year-old and, two months later, a 14-year-old. By saying that because of a person's age that person should have the ability to have his name removed from the register, is treading dangerous ground.

Hon Peter Collier: In the case you referred to, did he plead guilty to the original offence?

Hon JON FORD: I am not sure.

Hon Peter Collier: In the case I referred to the chap did.

Hon JON FORD: If we take it to the next step, if the proposed amendment had been applied to that case and the court was, in the first instance, sympathetic to taking that person's name off the register and the second offence occurred, particularly in another jurisdiction, there would be no record of that offence occurring. It would not be obvious. The person was convicted in the Children's Court; therefore, the records are silent. This person would then be able to re-offend in different jurisdictions without detection. That whole point of ANCOR, is that it is a national register and other jurisdictions are informed of the whereabouts of these people. Members must remember that it is a silent register. If the reporting provisions do not apply to an offender, they are represented on the register. It is important to remember that.

I am sure it is unintended, but Hon Peter Collier's proposed amendment opens the door for people convicted of serious schedule 2 offences under the act and to have that rule apply the offences would include people allowing children to be on a premises for unlawful carnal knowledge; indecent recording of children under 13; indecent recording of children over 13 and under 16 years; indecent recording of children on or over 16 years by a person in authority; aggravated indecent assault if the person against whom the offence is committed is a child; sexual servitude if the person against whom the offence is committed is a child; conducting business involving sexual servitude of a person against whom the offence is committed is a child; and recruiting for commercial sexual services if the person against whom the offence is committed is a child. We are talking about minors—children who are 16 or 17 years old. I have to be careful, because I do not want to touch on matters that are sub judice, but a number of cases are being heard in this state at the moment involving people in those circumstances. Other class 2 offences are: causing or permitting or seeking to induce a child to act as a prostitute; obtaining payment for prostitution by a child; child pornography; objectionable material offences; employment of a child to perform in an indecent manner; sexual conduct involving a child under 16; inducing a child under 16 to be involved in sexual conduct; and benefiting from an offence against part IIIA etc. There are also special offences under the Customs Act 1901 for items of child pornography or child abuse material. If we accept the amendment proposed by Hon Peter Collier, we would be opening the gate for people convicted of those sorts of offences. It could be argued that one could not imagine a situation in which a magistrate would allow a person to be deregistered. However, stranger things have happened. For instance, under a plea bargain, a person who committed such an offence might get a spent conviction in return for giving evidence against somebody else who had committed an offence. That person would then have the opportunity to be taken off the Australian National Child Offender Register.

ANCOR is an invaluable tool in tracking individuals. Without this sort of system, some people would not have been caught committing these sorts of offences overseas or when they have crossed jurisdictions within Australia. It is a worthwhile tool. Nobody would argue against that. However, Hon Peter Collier's amendment would put a chink in this armour. ANCOR is not a big impost on a registered person. If a person committed a reportable offence as a minor, his name would not have been reported in the public domain. If the Commissioner of Police suspended the reporting provisions for that person, all that would happen is that his name would be registered in the ANCOR. That is it. That is not a huge impingement on someone's personal liberties, given what the register attempts to do. There has been a lot of debate in this place about protecting the interests of children. We could compare this provision with some other provisions that have been allowed in this state. Amazingly, I have argued in this place about some of the human rights that have been given away in response to terrorism operations. We are not asking for a lot. There are great benefits in retaining this provision. If a minor is convicted of an offence and the Commissioner of Police deems that the reporting provisions will not apply to that person, which he has shown he is willing to do, this will not be a big impost on that person's life. However, at the same time, the registration of that person's name on the ANCOR offers substantial protection to the community, particularly to our must vulnerable—the children of this state. I am sure we will go into a bit more detail on this matter during the committee stage. I am just warning the house that we have a weapon that has been shown to be effective against these abhorrent crimes and that contains reasonable safeguards, especially for minors. Of course, they are the people whom we are trying to protect. Being registered on the ANCOR is not a big impost on a person when we consider the wider benefits that this provides to the most vulnerable people in our society. I urge the house to support the bill but to not support the amendment offered by Hon Peter Collier.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon George Cash) in the chair; Hon Jon Ford (Minister for Employment Protection) in charge of the bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 26 amended —

Hon PETER COLLIER: I raise a matter that was raised in the other place; that is, whether specific terminology is associated with the term "regularly uses". Many of the people whom we are talking about are transients. Is there a specific definition for "regularly uses"? I am sure a lot of these guys will have a plethora of different places they could access. The clause refers to telephone numbers or email addresses that these people regularly use. Will that include work telephone numbers and email accounts as well as home ones?

Hon JON FORD: The bill requires a person to supply details of all his telephone numbers and email accounts. The clause provides that if a person lives in somebody else's home and uses the telephone at that house, he will need to identify that telephone number. A person would also need to identify email accounts of other people that he accesses. This is a catch-all, so that there can be no escape.

Hon Peter Collier interjected.

Hon JON FORD: Yes.

Clause put and passed.

Clauses 5 to 12 put and passed.

Clause 13: *Working with Children (Criminal Record Checking) Act 2004* consequentially amended —

Hon JON FORD: I move —

Page 9, after line 13 — To insert —

(4) Schedule 2 is amended in the item relating to *The Criminal Code* section 321A by deleting the description of offence and inserting instead —

"

Persistent sexual conduct with child under 16 (if the offence does not include a sexual act on any occasion when the child against whom the offence is committed is under 13)

".

The notes I have before me state that section 10 of the Criminal Law and Evidence Amendment Act 2008 repealed and re-enacted section 321A of the Criminal Code, which necessitated consequential amendments to, among other provisions, the Working with Children (Criminal Record Checking) Act 2004, schedule 1 and schedule 2. Unfortunately, under section 74 amended of the Criminal Law and Evidence Amendment Act 2008, only section 1 and section 2 should have been amended to reflect the new section 321A. This amendment is to correct that omission.

Hon GIZ WATSON: The Greens (WA) understand that this amendment is technical in nature and are happy to support it.

Amendment put and passed.

Clause, as amended, put and passed.

New Clause 4 —

Hon PETER COLLIER: I move —

Page 2, after line 11 — To insert —

4. Section 13A inserted

After section 13 the following section is inserted —

"

13A. Provision for declaration of child not a young reportable offender

(1) If a court finds a child guilty of a Class 2 offence and the child receives no penalty pursuant to section 66 of the *Young Offenders Act 1994* and, but for the operation of this section, that child would become a young reportable offender, then the court may on application by that child declare that child not to be a young reportable offender.

(2) The court may make the declaration, referred to in subsection (1), only if it is satisfied that the child who would otherwise become a young reportable offender does not pose a risk to the lives or the sexual safety of one or more persons, or persons generally.

."

I covered the reasons why the opposition supports this amendment in my second reading contribution, but I will go through a few other issues as well.

As members know, the Community Protection (Offender Reporting) Act 2004 is intended to protect the community, particularly children and youth, which is why the opposition is very, very supportive of both the original act and the amendments to it. With all due respect, I doubt there would be anyone who would find the circumstances surrounding the young man referred to in Johnson Kitto's letter as being of the same calibre as other offenders that the minister referred to in his summation—that is, people who procure young people for prostitution, those who regularly indulge in child pornography etc. In those instances there would definitely be an argument as to why those people should be on the sexual offenders register. In this instance there is a genuine case that this young man does not belong on the sex offenders register.

I listened with close intent to the minister's contribution, and particularly his comments about there being no real impost on this young man—I beg to differ on that point. This man will go through life knowing full well personally, with his hand on his heart, regardless of what positive spray he puts on it, that he is on the sex offenders register. What happens in five years' time when he goes to get married? Wherever he goes in life—if he applies for a new job etc—he is on the sex offenders register. As the letter stated, this young man has been relieved of the need to report, but he is still on the sex offenders register.

Before I go any further, will the minister confirm that this young man is on the sex offenders register for life?

Hon JON FORD: Yes, he is, and I take the opportunity to reaffirm what I said in the second reading debate, which is that I am advised that seven people in this state have access to that register. I appreciate that he might have some trauma about realising that he is on that register, but none of his colleagues or friends—unless they attended the court case—would know that. I understand that he might have some regrets, but I suspect they are more tied up with the process of leading up to being convicted. He is currently not required to adhere to the onerous provisions of reporting. People do things in life that they regret and live with the consequences for the rest of their lives. Seven people in this state have access to this record, which is a silent register that is designed to protect all children in Western Australia, and indeed children internationally. I do not think that is an onerous task or burden to bear. I suspect that he regrets the situation he is in, and I hope he regrets the actions that led up to the case, plus the procedures he went through in the Children's Court.

I have been given some background information which is that even if he was not on the Australian National Child Offender Register, the WA working with children legislation would still apply. If he is taken off the national register, because he has been convicted of an offence of this nature it will go against him if he was to apply to work with children. That is a different piece of legislation.

Hon Peter Collier: Is that as a penalty or sentence?

Hon JON FORD: That is right, because he has been convicted.

Hon PETER COLLIER: This young man will have an enormous burden placed upon him personally, but the minister has made his point quite clearly. The implications for the young man on how he sees himself personally in his later life are profound.

That raises another issue: who are the seven people who are aware of who this young man is; and will there be any penalty imposed on them should they reveal specific details regarding those on the register?

Hon JON FORD: They are the staff of the ANCOR unit. The penalties —

Hon Peter Collier: In Western Australia?

Hon JON FORD: In Western Australia. In the case of a person recording, disclosing or making use of the information or gaining a benefit from the recording, disclosing or use of the information and the value of the benefit is more that $10 000, the penalty is a fine of $60 000 or 10 years' imprisonment. Other penalties can be imposed, depending upon what they do with the information, ranging from $30 000 or five years' imprisonment, or a fine of $18 000 and three years' imprisonment if they misuse that information.

Hon Peter Collier: Who are the seven?

Hon JON FORD: The ANCOR staff in WA.

Hon Peter Collier: Are there only seven people?

Hon JON FORD: It is the staff in the registry of ANCOR.

Hon PETER COLLIER: We still disagree on the guilt and the burden that that young man will carry throughout his life. I am still of the opinion that he will.

The new clause refers to a class 2 offence, which is the type of offence that this young man committed. The offence he committed was indecent assault, not aggravated indecent assault. Is that correct? That is in the same

category as accessing pornography, and the minister mentioned a raft of other offences. I doubt very much that any member would agree that the offence that this young man committed is of the same calibre as a number of other offences that the minister mentioned. However, it is mandated that he be on the register. Having said that, I understand why people who commit class 2 offences should be on the register. I am very supportive of that. I would be very disappointed if they were not on the register. However, I feel that the new clause contains a provision to ensure that there is a safety net to narrow it. The new clause refers only to juveniles, not serial offenders. They are the people we want to capture more than anyone. They use the most advanced forensic techniques possible to access juveniles through the internet. The new clause refers only to a class 2 offence. It also refers to a penalty pursuant to section 66 of the Young Offenders Act—that is, a no-punishment order—which again clarifies it. Ultimately, the judge has discretion and he may decide that a person should be on the sex offender register. I would appreciate the minister's comments about which aspects of the new clause are not watertight from that perspective.

Hon JON FORD: Let me paint a scenario. Let us imagine that the member's new clause applies and a 17-year-old person living in Kununurra is charged with and convicted of indecent dealings with a child or indecent assault and then seeks, under these provisions, to be taken off the Australian National Child Offender Register and is successful. Then he drives across to Katherine and commits a similar offence and is subsequently charged with and convicted of that offence and is put on the register. The person has committed two offences, but the Northern Territory register will not reflect the fact that the person is a serial offender or is starting to show that pattern of behaviour. That is the point. We are trying to capture people at a very early stage and to identify patterns of behaviour.

Hon Peter Collier: But he wouldn't get off the register pursuant to section 66, surely?

Hon JON FORD: That would be a possibility under the new clause.

Hon Peter Collier: How?

Hon JON FORD: Because the person would not be on ANCOR and he could go across the border into a different jurisdiction.

Hon Peter Collier: Yes.

The CHAIRMAN: Order! The Hansard reporter is not able to hear Hon Peter Collier's interjections. In a moment I will give him an opportunity to ask as many questions as he likes, but it is difficult for the Hansard reporter to hear.

Hon JON FORD: That would be one of the nexus problems with the new clause should it be passed by the chamber. Western Australia would be the only jurisdiction in which this provision would not apply. In fact, I am advised that in the future there will be a review of the reporting provisions to determine how effective they are, and there may need to be some adjustments. All the jurisdictions are agreeing and working forward. It is a bit hard to say that a person of such a young age is not a serial offender. I agree that there are instances in which it could be a one-off case. However, we are trying to identify people who display that type of behaviour. I said earlier that these people use jurisdictional lines to get away with what they are doing. We must be very careful about unintended circumstances.

Hon PETER COLLIER: I think we are probably going around in circles. The new clause refers to juveniles and would apply only to a young person who is dealt with under section 66 of the Young Offenders Act. Those are the two criteria that must exist under the new clause. Having said that, I encourage members to support the new clause.

Hon GIZ WATSON: I have listened with interest to the exchange on the new clause. I am not attracted to supporting it. I think there could be unintended consequences. I support the intention that the member has expressed and share his concerns about the potential for a young offender to be caught in this circumstance. However, I am happy that the government's explanation addresses my concerns; therefore, we will not support the new clause.

New clause put and negatived.

The CHAIRMAN: I want to ask the minister a question very much informally. Subclause (4) of the amendment to clause 13 that we have passed states "persistent sexual conduct with child". Should it read "with a child"? Is there some reason that "the" child, so to speak, has not been distinguished, or is that in keeping with the current wording of another act? If the minister indicates that it should read "with a child", that will become a clerical amendment. However, I need his comment on that.

Hon JON FORD: Indeed, it is written that way to be consistent with the Working with Children (Criminal Record Checking) Act 2004.

The CHAIRMAN: I thank the minister. It is for the sake of consistency and therefore it will be as the minister has moved it and as it has been agreed to.

Title —

Hon JON FORD: I was going to take the opportunity to answer Hon Giz Watson's questions about the operation of reporting in remote communities.

The CHAIRMAN: On the question that this shall be the title of the bill, I am sure it will afford the minister the opportunity. I will put the question as soon as the minister has responded to Hon Giz Watson.

Hon JON FORD: There is a specific section in the act, "Reporting by remote offenders", that deals with this issue. Such an offender would have those reporting conditions awarded to him at a major centre. However, if the offender lives in a very remote area, provision is made for him to deal with local government officials in that area and/or by phone. I am advised that the "big stick" approach is not taken and that every effort is made to work with the offender, but also to ensure that adequate and reasonable reporting provisions apply, depending on the offender's particular circumstances.

Title put and passed.

Bill reported, with an amendment.

ACTS AMENDMENT (CONSENT TO MEDICAL TREATMENT) BILL 2006

Committee

Resumed from 8 May. The Chairman of Committees (Hon George Cash) in the chair; Hon Sue Ellery (Minister for Child Protection) in charge of the bill.

Clause 11: Parts 9A to 9D inserted —

Proposed section 110S: Operation generally —

Progress was reported after Hon Barbara Scott had moved the following amendment —

Page 17, line 15 — To insert after the word "circumstances" —

clearly

Hon SUE ELLERY: I take the opportunity to remind members where we were at this point in the debate last time, and what the government's position was. I ask members to carefully consider my request that they oppose this amendment because it will insert a qualification. It will qualify the capacity for a particular treatment decision in an advance health directive to be carried out, because it begs the question: clear to whom? In earlier debates when this matter was before the chamber, I asked members to carefully consider the policy position the government had put, notwithstanding that I respect the fact that for some people this bill will not be at all attractive. However, I ask those people who do not have a philosophical objection to the bill to consider the way they will vote on this question because it will go towards making the operation of advance health directives cumbersome and difficult to implement for those people who choose to go down the path of having them. It really goes against the government's central policy in introducing the legislation. By inserting the word "clearly", we would be inserting a qualification that will not be possible to measure or quantify at the time at which people will be expected to make a treatment decision specified in an advance health directive. Having to make such decisions might in fact end up being something that will have to be tested elsewhere, and that is not the intention of the advance health directive. The government opposes the amendment. We do not think it is necessary. It adds a qualification that will make carrying out a treatment decision in an advance health directive cumbersome, if not practically impossible, to deliver. I ask members to oppose the amendment.

Hon BARBARA SCOTT: I too would like to remind the chamber of the debate that took place last Thursday and that this is primarily my amendment. The addition of the word "clearly" is a minor word change designed to tighten the concept. Adding the word "clearly" to proposed section 110S(2) makes it plain that an all-embracing or non-specific directive will not have legal force. I also add that the comments made by the minister this evening and last Thursday about those people in the chamber who may or may not disagree with a living will are out of place in the context of this amendment. If those remarks were directed at me, the minister should revisit my contribution to the second reading debate, and she would discover that I actually agree with advance health directives. I am asking the minister; perhaps she might revisit my contribution to the second reading debate if the remarks with which she prefaced her comments about this amendment were designed to suggest that people who are philosophically opposed to advance health directives may agree with the amendment. That has nothing to do with the amendment. I am asking the minister whether she might revisit the words in my contribution to the second reading debate in which I clearly stated that I personally have no objection to an advance health care directive, but this amendment is moved purely to tighten up a concept and make plain that an all-embracing or non-specific directive will not have legal force. On the matter of this amendment, I ask the minister this question: if the minister is unwilling to accept adding the word "clearly" to the proposed section, can she advise the chamber whether, without that word, all-embracing or non-specific directives will be definitely ruled out by the act?

Hon SUE ELLERY: I mean no offence, but I think that the honourable member misunderstands that proposed section. Proposed sub section (2) reads —

> Subject to subsection (3), a treatment decision in an advance health directive operates only in the circumstances specified in the directive.

It is in fact not broad or open-ended. It is quite clear that it is about the circumstances specified in the directive. In fact, if we were to add the word that the member seeks to add, "clearly", and as the word is undefined in relation to being clear to whom, in fact it will open it up to a much more difficult set of circumstances for the practitioner at the time to resolve. What the proposed section says right now is narrow because it sets out "only in the circumstances specified in the directive".

Hon ROBYN McSWEENEY: The last time I stood to speak on this matter, I was inclined to agree with "clearly" being inserted, but since then I have taken some advice. I now agree with the minister. I took some advice because I wanted clarity and I thought that if "clearly" was put in the provision, I would get the clarity that I was seeking. The advice I was given was that if a health directive was not clear, it would go to a court of law to decide whether it was clear or not. With the advice that I have been given, I will not support "clearly" being inserted.

Hon HELEN MORTON: Could the minister please clarify for me whether, in legal terms, the insertion of "clearly" in this provision would be judged in the same way as "reasonable" or "reasonably considers" with their legal connotation? "Reasonable" has a legal connotation that means what the majority of people might reasonably believe under the circumstances. If "clearly" is included, it will be what the majority of people, under those circumstances, might consider to be clear. Therefore, "clearly" is actually not as difficult to include, if that is what the minister is suggesting; however, if it did not have that connotation, it may be difficult to include. I am interested in how "clearly" would be used and whether it might be used in the same way that "reasonably" is used.

Hon SUE ELLERY: It is not. There is a whole set of legal precedents around what an ordinary person could take "reasonable" to mean. That legal convention, if that is the right terminology, does not apply to "clearly", which is why I took the position I have taken in objecting to adding a qualification that is very undefined and open-ended. The government's position is already quite narrow —

> . . . a treatment decision in an advance health directive operates only in the circumstances specified in the directive.

Hon ED DERMER: Further to the question that I think Hon Sue Ellery posed rhetorically earlier, to whom would the clarity need to apply when attempting to read a directive? I would have thought the answer to that question would be the health care professional or health care provider who is endeavouring to comply with the directive while considering what treatment to apply to the patient. It seems to me that that would be the answer to the question the minister raised. I will be interested to hear the minister elaborate on that.

Hon SUE ELLERY: The member may well reach that conclusion that that is to whom the "clearly" needs to apply, but nothing in this amendment or anywhere else in the act defines or answers that question. That is the problem we have with the amendment.

Hon BARBARA SCOTT: I posed a question to the minister and I would like an answer. Adding "clearly" in my view makes it plain that an all-embracing, non-specific directive will have no legal force. Therefore, I ask: if the minister is unwilling to accept the amendment, can she advise the house whether all-embracing or non-specific directives, without the inclusion of the word "clearly" in this provision, will have any legal standing or will they be ruled out by the act?

Hon SUE ELLERY: I am sorry if I did not express this elegantly before, but I thought I had made the point already. The act does not contemplate broad, open-ended treatment decisions. This proposed section very specifically says that a treatment decision in an advance health directive operates only in the precise circumstances that are specified in the directive.

Hon Barbara Scott: "Clearly".

Hon SUE ELLERY: I have already addressed that question; I will not repeat myself. To the extent that the honourable member sought an assurance about what she describes as broad treatment decisions, the proposed subsection states —

> . . . a treatment decision in an advance health directive operates only in the circumstances specified in the directive.

I really cannot be more specific than that.

Amendment put and a division taken with the following result —

Ayes (3)

Hon Kate Doust	Hon Barbara Scott	Hon Ed Dermer *(Teller)*

Noes (25)

Hon Ken Baston	Hon Brian Ellis	Hon Paul Llewellyn	Hon Sally Talbot
Hon Matt Benson-Lidholm	Hon Donna Faragher	Hon Robyn McSweeney	Hon Ken Travers
Hon George Cash	Hon Adele Farina	Hon Sheila Mills	Hon Giz Watson
Hon Vincent Catania	Hon Jon Ford	Hon Norman Moore	Hon Bruce Donaldson *(Teller)*
Hon Kim Chance	Hon Nigel Hallett	Hon Helen Morton	
Hon Peter Collier	Hon Ray Halligan	Hon Simon O'Brien	
Hon Sue Ellery	Hon Barry House	Hon Ljiljanna Ravlich	

Amendment thus negatived.

The CHAIRMAN: Members, we are dealing with clause 11, and in particular proposed section 110S. I move to amendment 27/11 in the name of Hon Barbara Scott and indicate that that amendment falls away because it was contingent upon the previous amendment being carried. We are therefore at the amendment that is proposed by Hon Ed Dermer. Hon Ed Dermer can move the amendment, but I will have to leave the chair in one minute, so it is probably unfair for the member to have to move his amendment. Therefore, members, we are at amendment 29/11, and Hon Ed Dermer will no doubt move that the next time we consider the bill.

Progress reported and leave granted to sit again, on motion by Hon Sue Ellery (Minister for Child Protection).

ANTARCTICA CUP SOLO YACHT RACE

Statement

HON MATT BENSON-LIDHOLM (South West) [9.45 pm]: In recent times Albany and the south coast have been very much in the news. The unfortunate incident of schoolteacher Jason Cull being bitten by a great white shark aside, I must inform members that all the other news has been good. One such good news event was the Anzac Day commemorative services that were held in Albany, which attracted literally thousands of people from all over Australia and New Zealand to the south coast. The inaugural Festival of the Sea was an outstanding success, and I thank the minister very much for attending.

However, perhaps an even more notable event was the completion of the inaugural Antarctica Cup solo yacht race around the southern most points of our continents. On Wednesday, 7 May, after some 102 gruelling days, Russian sailor and adventurer Fedor Philippovich Konyukhov completed the first solo non-stop circumnavigation of Antarctica—truly an effort that rates him amongst some of the world's greatest ever adventurers and explorers. I would like to draw members' attention to this Russian hero by reading out a bit of a biography, if members will allow me to. It states —

> Fedor was born on December 12, 1951, on the coast of the Sea of Azov (part of the Black Sea). He graduated from Odessa Navigation College and Leningrad Arctic College. He studied in the Theological Seminary and in the Arts College in Bobruisk . . . Since his childhood, Fedor Konyukhov had a goal of traveling and discovering the entire diversity of the world. He accomplished his first expedition at the age of fifteen having crossed the Sea of Azov on a fishing rowing boat. By the age of fifty he had made more than forty unique trips and climbs expressing his vision of the world in paintings and books.
>
> Fedor is the first and so far the only person in the world to have reached the five extreme Poles of the planet:
>
> **North Geographical Pole (3 times)**
>
> **South Geographical Pole**
>
> **Pole of Considerable Inaccessibility (Arctic Ocean)**
>
> **Mt. Everest (Alpinists pole)**
>
> **Cape Horn (Yachtsmen pole)**

Events such as the 2008 solo challenge do not just happen. It requires people of vision, energy and resources to bring about these sorts of events. Let me say that the Antarctica Cup is a credit to the promoter, a gentleman by the name of Bob Williams. As some members may know, Bob is particularly noteworthy in the business world, but also, I believe, was one of the original owners of the Perth Wildcats. Bob Williams chose Albany as the ideal location from which to stage what hopefully will become a truly iconic, world-class yachting event. The event will be permanently based in Albany, having enormous business and tourist potential for both the great southern and Western Australia generally. I congratulate Bob Williams on his vision, commitment and endeavours. The

Antarctica Cup yacht race stands poised to attract the attention of the international yacht-racing community for many years to come.

Some of the facts about the race and the course over which the Antarctica Cup is run are as follows —

> The 'Antarctica Cup 2008 Solo Challenge' is a solo non-stop sailing time trial to establish the inaugural track record around the Antarctica Cup Racetrack and proclaim the first holder of the Antarctica Cup.
>
> The Antarctica Cup Ocean Race event is similar in concept to the coveted Blue Riband Trophy, the Transatlantic Crossing Speed Record that has been competed for since the mid nineteenth century when Tea Clippers raced their cargoes from The Americas to Europe.
>
> It is a challenge to be the fastest yacht (solo or crewed, monohull or multihull) to complete the Antarctica Cup Racetrack, crossing the Start/Finish line in King George Sound, sailing east around Antarctica between latitudes 45-60 degrees and re-crossing the line in King George Sound. Boats sail above and below the Antarctic Convergence (Polar Front) passing the three most notorious capes on the planet—Cape Leeuwin, Cape Horn and Cape Agulhas.

The race will be over 23 300 kilometres. Truly, this is an enormous challenge, particularly given the cold, mountainous and treacherous seas, the ever-present icebergs, freezing winds and eerie loneliness experienced by somebody over more than three months. It is no wonder that Fedor Konyukhov is a hero in his native Russia.

I will conclude with a couple of points about Fedor Konyukhov's sailing exploits to give members an idea of the talent of this man. In 1990-91 he was the first Russian to complete a solo non-stop circumnavigation on the maxi yacht *Karaana* in 224 days along the route from Sydney to Sydney. In 1993-94 he was involved in the circumnavigation against the prevailing winds on the *Formosa*, his second circumnavigation of the globe. In 2004-05 he was part of the solo round the world on an open 85-foot maxi yacht along the route from Falmouth, in England, to Hobart and back to Falmouth via Cape Horn. It was his fourth successful solo round-the-world sailing.

The spin-off from the Antarctica Cup yacht race will be felt for many years to come. As an Albany resident and member of the South West Region I would like this house to note the enormity of Fedor Konyukhov's achievements, together with the vision and promotion of Bob Williams. His team put together an outstanding event and it is something that all Western Australians can be very proud of. I look forward to future events with much confidence and I congratulate all involved.

House adjourned at 9.53 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DEPARTMENT OF EDUCATION AND TRAINING — CENTRAL OFFICE STAFF

6082. Hon Peter Collier to the Minister for Local Government representing the Minister for Education and Training

How many staff are currently employed within the central office of the Department of Education and Training as —

(a) full time employees;

(b) part time employees; and

(c) fixed term employees?

Hon LJILJANNA RAVLICH replied:

As of 3 April 2008 the Department of Education and Training currently employs 858 full time employees and 156 part time employees at its Royal Street office in East Perth.

MINISTERIAL OFFICES, GOVERNMENT DEPARTMENTS AND AGENCIES — MEDIA MONITORING SERVICES

6113. Hon Ray Halligan to the Leader of the House representing the Premier

I refer to the answer to question on notice No. 5763, and I ask —

(1) Which media monitoring service is used by the Office of Road Safety?

(2) Does the Office operate the service on a contract basis?

(3) If yes to (2), what are the details?

(4) If no to (2), what was the cost of the service between 1 July 2007 and 31 December 2007?

Hon KIM CHANCE replied:

Department of the Premier and Cabinet advises:

(1) Media Monitors

(2) Yes

(3) 12 month contract commencing on 01 July 2007. Fees for the monitoring service and web hosting are $799 per month. In addition an amount is paid per press clip or broadcast alert provided by the service.

(4) Not applicable

MINISTERIAL OFFICES, GOVERNMENT DEPARTMENTS AND AGENCIES — MEDIA MONITORING SERVICES

6119. Hon Ray Halligan to the Parliamentary Secretary representing the Minister for Planning and Infrastructure

I refer to the answer to question on notice No. 5784, and I ask —

(1) Does the Bunbury Port Authority operate its media monitoring service with Media Monitors on a contract basis?

(2) If yes to (1), what are the details?

(3) If no to (1), what was the cost of the service between 1 July 2007 and 31 December 2007?

(4) What are the details of Contract No. 0096/06 ‘Provision of Media Monitoring Services’?

(5) What is the duration of this contract?

(6) What are the details, including costs, of the media monitoring arrangements of —

(a) East Perth Redevelopment Authority; and

(b) Subiaco Redevelopment Authority,

with Media Monitors?

(7) Which media monitoring service is used by the —

(a) Esperance Port Authority; and

(b) Fremantle Ports?

(8) Do these bodies operate their services on a contract basis?

(9) If yes to (8), what are the details?

(10) If no to (8), what was the cost of each of the services between 1 July 2007 and 31 December 2007?

(11) What are the details, including costs, of the media monitoring service provided by Media Monitors to Landcorp?

(12) Which media monitoring service is used by —

(a) Main Roads WA; and

(b) Public Transport Authority?

(13) Are the services operated on a contract basis?

(14) If yes to (13), what are the details?

(15) If no to (13), what was the cost of each between 1 July 2007 and 31 December 2007?

Hon ADELE FARINA replied:

Bunbury Port Authority

Bunbury Port Authority to answer parts 1, 2 and 3 only

(1) No

(2) N/A

(3) $3,995

Department for Planning and Infrastructure

DPI to answer parts 4 and 5 only

(4) Contract No.0096/06 is a contract between the Department for Planning and Infrastructure (DPI) and Media Monitors Australia Pty Ltd for the provision of media monitoring services for the DPI and the Western Australian Planning Commission (WAPC).

(5) The current contract was awarded on 8 June 2007 for a period of 12 months with expiry date 1 July 2008, and two one-year extension options at the discretion of the DPI.

East Perth Redevelopment Authority / Subiaco Redevelopment Authority

EPRA and SRA to answer part 6 only

(6) (a)-(b) The East Perth and Subiaco Redevelopment Authorities utilise the services of Media Monitors to monitor electronic media. The Authorities' use of the service does not include printed press, which is monitored in-house. The monthly retainer for this service is $221 (excluding GST) per month, with a fee per broadcast alert of $3.90-$4.60. These monies are paid by the East Perth Redevelopment Authority, with the Subiaco Redevelopment Authority having access to the media monitoring service under the terms of its Service Agreement with the East Perth Redevelopment Authority.

Esperance Port Authority

Esperance Port Authority to answer parts 7a, 8, 9, 10 and 11 only

(7) (a) Media Monitoring through Purple Communications

(8) No

(9) N/A

(10) July 2007 $9903.16
August 2007 $8590.97
September 2007 $9416.34
October 2007 $8268.94
November 2007 $6347.39
December 2007 $3056.77

(11) Media Monitors monitor selected local, state and national print, radio and TV news services for the Esperance Port Authority. This was carried out at a total cost of $45,583.57 for the period.

Fremantle Port Authority

Fremantle Ports to answer parts 7b, 8, 9 and 10 only

(7) (b) Media Monitors

(8) No

(9) N/A

(10) News Express for July — $715
News Express for August $680
Media Monitors September $663
News Express for October $824
Transcripts 30 October $592
Audio clip delivery November $201
News Express for December $731
All these services provided by Media Monitors

LandCorp

Landcorp to answer part 11 only

(11) LandCorp contracts Media Monitors under an annual contract to provide daily updates on land sale trends and media commentary surrounding specific projects and the broader property market. Actual cost is $27, 500 for 1 July — 31 December 2007.

Main Roads WA

MRWA to answer parts 12a, 13, 14 and 15 only

(12) (a) Media Monitors.

(13) Yes.

(14) Public tenders were called in November 2006 for the provision of media monitoring services. The period of the contract was 52 weeks with an option to extend for an additional 52 weeks. The contract will expire in December 2008.

Media Monitors were the successful tender and a contract was awarded to the value of $75 000 (GST exclusive) for each 52 week period.

(15) Not applicable.

Public Transport Authority

PTA to answer parts 12b, 13, 14 and 15 only

(12) (b) The Public Transport Authority (PTA) uses Media Monitors for its media monitoring service.

(13) No. The PTA does not have a contract with Media Monitors.

(14) N/A

(15) The total value of PTA expenditure to Media Monitors for the period 1 July 2007 to 31 December 2007, was $55,014.14 (exclusive of GST).

MINISTERIAL OFFICES, GOVERNMENT DEPARTMENTS AND AGENCIES — MEDIA MONITORING SERVICES

6128. Hon Ray Halligan to the Parliamentary Secretary representing the Minister for the Environment

I refer to the answer to question on notice No. 5797, and I ask —

(1) Which media monitoring service is used by, —

(a) Department of Environment and Conservation;

(b) Swan River Trust;

(c) Botanic Gardens and Park Authority; and

(d) Zoological Parks Authority?

(2) Do these bodies operate their service on a contract basis?

(3) If yes to (2), what are the details?

(4) If no to (2), what was the cost of each service between 1 July 2007 and 31 December 2007?

Hon SALLY TALBOT replied:

Department of Environment and Conservation & Swan River Trust

(1) (a) Media Monitors.

(b) Covered by the same service level agreement as the Department of Environment and Conservation (DEC).

(2) For DEC and the Swan River Trust (SRT), there is a service level agreement with Media Monitors.

(3) Clips are provided on the basis of monitoring requirements stipulated by DEC and the SRT. Charges are on the basis of Media Monitors' rate card.

(4) DEC — $31 664.70; SRT — $1 893.74

Botanic Gardens and Parks Authority

(1) (c) Media Monitors.

(2) Yes

(3)-(4) BGPA engaged them in 2007 on a short-term contract for the Kings Park Festival period 17/08/07 to 17/10/2007. The total bill specifically for the 2007 Festival was $1 326.29.

Zoological Parks Authority

(1) (d) Media Monitors.

(2) The Zoological Parks Authority does not have a current contract with Media Monitors but contract deliberations are presently underway.

(3) Not applicable.

(4) $5 216.17

MT WELCOME PASTORAL STATION

6138. Hon Norman Moore to the Parliamentary Secretary representing the Minister for Planning and Infrastructure

(1) Who owns the Mt Welcome Pastoral Station?

(2) When did the current owners acquire the property and who were the previous owners?

(3) Does Mt Welcome contain areas of freehold title?

(4) If yes to (3), what is the area of land under freehold title and what was the reason for the creation of freehold title in the first instance?

Hon ADELE FARINA replied:

(1) The current registered lessee of Mt Welcome Pastoral Station is Mt. Welcome Pastoral Co. Pty Ltd.

(2) The current pastoral lease commenced on 29 November 1976 and Mt. Welcome Co. Pty Ltd has been the registered lessee since that date. Current records do not reveal details relating to prior ownership. However, an archive search has been initiated to recover this information.

(3) There are six freehold title allotments within the boundary of Mt Welcome Pastoral Station.

(4) The total area of land held under freehold title within the Mt Welcome Pastoral Station boundary is calculated as being 439.89 hectares. Five of the freehold titles were created between 1881 and 1913. The reason for creating these titles is unknown as records dating back to this time are not available. The sixth title (approximately 20.25 hectares) was created in 1975 and was transferred to the Commonwealth of Australia for navigational aid purposes (Australian Government Gazette No. 72 dated 3 September 1974).

CORRECTIVE SERVICES — OFFENDERS SUFFERING FROM SERIOUS MENTAL ILLNESS

6160. Hon Helen Morton to the Minister for Employment Protection representing the Minister for Corrective Services

In follow up to question on notice No. 5927, assuming that the phrase ‘serious mental illness’ is defined as a medical condition that disrupts a person’s thinking, feeling, mood, ability to relate to others, and daily function, those who are significantly functionally impaired by reason of this condition for an indefinite period of time, and who have been diagnosed with one or more disorders including major depression, schizophrenia, bipolar disorder, obsessive compulsive disorder, panic disorder, post traumatic stress disorder, or borderline personality disorder, I ask —

(1) How many people with serious mental illness are currently incarcerated?

(2) What community accommodation is available for people with serious mental illness who have a history of criminal offence(s) resulting in incarceration in prison?

(3) What custodial accommodation is available for people with serious mental illness who are convicted of a crime and sentenced to a period of incarceration?

(4) What community accommodation is available for people with serious mental illness who have criminal convictions?

Hon JON FORD replied:

(1) Departmental databases do not collect information consistent with the member's definition. However, at Thursday 16th April 2008, according to Total Offender Management System (TOMS) there were 804 offenders with a psychiatric alert out of a prison population of 3717. This equates to approximately 22% of the population.

(2) With respect to sentenced prisoners with serious mental illness who are being released from prison, the following applies:

The Department of Corrective Services has in place two programs which provide transitional accommodation services to prisoners including prisoners with mental illness. These are:

1. Transitional Accommodation and Support Services (TASS) which provides support and accommodation to prisoners and their families to help settle them back into the community; and

2. Short Term and Emergency Accommodation (STEA) which provides newly released offenders who have no accommodation with access to housing stock under the direct management of the Service Provider to reduce the likelihood of re-offending.

(3) Seriously mentally ill prisoners are transferred to the Frankland Unit where their illness is treated until they can be returned to normal prison accommodation. Prison medical facilities are used to accommodate less seriously ill prisoners who need additional supervision.

(4) The answer to this question falls outside the Department of Corrective Services' jurisdiction.

PUBLIC SERVANTS — PARENTAL LEAVE

6176. Hon Helen Morton to the Minister for Child Protection

For each portfolio under your responsibility, please indicate the extent to which public servants have been paid for parental leave in each of the past five years according to the, —

(a) number of staff taking parental leave each year;

(b) amount of time taken in parental leave each year, measured by weeks; and

(c) total payments in parental leave made to public servants each year?

Hon SUE ELLERY replied:

(a) 2006/2007 = 42
2005/2006 = 35
2004/2005 = 31
2003/2004 = 21
2002/2003 = 16

(b) 2006/2007 = 572.6
2005/2006 = 148.4
2004/2005 = 94.6
2003/2004 = 107.2
2002/2003 = 58.8

(c) 2006/2007 = $632,943
2005/2006 = $159,666
2004/2005 = $99,617
2003/2004 = $102,846
2002/2003 = $57,880
