WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE COUNCIL

Tuesday, 23 March 1999

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 3.30 pm, and read prayers.

WANNEROO TO BURNS BEACH HIGHWAY

Petition

Hon E.R.J. Dermer presented the following petition bearing the signature of one person -

> To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia call on the Government to amend plans for a six lane highway through Wanneroo to Burns Beach. Your petitioners therefore respectfully request that the Legislative Council will, as a matter of priority, urge the Government to develop and implement a road plan which will divert heavy traffic away from Wanneroo Road, Wanneroo townsite and local neighbouring streets.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 905.]

PREMIER AND ABORIGINAL PEOPLE

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 23 March -

> Dear Mr President,
>
> At today's sitting it is my intention to move an Urgency Motion under SO 72 that the House at its rising adjourn until 10.00am on December 25, 1999 for the purpose of discussing the crisis in relations between the Premier Richard Court and Aboriginal people of Western Australia.
>
> Yours Sincerely,
>
> Hon Christine Sharp MLC
> Member for the South West Region

In order to discuss this matter, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

HON CHRISTINE SHARP (South West) [3.36 pm]: I move -

> That the House at its rising adjourn until 10.00 am on 25 December.

Two events prompt me to move this motion. The first is the various resignations that have been tendered in recent months by members of the Perth Metropolitan Nyoongar Council of Elders. After meetings with Mr Ben Taylor, Mr Richard Wilkes, Mr Albert Corunna and Mrs Gladys Yarran, I believe it is important that the House hear the story of these Nyoongar elders and what is happening with the commission. The second issue that has prompted my motion is the debate appearing in the Press in recent days about the downturn in the mining industry, the loss of jobs at Kambalda, economic forecasting for the mining industry and the extraordinary approach that the Premier has taken to this economic news. He is blaming this situation on Aboriginal people - saying that the difficulties in the mining industry are a result of native title issues - and is making a link between the two situations.

I refer first to the revolt among Nyoongar elders and four resignations from the Perth Metropolitan Nyoongar Council of Elders. The statewide commissions of elders were proposed in 1994 by the Australian Justice Commission, and five commissions representing different regions of the State were set up in 1995. I will discuss the recent events in the metropolitan and wheatbelt regional councils. When the Perth Metropolitan Nyoongar Council of Elders was established in 1995, a meeting was held at Yanchep and the Premier attended. In fact, it was very much the Premier's initiative. He made a commitment at that meeting that he would meet the elders at least twice a year to hear their proposals, to discuss their concerns in respect of Aboriginal issues and to take on board their policy proposals.

However, this has not worked to the satisfaction of all members of the council. In fact, four elders - those mentioned earlier - resigned at the council's December meeting. I will let those Nyoongar elders tell their story in their words upon tendering

their resignations to the council. First, I refer to the story which appeared in the *Aboriginal Independent* newspaper in February of this year. Mr Richard Wilkes was the elder who carried out the leg work to establish the Perth Metropolitan Nyoongar Council of Elders; he brought it all together, and was justifiably proud of the achievement. At the time it was regarded that here, at last, was a framework created for Aboriginal elders to be involved in state policy relating to Nyoongar people. However, Mr Wilkes said the following in December, as reported in the newspaper article -

> . . . I've retired from the movement on the grounds that the Commission is a rubber stamp, we're doing nothing and we're not being heard by the Premier or the ministers and there is a lack of support from the Premier and the Cabinet.
>
> "The construction of the Commission of Elders was that we would meet with the Premier and have access to the Premier at least twice a year and he told us that at Yanchep (1995) and also that we would have access to his cabinet ministers.
>
> "Over the years since that time, the Premier has never met with any of the Commissions of Elders from the southern or eastern regions, let alone the ones from the north.
>
> "We just didn't have any access to any meetings with him whatsoever, especially with his anti land rights campaign and I would have thought that if the Government was really serious about reconciliation then they would look at having a workable land rights movement that protects the rights of the settlers and the Aboriginal people.
>
> "But the Premier is so anti, that he's cut us off from everything . . .

Mr Wilkes' colleague Mr Ben Taylor, who works with the Aboriginal Catholic Ministry, also submitted his resignation at the December meeting of the Perth Metropolitan Nyoongar Council of Elders. He wrote to the chair of the council in the following terms -

> I wish to submit my resignation as a Member of the Metropolitan Nyoongar Council of Elders.
>
> I believe, together with some other Members, that we are being used and manipulated by the State Government of Western Australia to 'rubber stamp' its decisions with regard to Nyoongar and Aboriginal people generally.
>
> At our Joint State Meeting at Yanchep, the Premier Mr. Richard Court spoke to all the assembled representatives/Commissioners and said that he would attend Meetings if invited by the Council/Commissions of Elders; until now his presence has not been noted at any Meeting.
>
> The Draft Purpose Statement reads in part "to enable metropolitan Nyoongar people to have a strong voice regarding issues that affect them and to ensure that they are involved in Government decision making processes." I strongly believe that 'our' voices have NOT been heard or listened to and that we have certainly not been involved in Government decision making processes.
>
> We are being used as a foil and a tool by the present State Government to give the impression, and very wrongly so, of our part in the consultative process in matters affecting our Aboriginal people; this smacks of duplicity and deceit and is morally reprehensible. I do not wish to be part of such an organisation that continues to use us as an instrument to pillory our own people.
>
> Agendas are developed for our Meetings by the Aboriginal Affairs Department - they are presented to us as a fait accompli; we have no input into the Agenda items.
>
> We are ignored in any negotiation of policy development by the state government and in any discussion with regard to the Traditional Owners in Native Title Claims.
>
> The entire organisation, namely, the Metropolitan Nyoongar Council of Elders, has become an instrument with views and patronising attitudes similar to the old Native Welfare Department which was also well designed to keep us under Government control and subservient to them. Both the Aboriginal Affairs Department and the State Government representatives are not our 'Masters' but rather appointed Servants as part of the Public Service.
>
> You will recall, Mr. Harris, that you yourself observed at our meeting on . . . December . . . that "You (the elders) know that they (namely, the Aboriginal Affairs Department) are acting similar to the Native Welfare Department."
>
> Also, it would appear in truth that, as a Council, we are ignored by the Premier Richard Court, notwithstanding that you had asked him to receive a delegation from us quite some time ago.

It is signed off "Yours faithfully" from Ben Taylor. I also have a letter with me from Mrs Gladys Yarran, whom I met earlier today when she told me that she was determined to be no longer controlled by this Government; she did not want to feel as though she was a mere puppet. She wrote -

> Please accept my resignation as a member of the Metropolitan Nyoongar Council of Elders. This Council was set

> up by Richard Court's Government to consult with and receive feedback from Aboriginal Elders. Neither the Premier himself or a representative . . . has ever been to any meetings. Furthermore . . . I was deeply insulted that the Premier has said that he will lodge an appeal to the recent Miriuwung-Gajerrong victory in the High Court. This action combined with many similar actions make it impossible for me to work in an organisation set up by the present government.

Mr Albert Corunnna said -

> The reason for resigning was because I did not want to be seen as condoning the policies on Native Title and in general policies by the Court Government towards Aboriginal people, and I believe the present form of the Council of Elders are not capable of putting enough pressure on the Court Government to have enough impact to rectify the above concerns.

Here we see a resounding vote of no confidence by four highly respected Aboriginal elders in this State. Here is a man in the Premier who cannot even keep a simple commitment and promise to meet when required, or to meet twice a year. The council of elders was a very constructive idea, which the elders backed strongly as they were keen to be invited to be involved in setting policy across the board for Aboriginal people. We know that almost every area of government policy, whether it be with education - Aboriginal education has been an admitted failure - health or justice, is not working, and that Aboriginal society is in a very grave way.

I raise another matter in this motion to draw members' attention to a story which is a microcosm of the Premier's attitude to Aboriginal people. The Premier made statements in recent days about the downturn in the mining industry. An article in *The West Australian* of last Wednesday indicated that the State's economy had slipped sharply into reverse. It outlined that this is the biggest contraction in any three-month period since the Australian Bureau of Statistics started keeping such figures; however, it comes after growth of 9.6 per cent in the last financial year. Premier Richard Court warned that further delays due to unworkable native title legislation would cause further complications for the mining industry. On the same day, in a different article, *The West Australian* quoted the Premier as follows -

> Premier Richard Court warned that exploration activity in WA would fall 25 per cent this year, as miners struggled to come to grips with falling commodity prices and native title difficulties.
>
> "It is estimated that half of WA's geologists are currently unemployed or underemployed because it is simply too hard, particularly for the smaller, junior explorers, to get access to property to explore," he said.

Hon Ljiljanna Ravlich: He was saying today in the other place that the industry was booming.

Hon CHRISTINE SHARP: That is right. We have an extraordinary situation: After a series of record growth years in the Western Australian commodity sector, what does the Premier do at the first downturn? He blames it upon the poor Aboriginal people of this State. In the same article to which I referred the Deputy Leader of the Liberal Party and Minister for Resources Development outlined that he does not share the Premier's analysis; it read -

> But he said that the current difficulties had to be put into context. The value of mineral production had risen from about $12 billion in the early 1990s to about $20 billion today, and would probably stay at those levels.

What has been the impact of the so-called unworkable native title on the mining industry in Western Australia? I will read to members from the executive summary of a research paper that was prepared by Ian Manning for ATSIC.

The PRESIDENT: Order! The member's comments must relate to the alleged crisis in relations between Premier Richard Court and the Aboriginal people of Western Australia. I am sure they will, but it seems to me that the member may be venturing onto another tangent to discuss something else. If the member will mention the motion now and again, I will know that we are both on track.

Hon CHRISTINE SHARP: Thank you Mr President. I am sure members are aware of why I might read from an analysis which makes the point that Western Australia has had a huge increase in mining exploration, more than that in any other State or Territory during the 1990s, which is the same period in which we have experienced the entire history of the native title legislation, both through Mabo and the amendments last year. Manning finds that as much as 95 per cent of notices received have been granted without objection from native title. Therefore, I argue that the Premier's comments in linking the two are spurious indeed.

I am reminded also that the *Aboriginal Independent Newspaper* of 3 February reports that the Goldfields Land Council chairman, Dennis Forrest, has complained about a scaremongering campaign by the Court Government in which 200 letters recently were sent from the Government warning leaseholders of costly legal battles against native title claims as a result of amendments moved in this place.

I find it extremely embarrassing if not offensive that the Premier of our State and the Leader of this Government should be using our Aboriginal people as a scapegoat for economic difficulties which clearly have their origins elsewhere.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [3.51 pm]: I begin by making a suggestion to members who want to move urgency motions. It would be helpful if the wording they used was more specific, because in her motion the member talked about a crisis in relations and then proceeded to talk about two aspects of what she considers to be a crisis. The whole area of Aboriginal affairs is very intensive. If she wants to talk in general terms, that is fine, but it makes it difficult to respond without any prior notice of what she wants to talks about.

The last person that the member should be criticising about his attitude towards Aboriginal people is the Premier. I have known Richard Court a long time. Of the people I know in politics, and I have known many people in politics, the Premier is one who has a very significant empathy with the Aboriginal people at a personal level.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: Would the member mind her own business for a moment and not interrupt me when I am trying to say something, because she does not understand this issue.

The Premier of Western Australia, Richard Court, has had a significant involvement with Aboriginal people for many years - since well before he became a member of Parliament. Members would never know about many things that the Premier has done for the Aboriginal community. He would never tell members either, because he has a genuine, deep and abiding interest in Aboriginal people in Western Australia. His record and history prove that. As the Premier, he must of course make decisions that are based on the best interests of the whole of Western Australia - unlike some members of this House, who have only one issue to push such as people not getting a job, which is what Hon Jim Scott is about - Mr Green. Premiers of any State must take into account the interests of the whole community.

I would like to talk about some of the matters raised by Hon Christine Sharp with respect to the mining area. I do not know why the Nyoongar elders resigned from the Metropolitan Nyoongar Council of Elders. I have not had access to their stories, but I do happen to know that there are many -

Hon Ken Travers interjected.

Hon N.F. MOORE: I had not read that until now and I have not talked to them. How do I know what their views are? There are commissions of elders and many commissioners in a whole number of different regions of Western Australia. Hon Christine Sharp has talked about four who were not happy. Two of them clearly are very political, such as Mr Corunna, whom Hon Christine Sharp mentioned, who talks about native title. Clearly the Government's position on native title is not supported by many Aboriginal people. However, as I said earlier, the position of the Government is to achieve a balance in this matter so that all Western Australians are able to benefit from the industry that is so important to our economy. Gladys Yarran might have been a Greens candidate at one time so she might even have a political point of view - I do not know. I do not know of the other two and I will follow up their concerns about the Premier not meeting with them; that might be a legitimate complaint. If that is the case, I will raise it with him. If that is the reason they are resigning, that is a flimsy reason.

Let us consider the mining industry. Anybody who thinks that native title is not causing a problem in the mining industry is either living down a shaft somewhere or does not know what is happening in the mining industry. It is a significant problem. It is not a significant problem for those mines that are currently in operation because they already have a title; mines that are currently producing are not affected by native title. Mines affected by native title are those mines which we will need in a few years time to replace the ones which we have now and are now running out. One of the problems with mines is that they are finite. We run out of ore bodies and new ones must be found to replace them. If Hon Christine Sharp does not believe me about the level of exploration and wants to believe someone named Ian Manning, I suggest she talk to the mining industry itself. Do not ask me for my view. Talk to George Savell and Ian Satchwell, people from the various mining industry organisations, and talk to mining companies. Talk to Robert de Crespigny from Normandy who is a great supporter of making deals with Aboriginal people over native title. Talk to those people and ask them what they think the situation is like now. They will say that they are very concerned about the mines of the future because in recent times exploration has been essentially on brownfield sites; sites whereby title is already in existence. There is very little greenfields exploration because there are very few titles being issued on greenfields sites. I happen to know that because I am the Minister for Mines and I know the system is gummed up. There is a huge bottleneck.

Hon Ken Travers interjected.

Hon N.F. MOORE: Anybody who says that does not understand the process - but that is not unusual for Hon Ken Travers.

The process involves significant effort. We are seeking to make it a bit easier for people to go through the process, but the Opposition has knocked back the legislation or amended it so that it totally worthless. A significant amount of effort and a significant amount of negotiations - very lopsided negotiations I might add - are required and this has meant that very few titles have got through the system. If the member does not think I am telling her how it is, she should ask the Department of Minerals and Energy and the mining companies.

Irrespective of the Premier's comments in recent times about the downturn in the mining industry, he is not blaming the Aboriginal people. He is blaming the native title process, which is a product of non-Aboriginal politicians. That is what the native title process is. It is not a product of the Aboriginal people; they did not create the native title legislation. They did not create Mr Keating's response to the Wik decision. It was created by non-Aboriginal politicians. That is why we have legislation which is no good, because people are grandstanding from one end of the country to the other for a huge variety of political reasons and creating legislation that does not work.

Many other people are making comments about this. The various commentators on the mining industry are not blaming Aboriginal people either. They acknowledge, obviously, as Colin Barnett has acknowledged, that commodity prices are the main problem with respect to existing mines. I do not have a problem with arguing that either; that is the problem with existing mines. With respect to native title, people are arguing about the mines that will replace the existing mines. People, such as Graeme Campbell who used to be a member of the Labor Party, are vigorously saying that native title should be abolished altogether.

Hon Ken Travers: What about Fred Chaney's views?

Hon N.F. MOORE: I do not care about Fred Chaney's views. I do not want to know what his views are.

Hon Ken Travers: And we do not want to hear about Graeme Campbell's views.

Hon N.F. MOORE: That may be so, but I do and so do other people. Graeme Campbell has been working with Aboriginal communities across the whole of Western Australia. He covered the same area that Hon Tom Helm, Hon Tom Stephens, Hon Greg Smith, Hon Mark Nevill, and I cover. He knows, as we know, that many problems in that part of the world are brought about by native title, but he does not argue against the Aboriginal people either. He has a very good relationship with the Aboriginal people in his former electorate of Kalgoorlie and is highly respected by many Aboriginal people in that part of the world. Some people may say he is not universally respected, but none of us is.

Hon Tom Helm: They will not vote for him.

Hon N.F. MOORE: Does Hon Tom Helm know why people in our electorate vote for the Labor Party?

Hon Tom Helm: Because they like us.

Hon N.F. MOORE: No, it is because the Labor Party organises people. It has been doing it for years. Hon Tom Stephens is a past master; he is the expert, and he is sent to the Northern Territory. Hon Tom Helm is also sent to the Northern Territory by the Labor Party to help organise the voters. Of course, it has not done it very well lately, because it lost a seat in the electorate. Labor Party members are past masters at organising these people, and perhaps Hon Tom Stephens will tell us how he does it when he has a spare moment.

Hon E.R.J. Dermer: He will not tell you.

Hon N.F. MOORE: I know how he does it but I would be interested to know some of the finer points, such as how he gets them on the bus and how he gets them to remember the ballot paper.

Several members interjected.

The PRESIDENT: Order members! I want to hear about the motion, which has a very narrow field.

Hon N.F. MOORE: I will follow up the matters raised by Hon Christine Sharp with respect to the individual persons whose letters she read, and will refer them to the Premier for response. I suspect there is political motivation in two of those resignations. Finally, if the member does not know that native title is a problem for the mining industry, she will never know.

HON HELEN HODGSON (North Metropolitan) [4.02 pm]: When discussing the problems Aboriginal people in this State face, we must always bear in mind their history of dispossession to this point. From 1829 onwards, they have come up against a series of obstacles. They have been dispossessed of their territory, their family life and their children. They have had to overcome many hurdles in relation to their culture. That is why it is so important to acknowledge and include Aboriginal people in the decisions made. There is a history of paternalism where Governments and administrators have made decisions on behalf of Aboriginal people who have had no involvement in those decisions. That is why the Metropolitan Nyoongar Council of Elders had such an important role to play. I researched this matter and went to the website for the Aboriginal Affairs Department, which gave the background to the establishment of the councils of elders. It referred to the Task Force on Aboriginal Social Justice established in 1994.

The PRESIDENT: Order! I assume this is related to the crisis that is said to exist between the two parties.

Hon HELEN HODGSON: Certainly, it is related to the establishment of the Metropolitan Nyoongar Council of Elders and its role in decision making on Aboriginal matters. Recommendation 17 of that task force report proposed that -

> A Commission of Elders should be established to meet annually with the Premier and the Minister of Aboriginal Affairs. The Members will be invited by the Premier and the Minister of Aboriginal Affairs on advice from the

> Aboriginal Affairs Department and the Aboriginal Community. The Commission of Elders will provide advice on directions in policy and planning for Government. The Chief Executive Officer of the Aboriginal Affairs Department will be the Secretary to the Commission.

It is a laudable goal, and it is important to involve people of stature within the Aboriginal community in advising the Government on areas affecting Aboriginal people, such as health, education and heritage matters. The problem is that it has not been properly followed through. The commissions are in place and the report recommended that meetings be held annually with the Premier. It is my understanding from discussions, reports and the resignations referred to that the annual meetings have not been held. The commissions are supposed to give advice on directions, policy and planning for government, and we continually hear that the elders of the Perth Metropolitan Nyoongar Council of Elders feel they are acting as a rubber stamp; that is, the policies and directions are set by the Government and the elders are merely asked to agree to them. That is not the way it should be. The system should be a way of consulting and bringing the two cultures together on matters of importance. That must be recognised.

The Aboriginal culture provides for consultation within the community when decisions are made which impact on the way services are provided. They should be involved not only because they are directly affected, but also because that is the way in which the Aboriginal community makes decisions. It is not a question of one person making a decision and everyone falling in line; decisions are made jointly. That is why meetings with the Premier and his involvement in these matters is important for Aboriginal elders.

I participated in the second select committee on native title which dealt with the native title legislation. A submission was received from the Perth Metropolitan Nyoongar Council of Elders, and evidence was given by Mr Morton Henry Hansen. I will not go through all the details of the transcript, which is available as public evidence, but the part that is relevant to this crisis in relations is recorded at page 12 of the transcript. Mr Hansen said -

> As a group of people who are supposed to have direct contact with our Premier and ministers, we have not had direct contact with these people. We come into contact with them through the Aboriginal Affairs Department but when we ask for feedback on our actual role and how much we are listened to, we do not receive an answer. Three years ago at Yanchep, through one of the recommendations of the Royal Commission into Aboriginal Deaths in Custody, it was decided that groups such as ours would be formed, so the Government could receive feedback from the community about cultural, family and land issues. Unfortunately, for the three years for which we have been formed, we have not once been addressed by the Premier. He verbally promised us that he would try to meet with us in person more than just that once in Yanchep after setting up the commission.

I then asked when was the last time that the Aboriginal Affairs Department had asked for their opinion on anything to do with Aboriginal people. Mr Hansen replied -

> When we have our meetings of the Commission of Elders, it is run by the Aboriginal Affairs Department. A person from the Aboriginal Affairs Department is present to record the minutes and so forth. Our dealings with Aboriginal Affairs are every time we meet. We have had four or five meetings this year to discuss certain issues. When we discuss juvenile justice issues or whatever, we do not know exactly what feedback we are receiving or whether we are just there as window-dressing.

In other words, even though the Aboriginal Affairs Department carries through with regular meetings, there is no feedback or indication of whether the advice of the elders is being listened to. Mr Hansen's evidence continues -

> The same thing applies to our native title issues. People talk to us about certain native title and land rights issues, but we do not receive any feedback from the Native Title Commission or Aboriginal Lands Trust on how good is our word at doing this or doing that.

It was clear in December when Mr Hansen gave evidence to the committee that there was a feeling at that stage that things were approaching a crisis point. The Aboriginal elders, who are doing the community a service by making themselves available for these duties, felt they were not being taken seriously but might be window-dressing, and that no importance was placed on their views.

I have also heard some discussion in this context of the crisis in communication in relation to proposals for amendments to the Aboriginal heritage legislation. The community seems to know proposals are on the drawing board and being circulated among certain groups, although we are not quite sure of which ones. It seems that no formal input has been requested from the commission of elders. I recall asking a question about this matter in Parliament last year. Unfortunately I have not looked up the answer to quote directly from it. My recollection is that, although the minister acknowledged discussion was taking place, it had definitely not involved either the circle of elders or the commission of elders. If legislation deals directly with a matter that goes to the core of Aboriginal culture, surely the people most affected by the legislation must be involved in the way the proposals are being put together. The elders believe they should be discussing these sorts of issues with the Government.

It is also important to them that they be approached not just by officials from the Aboriginal Affairs Department. They want the opportunity to speak with the Premier that was promised to them. The commission of elders was set up to facilitate regular meetings. I note the comments made by the minister about the involvement of the Premier with the Aboriginal community, but that does not seem to include regular meetings with the commission of elders, which according to recommendation No 17 is one of the core things the commission was set up to do - to facilitate at least one meeting a year. A further comment made by the minister affects the crisis of the relationship and consultive processes between politicians and the Aboriginal community. I remind the minister that the original Mabo legislation was developed in consultation with Aboriginal communities and their representatives. That must be put in total contrast with what happened when the Wik amendments went through Parliament last year, when no consultation of any significance was entered into.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.12 pm]: I will reply, in part, to some of the observations of the Leader of the House. I reject out of hand that the political involvement of the former members of the Perth Metropolitan Nyoongar Council of Elders has anything to do with the topic. In my daily life in my electorate, I deal with people from all sides of politics. In that process we maintain some blindness to the politics of the players, whether we are dealing with councils or businesses. Their politics are irrelevant. The fact that there may be political activists in the Aboriginal world should surprise none of us. Irrespective of whether they are from the Australian Labor Party, the Greens (WA) or any other part of the spectrum, their political views are irrelevant to their deep felt frustration of their experience with this process of consultation that has been reduced to a sham in the years in which this Government has been in office.

Members have spoken of Gladys Yarran, whom I know, and her family. People speak highly of her and the effort she has put in. Mr Curunna, his distinguished contribution and that of his family should not be the subject of the dispute on the basis of any political engagement. Ben Taylor, I hope, is held in the highest regard by all of us, as are other members of that metropolitan council. These people are known for the quality of their hard work done in the service of their community in the pursuit of some way of accommodating the hopes and aspirations of the Aboriginal community in a world that has been dominated too often and regularly by the politics of intolerance and of race, which have no place for those aspirations.

A political leader or the leader of a Government or a Premier may have an empathy with the Aboriginal community, but may not put into his public track record any accommodation of the aspirations of that community. There is a disjuncture. When there is a personal empathy, we must ask whether it has been played out in reality in the public and whether it has delivered; for instance, the commitment of this Government to improving the lot of the Aboriginal community, taking notice of the council of elders -

Hon N.F. Moore: Open your eyes and have a look.

Hon TOM STEPHENS: - the commission of elders, the metropolitan commission or all of the other consultative groups that exist across this State that are feeling an intolerable measure of frustration with the failure of ministers to listen, to consult, to understand and, occasionally, to take the bold and dramatic step of agreeing to the self-evident demands of justice that this section of the Western Australian Aboriginal population well and truly articulates. Why can the pleas of this community for the basic necessities of life not be accommodated by a Government that allegedly is headed by someone with some empathy for the Aboriginal community? When will there be the funds to deliver to people in this community powerhouses that work, schools that function and roads that are maintained?

Hon N.F. Moore: You know very well that is happening.

Hon TOM STEPHENS: When will they have programs that accelerate the movement of the Aboriginal programs of this State? Why is every core function of service delivery to the Aboriginal community shunted by this Government into the federal agencies for funding? When communities ask for police stations, why are they told to get the Aboriginal and Torres Strait Islander Commission to pay for them; or when they call for police, why are they told there is no funding to allow for the police to come into those communities, to travel down the roads to accommodate their needs and to protect their people from the dysfunction within the community? Why is every conceivable program for which this Government has a statutory obligation to deliver to all citizens shunted to the federal agencies? I do not think the Aboriginal community is after the empathy of its Premier; it is after some comprehension of the demands of justice and some simple responses that occasionally deliver programs. Just last week I was horrified to find a Minister for Aboriginal Affairs prancing around the State demanding that Aboriginal communities take swimming pools, irrespective of their priorities.

The PRESIDENT: Order! The Leader of the Opposition is faced with the same problem faced by other members. This is a very narrow motion. It is about a crisis in relations between the Premier and the Aboriginal people of Western Australia. If the Leader of the Opposition will relate his comments to that, I will be pleased.

Hon TOM STEPHENS: It is understandable that there will be a crisis in relations between the Premier of this State and the Aboriginal community when a minister is going around failing to take note of the needs and aspirations of the Aboriginal communities, delivering programs which in some cases they are not seeking. Let us take the Bidyadanga community at La Grange. When needing a powerhouse that operates, it is told a swimming pool is on offer. When a basketball court is required to meet the needs of the community, these people are told a swimming pool is on offer. Five minutes down the road

from that community is the Indian Ocean. It does not need the swimming pool. The members of the Karalundi community found out that it was to get a swimming pool only after I relayed that information to them. They asked when someone from the Government would ask them whether they wanted one. As it turns out, that community could do with the pool; however, they would like it to be offered so they have the opportunity of saying, "Now it has been offered, we would like to come and talk about recurrent funding." Members will know from the local government experience that the installation cost represents about 5 per cent of the overall cost of a swimming pool over 20 years. It is one thing to plonk a pool in a community without any offer of recurrent funds. Whether the management strategy that will be put in place to guarantee that program will be of some use to the Aboriginal community of this State is another matter.

Program after program of this State Government is compounding the crisis about which Hon Christine Sharp has spoken. There is a need for the State Government to take a different approach. It involves not playing politics with the race issue, not using the Aboriginal community because some people believe it can advance the narrow, partisan, political concerns of a party while it is in office, or of someone who, while in government, can see the opportunity of perhaps cementing his party in office by playing out the politics of race over the native title question, without any regard for the demands on the alleged empathy by those on the other side of House. Those members opposite know only too well what is being done in this State by their playing out the politics, for instance, in the native title debate. In the end that issue will be compounded into an insoluble problem for as long as those opposite occupy the Treasury bench. The only way forward is by a Government showing goodwill, bringing together the parties on all sides of the native title debate - the developers, the Aboriginal communities and the wider community - and producing solutions that deliver for all of us economic opportunity, including the employment and training opportunities that will come with the freeing up of land for development projects. That will not come if the Government is headed by someone who has empathy, but shows no display of goodwill on the ground. When a head of government goes to the Aboriginal leadership of this State and says, "You can trust us; if you let just let us get this Bill through the House, we will turn away from our past track record and move into new and fresh directions", is there any wonder there is no trust of this Government?

Hon N.F. Moore: Who said that?

Hon TOM STEPHENS: The Premier.

Hon N.F. Moore: Of course he did not say that at all, you silly man.

Hon TOM STEPHENS: He sent pretty well that basic message to the Aboriginal leadership of this State. That is how it was understood in the discussions that took place immediately after that.

Hon N.F. Moore: That is your interpretation of it. That is how you would understand it and misinterpret it, as you always do.

Hon TOM STEPHENS: As for the insulting comments from the leader of the Government about the political nous of the Aboriginal community in this State, it is not a matter of using tricks or mirrors to win the votes of the Aboriginal community; it is a matter of delivering policies and gaining their support as opposed to evoking their disgust. They want the opportunity of voting for a good Government.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [4.22 pm]: In 1995 the Premier set up the Metropolitan Nyoongar Council of Elders. That demonstrates his commitment to the Aboriginal people. He has a long record of being very sympathetic to the way the Aboriginal people are dealt with in this State.

Hon Tom Stephens: They do not want sympathy.

Hon M.J. CRIDDLE: He has worked with them positively to put them in good stead. The Aboriginal people must meet that commitment half way. The Leader of the Opposition will know from our trips to the north west that I well and truly understand the situation. I am sure the Premier does also.

Hon Tom Stephens: You are a good minister; now we need you to deliver some roads and public transport.

Hon M.J. CRIDDLE: I will get to that. We are doing that to the benefit of Aboriginal people. We have made a commitment to develop, over the next few years, the six demonstration projects in those communities. It will be of tremendous benefit to the health of the Aboriginal people in those areas. Dust is one of the problems associated with diseases in that area.

I am disappointed that those members of the Metropolitan Nyoongar Council of Elders have resigned. Members of a community can work only from within to do the best for that community. The relinquishing of that opportunity will create a void which somebody else must fill. I understand that the Premier and the minister met with the state council of elders just before Christmas at which meeting a good dialogue was held. The minister also communicates with the council of elders regularly and, in fact, has recently returned from those areas. The Premier met with his chief executive officers from a wide range of relevant government agencies in August 1998. He indicated that he wanted them to work more closely with the Aboriginal people as a team, to get a positive result for them and for the Government to be more effective in achieving those results.

With the input of Aboriginal people and through the Aboriginal Affairs Coordinating Committee, the coalition was the first to develop a number of clearly defined goals for Aboriginal Affairs, systems that will coordinate activities across government departments so that the various agents work as a team, and the mechanisms through which Aboriginal people and the Government can work as a team. The goals from those people are to reduce indigenous over-representation in the judicial system and the criminal justice system and to eliminate some of the substandard living conditions. Some of us have visited the area and seen those conditions.

Hon Tom Helm: Are you talking about consultation?

Hon M.J. CRIDDLE: Consultation occurs. People are spoken to on a regular basis. Further goals are to increase the capacity of Aboriginal individuals, families and communities to engage in commercial enterprise and to protect and promote Aboriginal heritage and culture.

The PRESIDENT: Order! Hon Tom Helm and the Leader of the House are interrupting the minister

Hon M.J. CRIDDLE: Those are some of the goals to which the Government is committed.

The Government, and obviously the Premier, are involved in expanding the Department of Aboriginal Affairs from seven to 23 regional officers by December this year to enable its staff to get closer to the Aboriginal communities in the area. In relation to the point made by the Leader of the Opposition that the State Government does not provide funds, $3m will be made available to provide normalisation of services to the remote Aboriginal communities. That will help bring them closer to the living standards to which we are accustomed. The Leader of the Opposition referred to the swimming pools. I am sure some of the communities such as One Arm Point will welcome a pool. Obviously there will be opportunities for greening the areas.

Hon Tom Helm: Would you have a pool if you lived there?

Hon Tom Stephens: I would!

Hon M.J. CRIDDLE: I am sure Hon Tom Stephens understands why a pool at One Arm Point is necessary!

We are committed to spending $10m on building roads in those communities, which we are bringing forward so that the communities can benefit.

Hon N.F. Moore: Even Mr Stephens thinks that is a good idea.

Hon M.J. CRIDDLE: Surely the Leader of the Opposition will appreciate seeing those roads built in those communities.

Hon Tom Stephens: I look forward to the Government's doing much more to the road system.

Hon M.J. CRIDDLE: Homeswest's budget for housing and infrastructure for Aboriginal people is approximately $20m a year. I am sure that with all these issues, the Premier is certainly well and truly involved. I am aware of the work done through the Aboriginal medical centres in Geraldton and Kalgoorlie, which I recently visited. I appreciate that the Government has contributed much in other areas to health and medical services through the mainstream health services. The Aboriginal Justice Council is funded to the amount of $585 000 a year in order to oversee the implementation and recommendation of the Royal Commission into Aboriginal Deaths in Custody and the 1998-99 budget for the council of elders is $406 000. I notice with interest that the budget for the metropolitan and wheatbelt areas is $60 000 and approximately $50 000 has been spent already this year.

That $406 000 will go to the councils of elders throughout the regions, from the Kimberley to the Pilbara, the goldfields, the Murchison, the south west, the wheatbelt and the metropolitan area. The Government is well and truly making a contribution to the councils of elders.

Hon Christine Sharp: They want consultation.

Hon M.J. CRIDDLE: I understand that there will be consultation. There is a great opportunity for people to be involved. I am sorry that those people have resigned and have lost that opportunity to be involved in consultation.

Motion lapsed, pursuant to standing orders.

PORT AUTHORITIES (CONSEQUENTIAL PROVISIONS) BILL

MARITIME FEES AND CHARGES (TAXING) BILL

Third Reading

Bills read a third time, on motions by Hon M.J. Criddle (Minister for Transport), and returned to the Assembly with amendments.

PORT AUTHORITIES BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon M.J. Criddle (Minister for Transport), and passed.

ADOPTION AMENDMENT BILL

Second Reading

Resumed from 3 December 1998.

HON CHERYL DAVENPORT (South Metropolitan) [4.33 pm]: The Australian Labor Party supports this Bill and its two primary objectives, which are to give effect to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoptions; and to provide for the recognition of adoptions under bilateral agreements, in particular the recognition of the work that is being done with the People's Republic of China. *The Weekend Australian* editorial of 6-7 March states that -

> It is welcome news that a long-awaited deal between Beijing and Victoria (on behalf of all States) is close to being finalised.

That is just around the corner, and I will refer to that editorial again later. China has an enormous population, and unfortunately many female babies, and many children who are not physically or mentally perfect are abandoned. Given that many childless people in countries like Australia are seeking to adopt a child, we welcome that access to children from other countries and the opportunity to give a good home to those children and to assist them on humanitarian grounds.

The minister referred in his second reading speech to the worldwide growth in intercountry adoptions and indicated that in 1997-98, intercountry adoption accounted for approximately 70 per cent of unrelated children adopted in Western Australia. That figure sounds impressive, but from the information I have to hand, that equates to only 19 children in the past year. I will return to that matter later.

I am sure that every member of this Parliament shares the minister's concern about the incidence of extreme poverty in some developing countries, and while countries like Australia can assist the many childless couples in developed countries who want to adopt a child, we need to be aware that such dynamics have created an environment in which exploitation, trafficking and the sale of children can flourish, hence the imperative for the development of the Hague convention and its ratification by the member countries of the United Nations to ensure that the right people participate in the adoption of these children.

The negotiation and development of the Hague convention began in 1988 at the Hague Conference on Private International Law. The Hague conference established a special commission to undertake the preliminary work, which met over the years 1990-1993. The Australian Government, which at that time was a Labor Government, was an active participant in that process, having consulted with the States' and Territories' social welfare ministers, and the convention was finally ratified internationally in 1995. Australia lodged the instrument of ratification in August 1998, and the convention came into force for Australia on 1 December 1998.

We were advised that the Commonwealth Parliamentary Joint Standing Committee on Treaties scrutinised the convention and completed a national impact analysis, which supposedly included consulting the State and Territory Governments, non-government organisations and other interested groups. I am sure that during the recent parliamentary recess, other members have, like me, been advised by the non-government organisation Adoptions International of Western Australia about that organisation's concerns about this Bill. The Labor Party in the other place gave bipartisan support to this Bill when it was debated there, and we will continue that support, but many questions were raised in that debate on behalf of that organisation. During the parliamentary break, I met with that organisation, and it indicated to me that there has been minimal consultation with the non-government sector about that convention. I refer to a letter addressed to Ms Trudy Rosenwald, the principal officer of Adoptions International of Western Australia, which mentions the consultation that supposedly occurred with the commonwealth treaties committee. That causes me some concern, and I would be very pleased if in the minister's response he would raise my concerns with Minister Parker and seek some clarification. The letter stated that the committee made recommendations with regard to the convention and concluded -

> "The Committee feels that the parents support groups' concerns can easily be rectified without significant changes to the proposed arrangements." It added: "The majority of concerns expressed were related to the content of the Commonwealth-State Agreement and the regulations and not with the Convention itself."

Interestingly enough, most of the non-government organisations around Australia did not know that there had been a joint commonwealth-state agreement at the time and found out only when their members gave evidence to the Joint Standing

Committee on Treaties when it met to consider the convention. Therefore, there was very little consultation right across the community.

Adoptions International of Western Australia sought advice from OZ Children Australia Inc, which is obviously a non-government organisation. The person who responded on behalf of OZ Child is Neville Turner,a barrister and solicitor of the Supreme Court of Victoria, the President of OZ Child, a senior lecturer in law at Monash University and the author of several books and articles on family law and child law. He makes it clear in his letter that the advice he was giving to the organisation was without liability or responsibility. He questions the status of the commonwealth-state agreement. I quote the concerns that he raises in his letter -

> I believe that the validity of this Commonwealth/State agreement could be constitutionally challenged on these grounds:
>
> (a) It was negotiated before the Convention was ratified and even debated in Parliament.
>
> (b) It is contrary to the spirit and letter of the Convention itself.
>
> (c) It must yield to the best interests of the child; if it is so full of flaws that that might be demonstrated then it might possibly be held ultra vires the guiding principle of the Family Law Act 1975, that the best interests of the child should be the paramount consideration.

Hon M.J. Criddle: Whose letter is that?

Hon CHERYL DAVENPORT: This letter is from OZ Child Australia. I am happy to let the minister have the letter at the conclusion of my remarks. Mr Turner goes on to refer to the question of licensing which exists under the 1994 Act for a non-government organisation to be registered to participate in the process of intercountry adoptions because the Hague convention also requires accreditation. I do not have any difficulty with both licensing and accreditation. We expect that on a domestic level for child care centres and a range of other organisations where children are in care.

Hon B.M. Scott: Do you mean licensing and accrediting for organisations?

Hon CHERYL DAVENPORT: There is currently a licensing provision in the 1994 Act for any agency to participate in inter country adoptions. The Hague convention also requires accreditation, which is another process that needs to be met. I do not have any difficulty with that because the more checks and balances that exist in the system, the less likely we are to make mistakes. We all know that in the past, unfortunately, there have been many mistakes in relation, obviously, to the migrant children who came to Australia from Britain and also the stolen generation. There is an indication that this particular organisation is not as wedded to the notion of accreditation, however I and the Labor Party do not have any difficulty with that.

I ask the minister if he could seek clarification of the paragraph of the letter which deals with accreditation which says -

> It is absurd to say that the criteria are the same for the "licence" and the "accreditation". Paradoxically, it would appear that they are less stringent for the conduct of adoption in general (licence) than simply for the conduct of intercountry adoption. The wording is different in many particulars. I can well envisage an agency with a licence having its powers to conduct foreign adoptions revised because it does not comply with the very stringent requirements of the Commonwealth/State Agreement. Suppose, for instance, a member of its staff wrote an article criticising the State Central Authority.

I take it he means the non-government organisation. It continues -

> This is sufficient to justify revocation of the authority to conduct foreign adoptions. The Act is silent on its effects on the agency's licence.

I seek clarification from the minister on that matter. He goes on to say -

> It would appear to me that the W.A. Government has not given sufficient attention to the points that you have properly raised. If this legislation is passed in its present form, I have serious doubts as to whether it would survive a constitutional challenge.

The third issue that Mr Turner raised was whether a State could unilaterally vary the clauses of the commonwealth-state agreement. Fourthly, he refers to a constitutional dichotomy. I quote -

> . . . the power to legislate has not been accorded to the Commonwealth. It vests in States. It would seem at least arguable that the Commonwealth Minister for Family Services exceeded his powers by seeking to bind the Commonwealth to this Agreement, which was not within his Parliament's powers - an executive seeking to exercise legislative power?
>
> It could also be argued that the State Minister of Family Services for W.A. exceeded her powers, by seeking to bind

her Government to an arrangement which had never been the subject of a parliamentary debate on a legislative issue.

I seek clarification from the minister on these questions when he replies to the debate.

Adoptions International has told me that it will probably seek local legal advice. There are certainly questions to answer given the advice it has had from the eastern States. However, I am interested to hear whether the Government has concerns about the issues I have raised. I do not have any legal expertise but there are substantial questions that need answering and it is appropriate that those questions and answers be placed on the public record.

Members might recall that a week or so ago I asked a question of the Minister for Transport representing the Minister for Family and Children's Services on the status of Adoptions International, whether it had been successful in gaining its licence and whether it had been told. It is interesting to place on record the process that that organisation has followed in trying to obtain an adoption licence. I preface these remarks by saying that I am not necessarily saying that it is a good or bad thing for a non-government organisation to have a licence. What I say is that we had placed a provision in the 1994 Bill stating that organisations are free to apply for an adoption licence.

Adoptions International applied for a licence. It took it 18 months to obtain the form on which it could apply. It has taken from the time it lodged the application in 1996 until 8 March 1999 to be told that it was not suitable to have a licence. In fairness, it had been asked to provide only one lot of information over and above that in the original application. The performance on the part of the department on the one hand and the minister on the other has been very tardy. Adoptions International has subsequently been denied a licence. It has been told that the licence was not granted on the basis that its staff did not have enough experience, despite the fact that the principal officer had taken it upon herself, anticipating that Adoptions International might not be granted a licence, to make sure that she was trained as a psychologist to ensure that she could do the necessary counselling and the like that might surround the process. Having done that, Adoptions International has been knocked out because she has not had paid employment. Where one would get experience of paid employment in that field, I am not sure. I suspect that it would be only in the department.

Adoptions International has been told that not enough people are available in the organisation to provide the adoption service. It has been told that because the organisation is basically dominated by potential adoptive parents or adoptive parents, it should not be granted a licence. I suspect that the people involved would argue that at least they tried to keep children out of institutions rather than what happened to the child migrants and others. One of the other grounds is that Adoptions International did not have enough financial support and that it had improper documentation, having provided with its application a 200-page manual. I must question the reasons behind all of it. I would be the first person to say that those checks and balances must be in place for adoptions. However, it seems that a culture might be operating in that particular area of Family and Children's Services, which is not necessarily healthy.

I want to use a couple of examples to show why that might be the case. The first example is that following the proclamation of the 1994 Adoption Act, the introduction into the process of adoption mediation officers who had to be accredited caused a lot of pain at the time for the organisation called Adoption Jigsaw (WA) with which many members will be familiar. One of the founding people involved in Adoption Jigsaw (WA) was a women called Glenys Dees who, working almost single-handedly, got that organisation off the ground. It has now been in existence for 26 years. Glenys conducted many mediations over the years when bringing adoptees and birth parents together. Following the advent of the 1994 Act, because she did not have qualifications even though she had been doing the job for 10 or 15 years, she was no longer able to be a mediator. She could have taken a course to gain accreditation but she chose not to on the basis that she felt that the organisation was being overpowered by the departmental requirements. She has now been lost to the whole adoption process, which is a shame.

I am also told that there is something like a three-year delay in Family and Children's Services for people who need to have information on their status as an adoptee or birth parent. The only way in which they can get any form of priority information is through age or health reasons. Over the years, since the 1994 Act was proclaimed, I have asked questions on the whole notion of access to information. Over that time, the time lag for people being able to get access to information has crept up. When the Adoption Act changed in Victoria, very much the same process occurred; the department was swamped. It was the only organisation in effect that was doing that work because the non-government sector had virtually been forced out of the field. Both the Australian Relinquishing Mothers Organisation and Jigsaw are still there, but the department seems to have a culture that does not necessarily want to work in a cooperative manner with the existing non-government organisations.

In South Australia, there is an intercountry adoption organisation in the non-government sector. That state by comparison with Western Australia in the past 12 months conducted 63 intercountry adoptions. I presume our figures are pretty much from the past calendar year of 1998. As I said earlier, we had only 19 intercountry adoptions. Western Australia has a larger population than South Australia's. Why is it that emphasis is not being placed on intercountry adoptions that would see us being able to achieve better outcomes?

I will mention again the editorial from *The Australian* which I mentioned earlier in my contribution. I thought that it was very telling, given that this debate was coming on. It is appropriate to read it into the record. It reads -

> Yet, it is apparent that one of the main obstacles to satisfying adoption demand is over-zealous officialdom that places more and more hurdles in front of childless couples desperate to adopt. It is not a satisfactory approach but one that is certain to be given wider exposure if childless couples gain access to the biggest baby pool in the world - China.

It refers to what I mentioned earlier about the negotiated deal between Beijing and Victoria. It continues -

> It will allow Australian couples to join an international rush for Chinese babies and to adopt children that have, on the whole, been abandoned. . . .
>
> In the economy of human births, the disparity between the West and the Third World has some hope of equalisation when careful adoptions of children take place. It is no insult to poor countries that, often rich in children put at risk through abandonment, epidemics or war, they should provide security for their children while bringing life to couples who will nurture them in family gratitude. If it seems unfeeling to talk about surplus children, the fact is that the shrinking numbers of available children in the West almost demand a reappraisal of adoption measures. It is obvious these should be painstaking and above board, but bureaucratic scrutiny that sometimes passes for social integrity is an obstacle to honest and compassionate adoption.
>
> Many of the world's orphans face an appalling future; often, both parents are the victims of famine, the AIDS pandemic or other uncontrolled disasters. These innocent victims deserve the chance adoption provides, and their assimilation is hindered by inexplicable delay and insensitive handling. Perhaps the whole area of overseas adoption should be removed from immigration officialdom, and given over to a new unit of social action. It would be a shame if the Chinese adoption program was again delayed by an uncompromising attitude of some officials apparently opposed to the concept.

Certainly a range of problems exists in the department here in Western Australia.

Hon M.J. Criddle: Immigration?

Hon CHERYL DAVENPORT: No, in the bureaucracy involved in the adoption section of Family and Children's Services. It is not just a problem with intercountry adoptions. We have people who have been waiting almost a lifetime to discover where they come from, as well as relinquishing parents who want to ascertain that information. The department is three years behind schedule. As I said, enormous pressure was put on Adoption Jigsaw (WA) after the 1994 Act was proclaimed.

[Questions without notice taken.]

Hon CHERYL DAVENPORT: I do not have much more to contribute to this debate. I again emphasise that I am not trying to cast aspersions on the departmental officers, but when people have worked in an area for a long time, they sometimes become overzealous, and I can understand that when we consider some of the adoption decisions that have been made in the past; for example, the British child migration program that has since been exposed. The department needs to look at how it deals with delays in providing information and place greater emphasis on the service of intercountry adoptions. The comparison between South Australia and Western Australia over a 12-month period is significant, where South Australia had 63 intercountry adoptions and Western Australia had only 19. Perhaps the department needs to have a budgetary increase to enable it to concentrate its resources more firmly in that area, or it may need to consider the notion of licensing and accrediting a private, non-government, not-for-profit agency to assist in that area.

I find it interesting that Adoptions International has argued that there is no need for legislation to ratify this convention in this State, largely because a state-commonwealth agreement has been signed, and also because no other State has seen fit to introduce legislation to ratify this convention. I do not have an opinion on that but it is strange that no other State has legislated to ratify that convention. Another area on which I seek clarification from the minister is the lack of development of an adoption plan for intercountry adoptions. I understand that many children involved in intercountry adoptions may be orphans; however, it is an appropriate safeguard for a relinquishing parent to have an adoption plan. It has been a requirement for adoptions in this country since 1994. There is no difference as it still relates to a parent who has relinquished a child and there may well be a family still alive for those who are orphans. There should be no problem in an adoption plan being lodged with the agency in another country so that at any time a parent or family of that child may find out how the child is progressing in the new country.

I note that an amendment on the issue of accreditation has been placed on the Supplementary Notice Paper by Hon Giz Watson. When this Bill was debated in the other place, my counterpart gave an undertaking that we would approach this matter on a bipartisan basis. I had requests from Adoptions International of WA to amend the legislation or refer it to the Standing Committee on Constitutional Affairs because of the range of issues which I raised earlier in the debate. I gave a commitment to a bipartisan approach to this issue and I will proceed with that commitment. However, I will talk to my

colleague in the other place during the dinner suspension to see whether there is a chance of the amendment receiving that support. I do not think it will make any significant difference to the legislation other than to place another check and balance in it to ensure that the best possible approaches are taken in intercountry adoptions. I will take up that issue during the dinner suspension and provide an answer during the committee stage of the Bill.

I will be interested to hear the minister's response to the questions that I raised previously, particularly whether there are constitutional impediments and whether the legislation will be able to withstand challenges at that level. I support the Bill.

HON NORM KELLY (East Metropolitan) [5.43 pm]: The Australian Democrats also support the Adoption Amendment Bill. We welcome the provisions contained in the Bill, particularly the two primary provisions to give effect to The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and to recognise adoptions which are carried out under bilateral agreements with other countries.

In researching this Bill and looking at the history of adoption law I note that the first adoption law was passed in the United States of America in the early 1950s. In Australia, Western Australia was the leader as the first State to legalise adoptions in this country. That occurred a little more than 100 years ago. The basis of the adoption law at that time was that the State should take responsibility for adoptions to ensure that the child was protected and that private adoptions should not be allowed. One hundred years later, members involved with the Bill will be aware that there are pressures to allow adoptions through private adoption agencies, even though the State would retain control over those agencies. Hon Cheryl Davenport referred to Adoptions International of WA Inc and its efforts to become licensed as an adoption agency. I will refer to those matters later.

The final report of the Adoption Legislation Review Committee was released in November 1997 and is a valuable assessment of Western Australia's current adoption laws. The Australian Democrats believe it is unfortunate that the Government has not taken the opportunity to incorporate some of the recommendations from that legislative review committee into the current Bill, at least those relating specifically to intercountry adoptions.

Any consideration of current adoption legislation must be contextualised in an appreciation of the historical evolution of such adoptive practices, especially when one considers the dramatic changes in community attitudes and social standards on adoption issues. It is important that we learn from those past practices. There was originally a strong requirement to keep secret all adoption details on the basis that anonymity and secrecy were in the best interests of the child, relinquishing parents and other involved parties. However, we have seen, through the evolution of history and people's experiences of adoptions, the stresses that such secrecy can place on adopted children. The original requirement for secrecy did not take into account the need for people to establish their identity by maintaining an understanding of their personal history. That requirement also neglected to acknowledge the profound implications for birth mothers - that a relationship between mother and child that existed could not simply be terminated by the signing of legally binding papers.

Another practice associated with adoption which is now held to be inappropriate is the unresponsiveness of past adoption law to traditional Aboriginal culture. That practice was based on the assumption that assimilation was in the best interests of the child. Therefore, even if those who promoted and instigated a policy of assimilation in this country were acting with good intentions, we all are now well aware of the disastrous consequences that such a policy had on children, their families and their communities. I will not go into detail as it has been well documented in reports such as "Bringing Them Home". These two examples - secrecy laws and assimilation - illustrate how adoption law is complex and evolving in its nature. We must look at any amendments to the Act extremely carefully.

Intercountry adoption is a very controversial matter. The issue of an individual's identity is at the centre of most debate regarding the merits of intercountry adoptions. Many arguments can be raised in support of and in opposition to intercountry adoptions.

The New South Wales Law Reform Commission outlines some of these arguments in its 1997 report. In support of intercountry adoptions, some of its arguments were that every child has a right to grow up in a family; that sufficient evidence indicates good success can be achieved in transcultural placement; that it provides some children with permanent families, which they would not be able to attain in their country of origin; that the alternative life available to the child in his country of origin could involve institutions, camps or the like without permanent carers and would be of far less benefit to that child.

A number of arguments were raised in opposition to the idea of intercountry adoptions. Some of them are that such adoptions are usually across cultural borders which results in damage to the child's culture and heritage; that identity issues because of lack of access, not only to contact with their families but also to information about their birth families, creates problems at all stages of their lives; that many intercountry adoptions involve older children and, of course, the older age of a child can bring about problems in itself. There are also obstacles to the openness of adoption through lack of records, language barriers and a lack of opportunity for the birth parents to participate in the selection of adoptive parents. That is acknowledged in Western Australia and relinquishing parents can have a say in the choice of the adoptive parents. This is often not the case with intercountry adoptions. There is also the argument that up to about $20 000 can be spent on an

intercountry adoption by adoptive parents. One argument is that money could be better spent on supporting the children, their families and the community in their country of birth.

There is also a danger that the growth of intercountry adoptions could result in the trafficking of children. If stringent measures are not taken, intercountry adoptions may not occur for the best of reasons and the main focus may be the financial transactions, which would then become the driving force for such adoptions. I believe the profit motive is not driving the increase in intercountry adoptions, but rather far fewer children are available for adoption in Australia than was previously the case and this is the cause of the increase. We must look seriously at this issue.

Some 25 countries have ratified the Hague convention. We must acknowledge that even though those 25 countries have equal status as signatories to the convention and that technically they can be either receiving or sending countries, the reality is quite different. The exchange is all one way; mainly third-world countries sending children to first-world countries. Technically the position could be the reverse. However, members should be aware that one of the conditions for an intercountry adoption is that it must be shown that no parties are available to adopt the child in his own country. Basically that condition rules out those first-world countries that are receiving countries.

The history of adoptions in Australia over the past 20 years shows a marked decline in children available for adoption. In the financial year 1971-72, almost 10 000 Western Australian children were adopted. In the past financial year that figure had dropped to 577, which is quite an amazing decrease. Even in the past two financial years there has been a 20 per cent drop from the 1996-97 figure of 709 to the 1997-98 figure of 577. I will not go into all the details of why that drop has occurred, but it is partially because it is far easier now for women who are single parents to bring up their children. The pressure to have such a child adopted is far less than in decades gone by. At the same time, Western Australia still has many couples who want to become parents by means of adopting children. The number of children in Australia available for adoption does not meet the demand. During a similar period, we have seen an increase in overseas adoptions. From 1981-82 to the past financial year there has been a 50 per cent increase in overseas children being adopted in Australia; the figure has gone from 162 to 245 children. Even though that represents a large percentage increase, the current number of adoptions is quite low if one combines the number of overseas adoptions with the Australian adoptions of less than 1 000, and compares that annual figure with the figure of approximately 10 000 less than 30 years ago.

A range of articles relevant to intercountry adoptions appeared in the United Nations Convention on the Rights of the Child, which was signed in 1989 and to which Australia is a signatory. Article 8 gives the child a right to preserve his or her identity, including nationality, name and family relations; and article 30 provides for the right of children belonging to indigenous, ethnic, religious or linguistic minorities to an upbringing that gives them full access to a community with other members of the group, enjoyment of their own culture, practice of their own religion and use of their own language. When looking at ensuring that children are adopted for the right reasons, we must bear in mind article 30.

The Legislation Committee in its legislative review report on intercountry adoptions also made recommendations on the same lines. I am disappointed the Government has not taken on board the committee's recommendations relating to intercountry adoptions, which included some proposed amendments. On page 74 of the committee's report, recommendation 41 states -

> That the legislation provide for recognition to be given to the value of, and need for, cultural and ethnic continuity for a child being placed for adoption.

Recommendation 42 states -

> That section 52(1)(v) be amended to separate its two components in order to emphasise the importance of continuity of the child's cultural, religious or educational arrangements.

It is disappointing that we are being asked to endorse Western Australia's participation in the Hague convention, but at the same time, even though the information is there to see, apart from what is mentioned in the convention itself, the Government has not taken on board that very important commitment to cultural and ethnic continuity. The Australian Democrats will be supporting the legislation but we are disappointed that the committee's recommendations have not been endorsed.

Sitting suspended from 6.00 to 7.30 pm

Hon NORM KELLY: I had almost completed my remarks before the dinner break, but I want to make a few comments about the application by Adoptions International of Western Australia Inc to be licensed as an adoption agency in this State. The matter raises serious questions as to the ability of Family and Children's Services and why it has taken so long for a decision to be made on whether Adoptions International should be a licensed adoption agency. It applied in 1996, I believe. One main difficulty in the early stages was that Family and Children's Services had no procedures, application forms or criteria to assess an application by a private adoption agency, so there was a lengthy delay while the department organised matters. As it has been 10 years since private adoption agencies have been able to be licensed, irrespective of the merits or otherwise of that organisation, it has been unfair for it to have to wait for such a lengthy time to have its application processed. For example, there might be some arguments with officers of the department, and I have received contradictory

information from the two sides as to the reasons for the delay, but there is a need for clearer guidelines as to the application procedures for non-government agencies. Recommendation 74 of the Adoption Legislative Review Committee states -

> That the legislation be amended to state that applications for a private adoption agency licence be made only when the Minister calls for expressions of interest.

Does the Government intend to take on board that recommendation in the major review of the adoption legislation for which we already have waited a long while? It is a factor in one organisation, Adoptions International, being refused a licence. Maybe the refusal is partially because the Government may wish to have no private adoption agencies and by refusing Adoptions International's application it will make it easier for future amending legislation to prevent organisations from applying of their own free will and thus wait for a minister to call for applications.

That leads to the matter of demand within Western Australia for couples who wish to adopt and also to the demand for children in overseas countries who need to be adopted. Hon Cheryl Davenport said that through the work of a non-government adoption agency in South Australia the number of intercountry adoptions in that State has risen markedly. We must ask whether that increase in intercountry adoptions has been brought about by a drive by that private agency to increase the number of adoptions. Given that it needs to be a non-profit organisation, that partially rules out the profit motive in getting extra intercountry adoptions. However, large amounts of money are handed over in such processes. A good portion of that money goes to the country from which the child is being adopted, and that is beyond the control of the agency in Australia, but there are other fees.

Hon M.J. Criddle: How would we control funds in other countries?

Hon NORM KELLY: It is beyond our control to dictate what those amounts are, but it is within our control to dictate what fees are charged within Australia for adoptive parents. The other possible conclusion that can be drawn from the increase in intercountry adoptions in South Australia is that the private adoption agency is fulfilling an unmet need for adoptive parents within the State. If that is the case, it is the stronger of the two arguments. We must question why there is such an unmet need. It must be that the government agency is not doing its job, so we then must ask whether Family and Children's Services is doing an adequate job in Western Australia. It has a monopoly. It is important that the control of adoptions remains with the State, because the protection of children is uppermost in the legislation.

Hon M.J. Criddle: Isn't that what we are doing in the legislation?

Hon NORM KELLY: That is right; we are doing that, but that is another issue. The point is whether non-government agencies should be licensed. We have the case of Adoptions International, but in the absence of private agencies in Western Australia we must seriously question the work of Family and Children's Services.

Hon M.J. Criddle: Do you want a benchmark?

Hon NORM KELLY: When we have a monopoly we must monitor strictly the relevant government agency. The number of intercountry adoptions is low. In 1996-97 there were only 21 overseas adoptions plus 13 local adoptions.

Hon Cheryl Davenport: There are no babies to adopt on the domestic scene.

Hon NORM KELLY: Last year there were only 19 overseas adoptions and eight local adoptions. As Hon Cheryl Davenport said, there are virtually no babies within Western Australia to adopt, but there is still a demand from couples who wish to adopt. We must question whether the department is being adequately resourced, whether there is sufficient incentive for it to deal with the unmet demand within Western Australia, and whether sufficient requirements are placed on the department to deal with and process the applications for adoption. Obviously it cannot be hurried. It is important that the department gets it right in ensuring that adopting couples and children are suitably matched and all of the other requirements are met. However, there is no reason to allow for unnecessary delays which inevitably occur in government departments. We must consider the fact that we continue to have only a government adoption agency.

Hon M.J. Criddle: We need a balance.

Hon NORM KELLY: Yes. That sums up our concerns about intercountry adoptions in this State. The Australian Democrats are very supportive of the legislation. We hope and expect that more countries will have bilateral agreements with this State and with Australia. As long as the cultural differences are appreciated and the cultural connections are maintained as strongly as possible for children from other countries, the number of intercountry adoptions within Australia should continue to grow.

HON GIZ WATSON (North Metropolitan) [7.42 pm]: I will also speak in support of this Bill. The Bill has two stated objectives: To give effect to the Hague convention and to validate bilateral agreement adoptions to establish that adoptees are regarded as Australian citizens. Binding the State to the Hague convention on the protection of children is an excellent initiative. The issue which it addresses is vital in terms of the appalling concept that people might be trafficking in children and trading in young people's lives. The Hague convention is an excellent document to address this matter. I also note that

the Bill recommends that adoptions made pursuant to bilateral agreements with prescribed overseas countries which include China, which is not a signatory to the Hague convention, include automatic recognition by Australia of adoptions which take place outside the Hague convention guidelines. Previously, there was a 12-month waiting period which caused many problems with adoptions from China.

I do not wish to go over matters that have been raised by Hon Cheryl Davenport and Hon Norm Kelly; however, I share their concern that currently Family and Children's Services is the only instrumentality processing adoption applications. I see an important role for other organisations such as the one that has been mentioned in the House, Adoptions International of Western Australia, to provide a service for international adoptions. I also share the concerns that currently Family and Children's Services does not have the staff or resources to deal with the number of applicants who wish to adopt. A licensed and accredited agency of professional people should be able to participate in assisting these applicants to provide homes for these children. I note that the future for many of these children is very grim, to say the least. I will speak further about that later. South Australia already has this facility, therefore we have a precedent. As has already been mentioned, at this stage, Adoptions International of Western Australia has been refused a licence. I hope that in the near future the application will be considered favourably and it will be licensed when it resubmits a completed second application.

One of the issues that has been raised with me about this Bill is that it should not be a further barrier to the operations of organisations such as Adoptions International and that this legislation should not prevent applications for licensing and accreditation. In seeking to address that matter, I spent some time looking at possible amendments to this Bill in order to better safeguard the prospects of private organisations participating in international adoptions. Unfortunately, I have been thwarted in most of my attempts due to the restriction on this Bill and its limited intent. I was intending to move an amendment, but over the dinner break I received an indication that it would cause legal problems with the definition of "licence" and "accreditation"; therefore, I will not be moving it. Although the intention was correct, I cannot find the mechanism by which to do that, which will remain acceptable within the terms of this Bill. Licensing allows an instrumentality to process bilateral adoption cases, whereas accreditation allows an instrumentality to process convention country adoptions. The amendment that I was seeking to move would have made licensing and accreditation equivalent terms; however, that would cause problems with the requirements of the convention. Unfortunately, I cannot use that mechanism.

I also raise the matter of constitutional concerns which was mentioned by Hon Cheryl Davenport. There are serious questions about the commonwealth-state agreement. The process is perhaps flawed and there is some merit in sending this Bill to the Standing Committee on Constitutional Affairs for its examination. I seek comment from the minister on that issue. I will refer more broadly to the importance of striking a balance between protecting the rights of children, which must be paramount in any laws that we pass, and the recognised demand for adoptees in Western Australia; a demand which is not being filled.

A number of children in countries like China are in dire circumstances where they are institutionalised, have a poor prospect of survival, and have their basic human rights violated, and there is a strong case for countries like Australia to provide families for these children. However, we must ensure that that is not done by way of a trading arrangement. An article on page 7 of *The West Australian* of 8 January, entitled" China's Shame", states that -

> Unwanted children were being systematically killed in Chinese orphanages that were little more than death camps, a United States-based human rights group has alleged.

That raises an interesting dilemma, because the need to provide a better and quicker means for these children to be adopted into safe countries which can offer them a secure future may place an obligation on more developed countries that have better resources. The primary concern of the Greens WA is to encourage families and communities to assist those countries to prevent children from finding themselves in those dire circumstances. However, we will not be able to solve that problem in the immediate future. Therefore, we have a legitimate obligation to assist the children who are in those circumstances, and to ensure that the organisations that wish to help those children are able to do so, provided that adequate safeguards are put in place to protect the rights of those children and to ensure that a profit is not made out of their circumstances.

One shortcoming of the commonwealth-state agreement is that it will prevent aid from being provided by non-government intercountry adoption organisations. Although the rationale for that move has been explained to me, I believe there is merit in allowing adoption agencies to provide that aid to the countries with which they are dealing.

It is useful for members to understand that an enormous amount of caution has been expressed about adoption, particularly by Family and Children's Services. I can understand that wariness, because this country and this State have an appalling track record with regard to translocating children, particularly Aboriginal children who have been taken from their families against the will of their parents and placed in institutions. We also have an appalling history of children - often the children of unmarried mothers - being brought from Great Britain and placed in institutions. Those translocations have created an enormous cost for our community. However, we need to recognise that given the safeguards that are provided in this Bill, a more positive outcome will result from international adoptions than the unfortunate examples that we have previously experienced in this State.

This Bill will make a positive contribution, and I am delighted that the rights of children will be protected by our ratification of the Hague convention. I ask the minister and the Government to give as much support as they can to ensure that private adoption agencies can participate fully in the important role of providing relief to even a few of those children who are in horrendous circumstances and are worthy of our generosity in providing them with a good home, and to ensure that those organisations that want to assist both the adopting families and the adoptees are given a fair go in providing that service to the people who require it.

HON MURIEL PATTERSON (South West) [7.57 pm]: It is not often that I agree with what Hon Giz Watson says, but I support totally what she has said on this occasion. Previously, I have been critical of both this Government and past Governments for their tardiness in forwarding this adoption debate. I have no objection to private organisations providing this service, particularly if they operate under guidelines that equate to the government agency guidelines. The second reading speech states that -

> Extreme poverty and child abandonment in third world countries, together with increasing demand from couples in western developed countries wanting to adopt, has created an environment in which exploitation, trafficking and sale of children can flourish.

We all know that this has been taking place. I have just read a couple of autobiographies by a mother who had four of her children sold by her husband and the father of her children. One of those books was called *Sold,* and the other was called *Without Mercy*. The author of those books states that more than 1 100 children have been known to have been sold to middle eastern countries from the United Kingdom. I am currently reading another autobiography by Dr Sheila Cassidy, a medical doctor in Chile, who writes about the extreme poverty in that country. I am talking about poverty that we in the west could never understand. Apart from the good that this Bill will provide, I truly believe that in a world of such extremes that this is a worthwhile contribution to the people of Western Australia. I commend the Government for its support of this Bill in recognising the needs of children and potential families in this bountiful State of Western Australia. We must not be deterred or sidetracked by the various problems that may arise. We must ensure that the best decision is made for the greater good. I therefore support the Bill.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [8.00 pm]: I thank members for their support on a very serious issue and one that people who are unfortunate enough to be childless or would like more children in their family will find necessary. This Bill is also about the welfare of children. One of the objectives of the Bill is to give effect through the Western Australian legislation to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The other objective is to provide for the recognition of adoptions under a bilateral agreement with prescribed overseas jurisdictions.

I would like to refer to the points raised by members. Hon Cheryl Davenport touched on the criteria for licensing and accreditation. The process for accreditation will be outlined in regulations. The Government has received legal advice that the two processes must remain separate as accreditation applies only to intercountry adoptions under the Hague Convention; licensing applies to a broader range of functions, including local adoptions and adoptions from non-Hague Convention countries. However, the minister has given an undertaking that the two processes of licensing and accreditation will be as consistent and as streamlined as possible.

Just about every member who contributed to the second reading debate spoke about the application by Adoptions International of WA, which was the first application. It was essential for the minister to be satisfied, after thorough assessment, of the applicant's ability to meet the necessary standards and ensure that the best interests of the child are being met. The process has been time consuming and at times made difficult by the format in which the application was presented and the time taken by AIWA to provide further detailed information. Therefore, there was a difficulty in getting the information.

Hon Cheryl Davenport: I never thought that there was a licensing provision in the Act. I would have thought that, given that this is a 1986 amendment -

Hon M.J. CRIDDLE: Yes.

Hon Cheryl Davenport: - the department would have had an application form sufficiently developed to meet the need when somebody applied.

Hon M.J. CRIDDLE: The member is right; the original application was lodged in December 1996. The applicants provided additional documentation in November 1997, therefore, there was almost a year between the two dates. The final documents from the applicants were received in late October 1998. Consultation with the relevant non-government agencies regarding the Hague Convention occurred in late 1996, which included accreditation criteria. In February 1997 these non-government organisations were given the opportunity to speak to their written submissions. Further consultations occurred again in November 1997 following written invitations to the non-government organisations and an advertisement in *The West Australian*. Ten submissions were received and formed part of the basis of a national interest analysis. The consultation

process in Western Australia was similar to that which was carried out in other States and Territories. Therefore, there is a similarity in the way that process has been carried out.

The waiting period referred to by Hon Cheryl Davenport is in relation to contact and mediation, not access to adoption information. All applicants for post adoption services are provided with information about contact and mediation services in the non-government sector, including information about licensing contact and mediation agents. All applicants wishing for contact and mediation have a choice to use these services.

Each State in Australia has its own adoption laws and processes. Some States, such as Victoria and Queensland, are in the process of preparing their own state legislation. Western Australia's agreement to Australia's ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, is an indication of the Government's commitment to inter-country adoption and I take the points that have been made by members with regard to the difficulties they have in those other countries. Western Australia had adoption agreements with 10 overseas countries prior to ratification of the Hague Convention. The number of countries from which applicants can adopt has now increased; therefore, there is a rising number of countries.

Hon Cheryl Davenport referred to the constitutional issue. Western Australian legal advice is that the minister did not exceed her powers with respect to the commonwealth-state agreement and there is no ground for a constitutional challenge. From the information I have, there is no room for a challenge as it stands currently.

Hon Norm Kelly covered some of the issues that Hon Cheryl Davenport raised. He also talked about recommendations on the Adoption Legislation Review Committee's final report relating to cultural background and ethnicity being endorsed by the Government. Drafting instructions for these recommendations are with parliamentary counsel and will be addressed in a broader adoption amendment Bill at a later stage. The member also touched on adoption statistics. On the information I have been given, the statistics provided by the member related to national rather than Western Australian figures and as such are not central to this debate. Recommendation 74 that he talked about has been accepted by the Government and has been referred also to parliamentary counsel for a later Bill.

Hon Norm Kelly: That is why I asked because it makes the refusal of an application in the meantime interesting.

Hon M.J. CRIDDLE: That is recognised.

The department is responding to the demand by the community on intercountry adoption processes which is complex and takes time. An allocation of children in the proper manner is made by overseas countries and is outside the control of the Government, a fact which was made clear in the second reading speech. That covers the points raised by Hon Norm Kelly.

In answer to the questions raised by Hon Giz Watson, this Bill will not prevent the allocation for licensing and accreditation. Therefore, there will be room for further licensing and accreditation. There is no need to send the Bill to the constitutional committee. The commonwealth regulations are now in force and therefore have given effect to the commonwealth-state agreement. The Bill does not give effect to that agreement; rather, it takes advantage of the savings provisions in the commonwealth regulations so as to ensure that state legislation regulates inter-country adoptions in Western Australia. This will achieve the appropriate result, namely that the external affairs powers of the Commonwealth will not be used to regulate adoptions in this State.

Hon Giz Watson also mentioned a problem with the Bill in providing automatic recognition of adoption orders granted in the prescribed countries where Australia has a bilateral agreement. Negotiations are occurring at a federal level with China for an agreement on adoptions.

That came out also in some of the previous discussions and was enunciated in the second reading speech. I think I have covered the points that members raised. I thank them for their support of the Bill. There will be further on-coming amendments at a later time. I commend the Bill to the House.

Question put and passed.

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

WEAPONS BILL

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: I am pleased at last to be dealing with the Weapons Bill in committee because the Australian Labor Party has always been very concerned to have this matter progressed. I mention very briefly that when the matter came before this Chamber for a second reading, as is so accurately pointed out in the report of the Standing Committee on

Legislation, the second reading was dealt with entirely on 20 October 1998. Immediately following the second reading debate, on my motion, the Bill was referred to the Standing Committee on Legislation. It is appropriate that I remind the Chamber of what that motion was, namely -

> That the Weapons Bill be referred to the Standing Committee on Legislation for consideration and report, and that the committee report no later than 10 November 1998.

I am not having a go at the Standing Committee on Legislation, but I am having a go at the Minister for Police. As soon as that occurred, the Minister for Police had the gall to approach the media and condemn me and the ALP for delaying the Bill, which he thought was sacrosanct in every respect. I say that in the context of Supplementary Notice Paper 6-3. I will not go into 6-2 and 6-1. Supplementary Notice Paper 6-3 is dated 24 November 1998. Low and behold, this sacrosanct Bill, over which the Minister for Police decided to bag his political opponents, was seen to be worthy of amendment by his colleagues in this Chamber. I note by reference to that supplementary paper that there are a number of amendments under the name of the Attorney General. I am very concerned to progress this Bill without undue delay, in contrast to the performance of the Government which always tries, particularly when it comes to the Minister for Police - I am sure the Attorney General is not in this category - to make some nasty political capital out of law and order measures when Her Majesty's Opposition is trying to safeguard public safety with regard to proper process and without any undue delay.

The Standing Committee on Legislation has made a number of recommendations which may have an effect on how we progress through the committee stage. The Standing Committee on Legislation tabled its report, after the Chamber granted extensions of time, on 12 December 1998. I do not know if members remember, but I painfully remember how we sat for 10 weeks out of 11 after the very invigorating break for the federal election, and rose on 23 December, the day before my birthday. I was about to order a birthday cake in to celebrate the occasion. I would have used a weapon to cut the cake! I do not think that would have been covered by any nasty proposals in this Bill. I do not think that there are any particularly nasty proposals in this Bill anyway, but I just make the point without being too pointed. After 12 December there were a number of sitting days. Notwithstanding the point made by that wailing Minister for Police in the other place, the Government still did not bring the matter on for resolution, notwithstanding the fact that it should have realised that the ALP was concerned to progress the matter. Of course, the very considered report brought down by the Standing Committee on Legislation needed being responded to. Given the importance of the matter to the Minister for Police, I would have thought he would have responded to this considered report with great haste. After all, he accused me and my colleagues of holding up this sacrosanct piece of legislation within a day of it being referred to the Standing Committee on Legislation.

Hon Kevin Prince, LLB, MLA, did eventually respond. I note that his response was received on 10 March 1999. So much for the grandstanding of Hon Kevin Prince. When we are dealing with serious legislation, which is about enhancing public safety matters that will be dealt in the committee stage of this Bill, we can do without the silly grandstanding of Hon Kevin Prince. It would be nice if those who report these matters could give his slack behaviour the same sort of reporting as the alleged delay on the part of the Opposition. Whether that occurs is a matter for them. Quite frankly, his nasty politics on this matter have not enhanced the progress of this Bill at all. His politics have been to delay it. He is the type of person who would delay this Bill up until an election to try to score some cheap political points, and in doing so put at risk the public safety which he professes to hold so dear.

The Australian Labor Party has given serious consideration to the amendments on the Supplementary Notice Paper, the comments of the Standing Committee on Legislation on the various clauses with which it dealt, and the Government's response. Our treatment of the Bill through the committee stage will reflect that serious consideration, bearing in mind our concern that public safety is paramount.

Hon NORM KELLY: Firstly, I express my appreciation at being able to participate in the inquiry into this Bill by the Standing Committee on Legislation. Members will recall the second reading debate when this Bill was previously before this Chamber. I was able to further elaborate on and investigate the concerns of the Australian Democrats during the Legislation Committee's proceedings, and that will make for an easier passage of this Bill through the committee stage. The Democrats still have concerns, not about what is contained in the report of the Legislation Committee but, rather, about what is contained in the response of the Minister for Police to the recommendations of the committee. I will deal with those as we progress through the Bill.

The Democrats also have serious concerns about the powers that this Bill will vest in police. Therefore, the scrutiny of the Committee of the Whole and the Legislation Committee is warranted. The Democrats will await the outcome of the committee stage - that is, whether or not amendments are supported - before determining whether we will support the Bill in its final form. We are still not convinced that the Bill, in its current form, should be passed.

Hon PETER FOSS: I heard Hon Nick Griffiths' speech; I have heard it before. Rather than replying to it, I merely refer to my response to him on previous occasions.

Clause put and passed.

Clause 2: Commencement -

Hon N.D. GRIFFITHS: I note what is contained in the clause notes and the reasons for the wording of clause 2. However, given that the Minister for Police sees this matter as urgent, I would appreciate being informed of the envisaged timing.

Hon PETER FOSS: In this instance the regulations have been provided in draft form. Dependent upon what happens in the Chamber today, they may or may not continue to be applicable. If some of the amendments suggested by the Legislation Committee are adopted by the Chamber, no doubt a different approach to those regulations will be required. However, assuming the Bill is passed without major amendment, I suspect proclamation will be fairly soon after the Act receives assent, because the regulations will be made immediately and the Act will then be proclaimed.

Hon NORM KELLY: As the workability of this legislation is largely dependent upon the final form of the regulations which will accompany it, can the Attorney General give an assurance that the Act will not come into effect until after the disallowance period for regulations has expired? I imagine that clause 2(2) would allow for that. However, because of the vagaries of recess periods, it is important that laws or regulations which may subsequently be disallowed are not put into effect.

Hon PETER FOSS: There is a six-month period before the penalty provisions come into effect. I think that would be enough time for that to happen. The only possibility of an embarrassing situation would be if all the regulations were disallowed and there was an Act in effect with no weapons under the first two categories. If that is the desire of the Chamber, I do not think there will be a problem with that. Dependent upon the debate, I suspect there will not be much of a problem with bringing in the regulations and then their being disallowed, because everybody has had a opportunity to examine them and I have not heard any singular disagreement with them at any stage. Therefore, unless some matter arises in the course of this debate, I am confident that we can pass the regulations and proclaim the Act. If the regulations were disallowed, it would be more embarrassing to us than to the Parliament.

Clause put and passed.

Clause 3: Interpretation -

Hon B.K. DONALDSON: Recommendation 5 of the Standing Committee on Legislation dealt with the definition of "controlled weapon" under clause 3(b)(iii). The Minister for Police agreed that the definition should be amended to read "for attack or defence in the practice of a martial sport, art or similar discipline". It was agreed that this resolved a possible problem on the interpretation of a controlled weapon. I looked for that amendment in the Supplementary Notice Paper tonight, and I was surprised when I could not find it.

Hon PETER FOSS: I thank Hon Bruce Donaldson for his vigilance. I recollect the same thing. I admit to some embarrassment on this matter. Accordingly, I will move an amendment to this clause as per recommendation 5 of the committee.

The CHAIRMAN: Would the Attorney General prefer to postpone the clause?

Hon PETER FOSS: I understand it was drafted by parliamentary counsel.

Hon N.D. GRIFFITHS: The Attorney General's amendment is the same as recommendation 5 on page 3 of the Government's report, which states -

> that paragraph (b)(iii) of the definition of "controlled weapon" in clause 3 be amended to read as follows:
>
> " . . . *(iii)* *for attack or defence in the practice of a martial sport, art or similar discipline."*

If the Attorney General were to move those words, we could deal with the matter now. I am obliged to Hon Bruce Donaldson for being quick on his feet because I was about to turn the page. There is nothing wrong with teamwork.

Hon PETER FOSS: I move -

> Page 2, lines 22 and 23 - To delete the lines and substitute the following -
>
> (iii) for attack or defence in the practice of a martial sport, art or similar discipline.

Amendment put and passed.

Hon GIZ WATSON: Having been a member of the Standing Committee on Legislation, which spent quite a lot of time looking at this Bill, I express my disappointment that recommendation 4 from the committee, which states that consideration be given to amending paragraph (a), is not being accepted. It proposed to amend the definitions to incorporate a description of the general characteristics of a controlled weapon. The committee spent a lot of time discussing the merits of incorporating a general description, and I certainly supported that argument. It means that the article will be prescribed by regulation only and the legislation will contain no guidance as to a general description of what a controlled weapon may encompass. I am concerned that that degree of leeway is left for the regulations. I am disappointed that the Government has not seen fit to consider that recommendation of the committee.

Hon PETER FOSS: I understand the concern the member has; however, one of the important things about this is certainty of the law. Before the committee, I explained that the useful thing about these regulations is that we can look at them and tell immediately whether the weapon is prohibited, or controlled, or whatever. The difficulty with putting in descriptions, such as the member suggests, is that the question of vires is raised instantly. We can guarantee that each person caught with one of these weapons can challenge whether it is of such a character. In the government response to the report, examples were given of instances where the member and I might think a person could not be carrying a weapon except for the purpose of attack, as is the case for a prohibited weapon. The fact is that one can always come up with alternative reasoning. The concern we have then is that within the criminal law we must prove that the regulation is within the ambit. That loses the certainty we require. That is why the Government was not able to accept it.

Another drafting method is coming into vogue - explanatory notes. They are a strange thing which set out examples, and have come in from the Commonwealth. Recently I brought in a Bill with explanatory notes which were incorporated in a statute, although I cannot remember which one it was. They are an aid to interpretation, but do not govern the vires of a regulation such as this. We do not have to deal with that. It is not something for which there is custom and practice. Perhaps I can ask parliamentary counsel to advise me on how the Parliament can use those explanatory notes more frequently. It may be that we can have a provision in the Interpretation Act to deal with that situation. The notes would provide guidance for the Parliament. If a regulation comes up before the Chamber, we could use the disallowance power and cite the notes, rather than its being a matter for the courts as to whether it would be a matter for disallowance. I know what the member is attempting to achieve; however, a better control might be through the disallowance motions of the House, rather than the doubt that would come if control was by the courts, through the ultra vires option. That solution is too problematic.

I will send a copy of the debate to parliamentary counsel and ask for something to come forward which we might be able to use in a political sense, rather than a judicial sense. In that way members can stand up in this place and draw attention to an explanatory note, saying that the regulation is contrary to the note and, therefore, feel free in moving disallowance of a regulation. We would have the combination of certainty in the law and a clear political role of this House when the regulations come through, rather than the normal test in which the Standing Committee on Delegated Legislation is involved. That committee deals with proper process and other things like that, and takes a far more formalistic approach. I think that is a satisfactory way of dealing with this issue and it may be better for the administration of the law.

Clause, as amended, put and passed.

Clauses 4 and 5 put and passed.

Clause 6: Prohibited weapons -

Hon PETER FOSS: I move -

Page 4, line 3 - To insert after "subsection (2)" the words "and (3)".

Page 4, line 13 - To delete "to" appearing for the second time and substitute "into the custody of".

Page 4, line 15 - To delete "of" and substitute "in".

Page 4, after line 15 - To insert the following new subclause -

(3) A person does not, by doing or attempting to do something referred to in subsection (1), commit an offence against that subsection if it is for the purpose of fulfilling a contract for the provision of a prohibited weapon to a person who may lawfully possess it.

These amendments arose out of representations made to the minister about the current impact of this clause. Probably the amendment that matters most is amendment K6. I think they were concerned that because of an exception, it would be illegal to supply weapons to people who would otherwise be allowed to have them.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 7 to 9 put and passed.

Clause 10: Exceptions -

Hon N.D. GRIFFITHS: Clause 10 is very interesting. The Australian Labor Party will support it. Clause 10(1)(c) and (d) reads -

(c) an employee of the Police Service; or

(d) a person -

(i) engaged to provide a service to the Police Force; or

(ii) called upon to assist a member of the Police Force or a special constable . . .

This is the first time we have seen this marketing phrase of the Commissioner of Police, the "Police Service", in legislation. I find it curious that that has occurred without an explanation. In the same clause is the expression the "Police Service" and the expression the "Police Force". I am not sure whether that is particularly tidy. Those who administer agencies of the State have an administrative capacity to put labels on their organisations. Commissioner Falconer has decided, for whatever reason, to call the civilian Police Force the Police Service. It is a marketing exercise. I am not sure whether it has worked or what are the bonus points. I know it is used in other jurisdictions. The bottom line is that the police are a civilian force. Sworn officers are people who have the right and duty to use force in many situations with which they are entrusted by the community to deal.

Any reference to the Police Act will see reference after reference to "Police Force" and the word "force". Does it contain the word "service"? No, it is the Police Force. That is what the Parliament accepted when it passed the Police Act 1892. Commissioner Falconer can use a marketing name and good luck to him, but he should not mix it up in legislation. It is the Police Force, not the Police Service. If we are to mix it up we should not have in the same clause reference to the Police Service and the Police Force. If we are to change it to a Police Service we should amend the Police Act. Let us do things properly in Western Australia rather than confusing people.

Hon PETER FOSS: I am sure that parliamentary counsel would agree entirely with Hon Nick Griffiths and would not mix the two terms in the same clause if there were not a legitimate reason for doing so, which there is, and it is: A member of the Police Force is, as Hon Nick Griffiths rightly says, a person who is a sworn officer under the Police Act - a member of that civilian force. However, apparently a department of state has been created which is called the Police Service.

Hon N.D. Griffiths: There is a reference in a Bill that will become an Act of Parliament.

Hon PETER FOSS: I appreciate that; it is a legitimate entity.

Hon N.D. Griffiths: It is very untidy.

Hon PETER FOSS: I understand that. In the light of parliamentary counsel's sensibility and correctness, it would not go along with a marketing exercise by the Commissioner of Police and has carefully made a distinction between the Police Force as referred to in paragraphs (a) and (d)(i) and (ii).

Hon N.D. Griffiths: What if the new commissioner changes the labelling?

Hon PETER FOSS: The Interpretation Act will deal with that. We could have had a further definition that the Police Service means the department of state principally assisting the minister with the administration of this Act.

Hon N.D. Griffiths: You should have; now you will confuse people.

Hon PETER FOSS: That is possible. At this stage it is not merely an oversight by parliamentary counsel.

Hon N.D. Griffiths: I was not suggesting it was. I have made my concern known and in the spirit of bipartisanship, we will vote to pass the clause.

Hon PETER FOSS: I move -

Page 6, line 19 - To delete "of" and substitute "in".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 11 and 12 put and passed.

Clause 13: Search and seizure without a warrant -

Hon NORM KELLY: I move -

Page 9, after line 6 - To insert the following new subclause -

(4) When a member of the Police Force proposes to carry out a search under this section the member of the Police Force must explain to the person the grounds upon which the search is to be conducted.

As we are divesting increased powers in the Police Force, it is important that members of the force inform people whom they wish to search of not only their powers under this Act but also the reason they are conducting the search. Subclause (1) states that a member of the Police Force may stop, detain and search anyone suspected on reasonable grounds to be doing (a), (b) or (c). My amendment would mean that the police officer would have to explain the grounds upon which he or she wished to conduct a search. In the relationship between the member of the Police Force and the person to be searched, my amendment will allow the police officer to have more feedback as to whether the person would be likely to resist a search.

In that psychology of interaction the proposed amendment would assist the police officer to conduct the search. The person's willingness to be searched will become more evident as a police officer asks questions before conducting the search.

I refer members to the Police Amendment Bill which this Chamber debated in November last year where a similar amendment was moved by Hon Nick Griffiths. In accepting that amendment Hon Peter Foss stated -

> I agree with Hon Nick Griffiths that it is good practice . . . It is often the case that good practice is for the benefit of the police rather than for their detriment. This is obviously one of the things that must be put in the standing orders before this legislation comes into effect. I have no problem with it. It may be that when the police procedures Bill is introduced, this matter will be dealt with in a more general fashion, but for the time being it is not a bad idea to put it into this legislation.

We are dealing with very similar police powers even though those powers are related to potentially far more serious objects than graffiti implements; we are talking about what could be dangerous weapons. The arguments remain valid. I agree with the Attorney General that it would be better placed in a police procedures Bill, so that all the matters relating to police searches could be consolidated in that one Bill. However, in the meantime, until that consolidation reaches the Parliament and given that we have already set a precedent in the Police Amendment Bill, it is a worthy amendment not only for the information of people who are searched but also for police in carrying out their powers.

Hon PETER FOSS: I repeat the remarks I made previously, but there are some differences. First, it is not applicable to subclause (2) unless somebody is there. One may search a conveyance which is unattended but it would defeat the legislation if one could not search an empty or unattended vehicle. Second, in the situation where a police officer is searching a person whom he thinks has a spray can, whereas the person has a concealed weapon, the police have said that they would normally do exactly that. I do not wish to rely upon American movies for circumstances under which somebody may be seeking to draw a weapon, but even in American movies the Miranda warning is given, often while the police are in the midst of frisking someone. On occasions, giving that warning may lead to a policeman being stabbed or otherwise injured. Although I think the intent is an excellent one and generally speaking that would be the police procedure, as the amendment is presently drafted it is impractical and would not apply to an unattended vehicle. It should state "where practicable". I would prefer we did not proceed with the amendment. Although policemen should have these processes, and would normally have them, it is a bit much for a couple of policemen who have approached somebody whom they think has a concealed weapon to say they will carry out a search while that person may be reaching for that weapon. It may lead to a more dangerous situation than if they can seize that person and search him before he has the capacity to use that weapon. If a person draws a weapon it is more likely to lead to a violent confrontation than if the police were able to restrain that person immediately and stop, detain and search him. I agree entirely with the sentiment in the amendment. I have no problem with the police saying that would be their intent. However, it has practical difficulties with regard to subclause (2) and with some of subclause (1). In 99 cases out of 100 there would be no problem; it could be a tragic situation in the 100th case if the police were busily reading the warning off their little card while a person was busily drawing a weapon from a secured place on his person and then used it against the police.

Hon DERRICK TOMLINSON: I listened carefully to the Attorney General's explanation of why the amendment proposed by Hon Norm Kelly would not be practical for subclause (2). The explanation was that it would not be practical if it were an empty vehicle because although a policeman may search an empty vehicle it would be very difficult to give an explanation to an empty vehicle as to why it was being searched. However, the amendment says a member of the Police Force may without warrant stop, detain and search. I would be puzzled by a police officer stopping, detaining and searching an empty vehicle. The Attorney General is now saying that I do not have to do all three: I can stop it, detain it or search it. If I were the police officer I would not want to explain why I had stopped, detained and searched an empty vehicle but why that empty vehicle was mobile before I stopped it.

Hon PETER FOSS: Hon Derrick Tomlinson did not listen carefully to what I said. I said that this clause as presently drafted is unsuitable for subclause (2). I recognise there are circumstances in which it could be applicable and there are other circumstances in which it would not. A power to stop, detain and search does not mean that one has to stop, detain and search. If it is already stopped one does not need to detain it and it can be searched. It allows one to do all three or a selection of those things. If the vehicle is empty but for a weapon, one simply needs to search it. The important point is that as it currently stands it is not applicable in the circumstances that I proposed, although in other circumstances it may be applicable if the vehicle is in motion. It may have been set loose by someone and be rolling down a hill. Whether it is moving or still, subclause (2) applies.

Hon NORM KELLY: The Attorney General did not mention the empty vehicle resisting. That may be another consideration. The Attorney General raised two good points. His reference to the placement of the proposed amendment is correct in one regard. It might be more suitable to seek leave to change the amendment so that it is inserted after subclause (1), given that it pertains purely to that subclause, which was the original Democrat intention.

The Attorney General's second point was that the police may have difficulty in carrying out this provision. In some cases, it would exacerbate the problems police might encounter in conducting a search without giving the grounds upon which the

search is to be conducted. If a person believes that the police do not have a valid right to search - they may not be aware of the new laws - explaining the need to conduct the search may elicit cooperation. The police need reasonable suspicion or grounds for suspicion to conduct the search in the first place. Therefore, it is fair that those grounds be explained to the person to be searched. It would not take very long.

The situation the Attorney General described in relation to the need to search very quickly may be covered in other provisions of the Criminal Code that would allow the police to take sufficient action to restrain a person and to remove a weapon. Before I seek leave to amend my amendment, I would like some response from Hon Nick Griffiths as to whether the Labor Party will support this amendment.

Hon N.D. Griffiths: We are listening very carefully to the arguments.

Hon NORM KELLY: If the Labor Party does not support it, I will not proceed.

Hon PETER FOSS: I am sure that in 99 cases out of 100 it would be possible and highly advisable. My concern is that, if we include it in the legislation, we will put the police in danger in that 100th case. If a person is intoxicated, either on drugs or alcohol, and the police believe he or she has a weapon and would use it if approached, according to the member's example it would not be until such time as the person had drawn that weapon to use it that the police could seize him or her and conduct a search. At that stage, the lost initiative is dangerous. The person might draw the weapon and be about to use it. The best way for the police officer to deal with the situation would be to step back, take out his weapon and use it on the person attacking him. I would hate us to get to the situation in which we must rely upon provisions in the Criminal Code related to self defence for prevention of offences and so on, keeping in mind we have strengthened those provisions.

I agree with the member. I have given the police assurances and I believe that is evidently the right thing. However, including this provision in this legislation is different from including it in graffiti legislation. The difference between a person having a spray can and being about to spray a wall and having a weapon and perhaps being about to use it is significant. I would be very reluctant to support this amendment.

I have no argument with the points the member has made. I entirely accept them, and I hope that is the way the police would deal with the matter. If they did not, they would be stupid. On the other hand, we would be creating a piece of legislation that has the capacity to exacerbate those situations in which this power might be most important.

Hon N.D. GRIFFITHS: The words that Hon Norm Kelly seeks to insert are taken from an amendment I moved to the anti-graffiti legislation late last year. The Australian Labor Party was very concerned to include that measure in that legislation because it did not want to alienate youth by virtue of the operation of that section of the Police Act related to hindering police. Members of the Labor Party did not want young people, whom we believed would be the notional target of anti-graffiti legislation, coming into unnecessary conflict with the Police Force. At the same time, as the Attorney General has acknowledged, we note that that is good police practice.

However, there is a real difference between dealing with weapons and graffiti. There is also the question of good police practice to which the Attorney General has referred. I agree with the proposition that these matters should be dealt with in a police practices Bill. However, that real distinction between a graffiti implement, which should not ordinarily do harm to a person, and a weapon, which is designed and used for that purpose, is very real. Members on this side have serious misgivings. We received this in writing earlier this evening and the Supplementary Notice Paper arrived a few moments ago, as Hon Norm Kelly just pointed out. I would hate to be party to introducing something on the run that could create a difficult situation for a police officer down the track. That is not to say that I do not agree with the general principle of warning; I do indeed. However, I am far from convinced that what is being proposed is right. There might be a form of words that can be inserted, but I am not sure we should be doing this on the run.

Hon NORM KELLY: I appreciate those comments. I believe that there are ways to improve the amendment, such as including words to the effect of "must, where possible, explain to the person". However, we would be making amendments on the run. I appreciate the comments. I do not agree in total with the Attorney General that the one case in 100 should override the other 99 cases. We are discussing informing individuals of their rights and their obligation to submit to a search. It is important that in the 99 cases, those rights and obligations are upheld and made clear to the persons involved. I understand that in the majority of cases the police officer will make the reasons for the search as clear as possible. The argument relates to whether it should be legislated for.

Amendment, by leave, withdrawn.

Hon GIZ WATSON: I raise another matter which was covered in some detail in the Legislation Committee's report; that is, police searching of women. The report reads -

> The provisions of the Bill giving police powers to search suspects do not, unlike many search powers, provide for women to be searched by a female police officer or a female member of the public. An example is the power under section 53B of the *Police Act* to search a person detained for intoxication under section 53A. Section 54B(2) reads as follows:

> *"(2) Where a female person is detained under section 54A and there is no female police officer available to exercise the powers conferred by subsection (1) a police officer who wishes to exercise those powers shall for that purpose authorise another female person to do so."*

Suggestion has been made that no difficulty would be involved in amending this Bill to make a similar provision to that found in the Police Act. In fact, the Legislation Committee's finding on page 5 of the report reads -

> Recommendation 9: that part 3 be amended to provide for searches of women to be conducted by a female police officer or a female member of the public authorised by a police officer, similarly to section 53B(2) of the *Police Act.*

Why was consideration not given to such an amendment? I am greatly concerned: It is totally reasonable that such provision be part of the proposed Act.

Hon PETER FOSS: The Government's response to the committee's report gives some indication on that matter. It reads -

> The other examples of same gender requirement for searches that the Committee Report cites are the *Misuse of Drugs Act* and *Diamond (Argyle Diamond Mines Joint Venture) Agreement Act.* It is not considered that these are relevant to the *Weapons Bill* as both pieces of legislation deal with matters which will require the regular use of internal body searches. It is highly unlikely these types of searches would ever be used for the weapons covered by the *Weapons Bill.* A more appropriate model for the search powers in the *Weapons Bill* is considered to be those in the recently amended *Firearms Act 1973* which have no gender requirement.
>
> Further, it should be noted that the gender requirement now proposed for searches under the *Weapons Bill* was not deemed to be relevant when the Legislative Council recently passed the *Police Amendment Act 1998* which inserted section 67B into the *Police Act.*

Bikie gangs are a classic example of people who are likely to carry such weapons. Situations would arise in which one could not use people of a different gender to carry out searches on suspects. It is not usual to have female police officers dealing with bikie gangs; large and heavy policemen tend to be involved. Bikies could easily evade the legislation by ensuring that their weapons were carried - using no technical terms - by lady members of their gangs. If one were dealing with a person who was not acting rationally, or was likely to act violently for whatever reason, one would require a totally new regime for moving quickly to at least hold that person before he or she could use the weapon.

One may suspect on reasonable grounds that a person is committing an offence, is carrying a weapon relating to an offence, or carrying something else that would afford evidence as commission of an office. True, they are different things. However, we are dealing with a slightly different situation from people walking through Argyle Diamonds and being submitted for a search to see whether they have any diamonds on them. The Misuse of Drugs Act refers to people who may have drugs in an internal cavity. A person may act to cause police a concern that he or she is carrying a concealed weapon. Obviously, a person need not be searched if the weapon is in hand. The idea is to get to the weapon before the person has the weapon at hand and starts to use it. Under Hon Giz Watson's suggestion, if a female police officer is not present, one must say to a female suspect, "Stop your drunken and hysterical behaviour while I find a female member of the public!"

In many cases, the search and detain process may be beyond the physical strength of a male or female police officer - although that would be more likely in the case of a female police officer. I understand the member's desire, but the practicality is that many times the search requirement she seeks will not be able to be applied. It is a matter of sense in police rules which indicate that one male police officer, or several such officers, should hold a person and pin the arms. People heavily affected by drugs often exhibit abilities of strength far beyond that which one would expect. It is like the old Norse circus. When people go berserk, it often takes many people to hold them still to conduct the search. Most of the people in that situation will be male. Placing such a provision in the legislation would result in a totally impractical situation. I am sure that proper police training indicates that one does not act unnecessarily. It would be improper for a male police officer to use this as an opportunity to search a woman in circumstances in which she could reasonably ask for a female police officer to carry out the search. In other circumstances, everyone will do what he or she can in a difficult situation to react quickly and use whatever powers and resources are available to disarm a person.

Hon DERRICK TOMLINSON: Earlier in debate, I suppose mockingly, I referred to an empty vehicle being stopped, detained and searched. I indicated that one could hardly question an empty vehicle. I have been thinking about the Attorney General's response; namely, that one need not do all three of those actions. One can stop and detain; one can search; one can stop, detain and search; or one can stop and detain. This is rather interesting when applied to clause 13(1), which reads -

> A member of the Police Force may without a warrant may stop, detain and search . . .

The Attorney General gave the example of being able to quickly stop, detain and frisk a person without having to give an explanation if the officer suspected on reasonable grounds that the person was carrying a weapon, had committed an offence and so on. If we were to read it, as the Attorney General has invited us to, as stop or detain or search, rather than stop, detain and search, that would give a police officer the authority to stop without warrant or to detain without warrant, which puts

a different complexion on the powers of a police officer. A member of the Police Force may stop me and ask for my name and address and I am compelled to give that information. He must provide a reason if he wishes to take me into custody. Here, if we accept the Attorney General's invitation, he may without warrant detain me because he suspects one of those things. I would like the Attorney General to explain this.

Hon PETER FOSS: That is the reason it is "and" rather than "or". A police officer does not have to do all those things, but once the police officer does, he must carry out the intent of that section. It is not intended that the officer merely stops, but he must go through the whole thing. For instance, if the officer stops a person and forms a view that that person is involved in an offence with a weapon, he may stop that person and immediately proceed to ask him questions. If the police officer then ceases to have the grounds for proceeding through the process, he would then cease to have the state of mind to enable him to continue through that process. If the person stops but does not make any suggestion of moving away, the police officer is not obliged to detain that person if the person is not giving any indication of moving away. If it appears that the police officer is satisfied at that time that there is no need to search that person, he cannot be obliged to do so. The process is a continuous process rather than an alternative process. The police officer may stop, detain and search; the provision does not state he must do all of those. Obviously it becomes unnecessary to do any of them. The police officer can cease at that time to continue the action. If the police officer forms the view that the grounds upon which he started the process no longer apply, he is obliged to cease it. If he forms the view that there is no point in continuing with the process, he can discontinue it. However, they are not disjunctive powers, they are conjunctive powers; they are not obligatory, they are permissive. The police officer can do any one of those things as necessary, but it does not mean he can choose to do it simply because he has the individual powers which are capable of being exercised as though they were not connected in any way. I do not think it is compulsory to exercise all those powers, but it certainly sets up the process, which is to stop, detain and search. If the police officer does not have to stop or detain the person, there is no point in requiring the person to do all three if only one or two of them are necessary.

Hon DERRICK TOMLINSON: As the Attorney General now argues, these are conjunctive, not disjunctive powers. Once the police officer sets about the process, he may at any stage discontinue the stop, detain and search. However, the Attorney General previously argued that a police officer may search a stationary conveyance which is empty. Where is the conjunctive process of stopping, detaining and searching if the police officer is simply, without warrant, going to a vehicle in a car park, entering it and searching it? He has not followed through what the Attorney General has argued is a conjunctive process with respect to a person.

Hon PETER FOSS: It is the same when I said if a person does not need stopping, the police officer does not have to stop the person. If the person is not moving along the street, the police officer does not have to say, "Stop, do not move." Similarly, the police officer does not have to say, "I will hold you here" if the person is not giving any indication that he will go anywhere else. If the police officer formed the view after having stopped the person and questioned him that his originally held view that the person had a weapon on his body or that qualifying clause did not apply, the police officer would be obliged to stop. A similar thing applies to a car. If a car has already stopped and nobody is in it who is likely to drive it away, the same principles apply as with a person who is not moving in the street and is not indicating he will go away. The car does not need to be stopped and does not need to be detained; the police officer needs only to search it. However, it is clear that the powers go together and are exercisable to the extent that is necessary to enable the police officer to seize any weapon if he happens to find one. The first process is to find out whether the person has it; the second is to find out if it is there; and the third enables the police officer to seize it once he has made that determination. I do not have a problem with it. Although they are independently exercisable, it is clear they are conjunctive in that they intended to use -

Hon Derrick Tomlinson: Disjunctive conjunctive.

Hon PETER FOSS: No. We are setting up three separate processes. We are setting up a process which may consist of one or more of those powers being exercised. The whole idea is that they all operate together for the purpose of ensuring the police officer has the opportunity to search the person. It does not state that the police officer must exercise all those powers, but it allows him to put them together.

Hon DERRICK TOMLINSON: I thank the Attorney General for that because a concern was raised - I think it was raised in the Legislation Committee - about the possibility or the opportunity for abuse. The concern was raised about juveniles who may be approached by police officers. It is very intimidatory. The young person is required to give only his or her name and address. The concern that was expressed here was about using the excuse, "I have a reasonable suspicion that you have been involved in a crime and are carrying a weapon. I want to detain you." I am grateful to the Attorney General for that explanation and I sincerely hope that intention is carried through when this Bill becomes law.

Hon GIZ WATSON: I will pick up on that point because I think Hon Derrick Tomlinson has made a good point. I have been listening to the responses from the Attorney General, but I am not yet clear about his explanation. He says that the process can be gone through to whatever point and that it does not necessarily go right through to a search. What is to prevent the police officer from stopping and detaining a person for as long as he wants, which is a far reaching possibility of what this would mean?

Hon PETER FOSS: The Government definitely reads that as not allowing indefinite detention on that basis, and I would not like to argue to the contrary in any court of law as a policeman who had detained a person indefinitely without carrying out a search. I do not think such a policeman would get a very long hearing in the court, and rightly so.

Clause put and passed.

Clauses 14 to 16 put and passed.

Clause 17: Forfeiture and delivery of a weapon other than on conviction -

Hon PETER FOSS: I move -

> Page 11, line 13 - To delete "a related offence" and substitute "an offence to which the weapon relates".
>
> Page 11, line 14 - To delete "a related offence" and substitute "an offence to which the weapon relates".
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> Page 11, line 23 - To delete "a related offence" and substitute "an offence to which the weapon relates".
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> Page 11, line 24 - To delete "related matter" and substitute the "matter to which the weapon relates".
>
> Page 11, line 26 - To delete "a related offence" and substitute "an offence to which the weapon relates".
>
> Page 11, line 28 - To delete "related matter" and substitute "matter to which the weapon relates".
>
> Page 12, line 1 - To delete "a related offence" and substitute "an offence to which the weapon relates".

Each of these amendments to clause 17 is intended to have the same effect. The term "related offence" has been used in the clause and it was recognised that that may be read as referring to an offence related to the offence. In fact, it refers to an offence to which the weapon relates. The Government wants to clarify the drafting of the clause to make it clear that it relates to the primary offence to which the weapon relates, rather than a secondary offence related to the primary offence.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 18 and 19 put and passed.

Clause 20: Regulations -

Hon B.K. DONALDSON: I seek clarification from the Attorney General about pepper sprays. Concern was expressed about a statement by the minister about people carrying or possessing particular types of weapons designed for defence. The committee referred to pepper sprays and sonic alarm devices. Sonic alarm devices are not regarded as weapons so that can be discounted. However, the issue of pepper sprays was raised. I refer to page 31 of the report by the Legislation Committee which contains an extract from the transcript of evidence taken when the Attorney General appeared before the committee, as follows -

> The Committee asked the Attorney General why pepper spray is not permitted under the Bill itself. His response was as follows:
>
> Hon PETER FOSS: The police are not happy about pepper sprays, so it has gone into the regulations rather than the Act. That is the Government's intention.

The committee suggested that the self-defence reasons be broadened. I understand the argument put by the minister in relation to that because pepper sprays are also used by people committing offences. I seek clarification because of the number of people - generally women - who carry pepper sprays in their purses and who will be breaking the law when this Bill is proclaimed. I know that in a court of law an argument could be made, but I wonder whether the Government still intends to use the regulation to ensure that an offence would not be committed when a person used one of those sprays for self-defence.

Hon PETER FOSS: I correct one statement: It would not become illegal to carry a pepper spray by reason of this Bill. A single judge decision in the Supreme Court has deemed that pepper spray is illegal under the current law. That happened in the course of this legislation passing through the Parliament.

Hon N.D. Griffiths: It happened in about September and it was a decision by Justice Miller. I referred to it in the second reading debate. Hon Bruce Donaldson wants to know whether the Government will proceed with the draft legislation to make sure people can carry pepper sprays, because members are concerned that people have that right.

Hon PETER FOSS: I understood that to be his point, and I assure members that that is the intent of the Government. It is very resolute on that point and has made it quite clear to the Police Service on a number of occasions, and to everyone else. The Government believes that, irrespective of the fact that pepper sprays are used more frequently for offences and that the

actual protection provided by a pepper spray may be illusory, it has a tremendous effect on people's perception that they have a defensive weapon on their person. Much of the concern in our community relates to the perception of danger and, therefore, that can be offset by a perception of safety. Therefore, the Government sees it as a real method of defence and a real reassurance to women, in particular, that they have a means of defending themselves. The Government is resolute that the regulations will be passed. That is not the view of the Police Service but it is definitely the view of the Government, and the Government has made it clear that that is the way the regulations will go through.

Hon N.D. Griffiths: Do not change your mind.

Hon PETER FOSS: We will not.

Clause put and passed.

Clause 21 put and passed.

New Clause -

Hon NORM KELLY: I move -

Page 14, after line 8 - To insert the following new clause -

Review

22. The Minister administering this Act must -

(a) carry out a review of the operation and effectiveness of this Act;

(b) prepare a report based on the review made under paragraph (a); and

(c) cause the report prepared under paragraph (b) to be laid before each House of Parliament within 18 months after the commencement of this Act.

I believe that as the Parliament will grant such increased powers to the police, it is important to implement a review of the use of those powers. Ideally, it would be a review of a new Police Act, but until that new legislation is ready, a review should be carried out to ensure that the increased powers are used properly and are workable. I understand that as a matter of course the Police Service reviews new legislation 12 months after it has been proclaimed. It would be beneficial for this Parliament to receive a report of that review to assess how the powers have been used. As I have said, ideally, a review of police powers would be tied up in an overall review of the Police Act. However, we cannot wait forever for a new Police Bill covering the entire Act to come into this place. In the meantime, we will move this style of proposed new clause.

Hon PETER FOSS: The Government does not accept the proposed new clause. There is a place for review clauses in some legislation. I do not believe that this is one of them. The proposed new clause will add unnecessarily to the legislation.

New clause put and a division taken with the following result -

Ayes (5)

Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson	Hon Norm Kelly *(Teller)*
Hon J.A. Scott			

Noes (23)

Hon Kim Chance	Hon Max Evans	Hon N.F. Moore	Hon W.N. Stretch
Hon J.A. Cowdell	Hon Peter Foss	Hon M.D. Nixon	Hon Bob Thomas
Hon M.J. Criddle	Hon N.D. Griffiths	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Dexter Davies	Hon John Halden	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon E.R.J. Dermer	Hon Tom Helm	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon B.K. Donaldson	Hon Barry House	Hon Tom Stephens	

New clause thus negatived.

Schedule put and passed.

Title -

Hon B.K. DONALDSON: I seek further clarification. I refer to paragraph 6.5.4 of the Legislation Committee report. That paragraph is entitled "'Defence' under the Criminal Code". Recommendation 6, to which the Attorney General responded, dealt primarily with controlled weapons designed for defence because it was realised, as I said previously, that they had more to do with pepper and capsicum sprays. Paragraph 6.5.4 states--

Sections 243 - 261 of the *Criminal Code* deal amongst other things with defence of self, others, vehicles and

property. A person using a controlled weapon in the circumstances in which defence is permitted under those sections clearly has a valid defence to a charge of assault under the *Criminal Code*. This aspect of the law is unchanged by the Bill.

Clause 7(3) of the Bill, however, creates an interesting and arguably anomalous situation vis a vis the *Criminal Code*, as follows:

. the clause removes the possibility that **possessing** a weapon for defence can be a lawful excuse; while

. the *Criminal Code* continues to allow that actually **using** a weapon for defence can be lawful . . .

If the Bill is enacted, the person still will not have committed an offence under the *Criminal Code* but will have committed an offence under clause 7 of the Bill.

I wonder whether the Attorney General could enlighten the Committee on whether that could be an anomaly.

Hon PETER FOSS: Clause 8 states -

(1) Except as provided in subsection (3) and section 10, a person who carries or possesses an article, not being a firearm, a prohibited weapon or a controlled weapon, with the intention of using it, whether or not for defence -

(a) to injure or disable any person; or

(b) to cause any person to fear that someone will be injured or disabled by that use,

commits an offence . . .

(2) A person is presumed to have had the intention referred to . . . if -

(a) the article was carried or possessed in circumstances that give reasonable grounds for suspecting that the person had the intention; and

(b) the contrary is not proved.

(3) A person does not commit an offence under subsection (1) if the person carries or possesses the article at the person's dwelling . . .

The point that Hon Bruce Donaldson raised is that it is okay for a dwelling, but it does not help with business premises, for instance.

Hon B.K. Donaldson: Yes.

Hon PETER FOSS: The clause goes on to state -

. . . for the purpose of using it in lawful defence at the dwelling in circumstances that the person has reasonable grounds to apprehend may arise.

The point that Hon Bruce Donaldson made is whether, if one has a baseball bat under one's counter, one has the intention of using it to injure or disable a person or to cause any person to fear that someone will be injured or disabled by its use. One could say, "I have it under my counter not intending to injure or disable any person but merely so that if I am attacked I can ward off the blow." The question is whether one could cause any person to fear that someone will be injured or disabled by that use. It must be the intention to cause any person to fear that -

someone will be injured or disabled by that use . . .

There is a mental element that must be proven, and then there is assistance in that -

(2) A person is presumed to have had the intention referred to in subsection (1) if -

(a) the article was carried or possessed in circumstances that give reasonable grounds for suspecting that the person had the intention; and

(b) the contrary is not proved.

The question is why we need subsection (3) for a dwelling house if we do not need it for business premises. The answer I gave was that if one uses it one is okay, but the point that Hon Bruce Donaldson raised is that one might say, "I am not using it to injure someone, I am intending to use it with such force as is reasonably necessary." I take the point; it is a concern. I have raised it with the Minister for Police because it is a problem. I certainly would like to see what parliamentary counsel has to say about that.

Progress reported and leave granted to sit again.

PARLIAMENTARY COMMISSIONER RULES

Motion

Resumed from 23 December 1998 on the following motion -

That -

(1) **Citation**

1. These rules may be cited as the *Parliamentary Commissioner Rules 1998*.

Definitions

2. In these rules -

"Assistant Commissioner" means the officer of the Commissioner styled Assistant Parliamentary Commissioner;

"special officer" means an investigating officer, a legal officer or any other officer of the Commissioner occupying a position not lower in classification than an investigating officer or a legal officer.

Delegation to Deputy Commissioner, Assistant Commissioner and special officers

3. For the purposes of section 11(1) of the Act, the Commissioner is authorized to delegate the performance of any of the functions of the Commissioner under the Act, other than the power to delegate under section 11 or to make any report or recommendation under the Act, to the Deputy Commissioner, the Assistant Commissioner or a special officer of the Commissioner.

Matters to be considered by Commissioner

4. The Commissioner, in delegating any function under these rules, is to have regard to the experience, qualifications and suitability of the person to whom the function is to be delegated and, where appropriate, the seniority and status of a person to whom a particular investigation relates.

Repeal

5. The Parliamentary Commissioner Rules 1994 are repealed.

(2) That the Legislative Assembly be acquainted with the resolution of the House and be invited to concur in that resolution.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.52 pm]: The Labor Opposition supports the proposed amendments to the Parliamentary Commissioner rules. Section 11 of the Parliamentary Commissioner Act provides that the Ombudsman is authorised to delegate powers. The Parliamentary Commissioner has sought an extension of those powers to delegate to a wider category of personnel. The change to the rules was initiated by the Ombudsman, which is probably a compelling argument in itself. As he is an officer of the Parliament, it is always worthwhile to give considerable weight to his experience and views on the operations of his Act. In addition, the proposal is for a comparable delegation power to that which is provided to chief executive officers under the Public Sector Management Act. For all of those reasons the Labor Party has no hesitation in supporting the proposed changes to the rules.

Question put and passed, and a message accordingly returned to the Assembly.

House adjourned at 9.54 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

LIVING IN HARMONY PROGRAM, ADVERTISING CAMPAIGN

951. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

I refer to the Living in Harmony program, "Getting the Message Across" advertising campaign and ask -

(1) Has an evaluation of the strategy been completed?

(2) If yes, what were the results of the evaluation?

Hon MAX EVANS replied:

I am advised that:

(1) At the end of the first year of the implementation of the *Living in Harmony* Strategy, a small focus group drawn from the original consultative committee and others, was convened to look at progress to date.

(2) Initiatives in each of the five areas of focus have been implemented in the first year or are in the process of being implemented.

Living in Harmony was developed around the concept that positive community relations benefit us all and are therefore the responsibility of the whole community. Its success lies in its ability to inspire others to take up the challenge of promoting community harmony and changing attitudes and behaviour. The individual initiatives developed by Charter members, community organisations and businesses indicate that *Living in Harmony*, in the first of its three years, has already inspired a spate of activities which will continue the work of the Strategy beyond its official life. The most telling example of this has been the Commonwealth's recently announced initiative in this area - a Living in Harmony campaign based on Western Australia's strategy. It will include a publicity campaign and, like Western Australia, a grants program to support community initiatives. The Federal Government has also adopted the Western Australian initiative of Harmony Day as a national celebration.

The Department of Foreign Affairs and Trade has assisted OCMI in distributing the *Living in Harmony* brochure to Australian Embassies within the region, to dispel any negative images the immigration debate over the past several years may have generated and to reinforce Australia's credentials as a fair and democratic nation. These national 'spin-offs' go beyond what was originally envisaged in the *Living in Harmony* Strategy. They give validity to the Strategy, expand its influence and add value to each area of focus.

MULTICULTURAL INTERESTS, COMMUNITY EDUCATION

952. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

Further to question on notice 120 of September 8, 1998 -

(1) What funding has been made available from the national funding body for the cost of further dissemination or updating of material for the purpose of community education in 1998/99?

(2) What funding has been made available from the Commonwealth Government's "Living in Harmony" campaign for this project?

Hon MAX EVANS replied:

I am advised that:

(1) The size of the funds required for one of the community education projects was beyond the scope of the Australian Multicultural Foundation's funding and the grant application was therefore declined.

(2) The Commonwealth Government's own Living in Harmony campaign has a quite extensive and in-depth community education project, including a speaker's kit, copies of which have been provided to Western Australia to use in its own community education strategies. The Commonwealth Government, through the Department of Immigration and Multicultural Affairs, has provided $10,000 for National Harmony Day celebrations in Western Australia in

support of our *Living in Harmony* Strategy's media publicity campaign. This Day is scheduled for Sunday, 21 March 1999.

MULTICULTURAL INTERESTS, "MYTH BUSTERS" PROJECT

953. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

I refer to question on notice 123 of September 8, 1998 and ask -

(1) Has any detailed planning been carried out by consultants with regard to the “Myth Busters” project?

(2) If not, when will this planning be completed?

(3) What funding has been made available for this project through the major national funding body?

Hon MAX EVANS replied:

I am advised that:

(1)-(3) The funding application for the implementation of the Myth Busters project was not successful and therefore no further planning beyond the initial concept has taken place. The Commonwealth Government's own Living in Harmony campaign has a quite extensive and in-depth community education project, including a speaker's kit, copies of which have been provided to Western Australia to use in its own community education strategies. The Commonwealth Government, through the Department of Immigration and Multicultural Affairs, has provided $10,000 for National Harmony Day celebrations in Western Australia in support of our *Living in Harmony* Strategy's media publicity campaign. This Day is scheduled for Sunday, 21 March 1999.

MULTICULTURAL AND CITIZENSHIP ADVISORY COUNCIL, APPOINTMENT

954. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

I refer to the answer to question on notice 129 of September 8, 1998 and ask -

(1) Can the Minister for Citizenship and Multicultural Interests now advise if he has appointed a Multicultural and Citizenship Advisory Council as outlined in “Including the Community” “Living in Harmony Strategy”?

(2) If not, when will the council be appointed?

(3) Who has been appointed to the council?

(4) How often will the council meet?

(5) Will the Minister provide a schedule of fees and/or records of fees paid to members so far?

Hon MAX EVANS replied:

I am advised that:

(1)-(5) The Citizenship and Multicultural Advisory Council is in the process of being appointed.

MULTICULTURAL INTERESTS, PROMOTION BY MEDIA

955. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

I refer to the answer to question on notice 131 of September 8, 1998 and ask -

(1) Has the council liaised with media to encourage a more accurate portrayal of issues associated with multiculturalism and the promotion of this strategy in general?

(2) If so, what has been the outcome of these discussions?

(3) If not, when are these discussions likely to occur?

Hon MAX EVANS replied:

I am advised that:

(1)-(3) The Citizenship and Multicultural Advisory Council is in the process of being appointed.

CADETS WA TELEVISION ADVERTISEMENTS

994. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Youth:

In relation to the Cadets WA television advertisements -

(1) Which company produced the advertisements and at what cost?

(2) Was this contract awarded by tender?

(3) If yes, which other companies tendered for the contract?

(4) If not, why not?

(5) What is the budget for media placement for the television campaign?

(6) Have any print or radio advertisements been produced?

(7) If yes, what was the cost for the print and radio advertisements, and who produced them?

(8) What is the budget for media placement of the radio and print advertisements?

Hon MAX EVANS replied:

(1) Channel 9. The cost was $23,150 which included a cost for the production of a promotional video.

(2) No.

(3) Not applicable.

(4) Selection was in accordance with State Supply Commission guidelines which require that three written quotes are sought. Quotes were received from Channel 9, John Davis Advertising and Editel.

(5) $200,000.

(6) Yes, radio.

(7) $3,412.70 - John Davis Advertising.

(8) $50,000.

JANGARDUP SOUTH MINE, SOIL TYPES

996. Hon BOB THOMAS to the Leader of the House representing the Minister for Resources Development:

(1) What are the soil types in the area of the proposed Cable Sands Jangardup South mineral sands mine?

(2) Are these soils likely to become acidic if exposed to air during the mining process?

(3) What action has Cable Sands proposed in its management plan to deal with acidity in the mining process?

Hon N.F. MOORE replied:

(1) Soils have been described as mainly quartz sand but with some podsols, humic podsols, and swamp peat.

(2) Yes. The humic podsols and swamp peat could generate acidic material if not managed appropriately.

(3) Cable Sands is in the process of developing detailed plans for soil management. These will be included in the Jangardup South ERMP document to be assessed by the Environmental Protection Authority.

CHRISTINE GLENISTER AND ASSOCIATES, CONSULTANCY

1010. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

In relation to the Minister for Citizenship and Multicultural Interests' consultancy with Christine Glenister and Associates -

(1) What services were provided by Christine Glenister and Associates?

(2) What was the total value of this consultancy?

(3) When was it awarded and when does it cease?

(4) Were tenders called for this consultancy?

(5) If yes, how many firms or individuals tendered?

(6) If not, why not?

(7) How much has been paid to Christine Glenister and Associates since the commencement of this consultancy?

Hon MAX EVANS replied:

I am advised that:

(1) Professional services for sponsorship of the Access newsletter.

(2) $1,040.00.

(3) 21 August 1997 to 30 September 1997.

(4)-(6) The contract was let under authority of the policy approved by Cabinet which provides for selection and approval to be undertaken where the value of the consultancy does not exceed $10,000.

(7) $1,040.00.

VOCATIONAL EDUCATION AND TRAINING ACT 1996

1018. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

When will Part 7 of the *Vocational Education and Training Act 1996* be proclaimed?

Hon N.F. MOORE replied:

No decision has been made at this stage.

CARNARVON POWER STATION, LOSS OF POWER GENERATION

1038. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

(1) What was the cause of the loss of power generation at the Carnarvon power station over the recent long weekend of February 27 - March 1, 1999?

(2) How much generation capacity was lost?

(3) What impact did this loss of power generation have on local consumers?

Hon N.F. MOORE replied:

(1) Two of the largest generators in the Carnarvon station failed on 1 March 1999, one at 10am and the other at 11am. One generator tripped off line. The other was shut down manually because of operational problems. A third smaller unit was also off line for repairs at the time.

(2) Five megawatts or 40 per cent of the installed capacity was unavailable.

(3) No customers were cut off. The two largest users, Dampier Salt and the Water Corporation, voluntarily reduced their demand, as did a number of smaller customers.

BREASTSCREEN WA, MEDICAL DIRECTOR

1073. Hon CHERYL DAVENPORT to the Minister for Finance representing the Minister for Health:

(1) Has the position of Medical Director, Breastscreen WA, advertised in October 1998, been filled yet?

(2) How many applications were received from that advert for the position?

(3) Does the uncertainty about the future of Breastscreen WA still exist?

(4) When does the Health Department expect to make an announcement regarding the appointment?

Hon MAX EVANS replied:

(1) No.

(2) Two.

(3) Breastscreen WA, includes both the screening and assessment components and the State Co-ordination Unit. The responsibility for providing assessment services was given to the Metropolitan Health Services Board. Responsibility for the State Coordination Unit (which coordinates recruitment of women, data collection and

reading etc) remained with the Health Department of WA. The tender of the screening services has just been awarded to Women's Cancer Screening Service in-house screening service within the Department.

(4) The appointment of the Medical Director is being finalised as a matter of priority.

SUBIACO REDEVELOPMENT AUTHORITY, RAILWAYS CONTRACT

1089. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Planning:

(1) What was the actual final cost of the Subiaco Redevelopment Authority's contract with Multiplex Constructions Pty Ltd for railway tunnel and station works?

(2) On what date was the contract completed?

Hon PETER FOSS replied:

(1)-(2) As the contract is not yet complete, this information is not available.

QUESTIONS WITHOUT NOTICE

PERTH-BUNBURY HIGHWAY UPGRADE, CLIFTON SECTION

997. Hon TOM STEPHENS to the Minister for Transport:

(1) Why are Main Roads Western Australia employees not permitted to undertake the upgrade of the Clifton section of the Perth-Bunbury Highway, even though they are outperforming the private sector in price and quality on other sections of that road?

(2) What employment guarantees can the minister offer those employees currently engaged in the North Dandalup to Fairbridge project?

Hon M.J. CRIDDLE replied:

(1)-(2) Obviously, that is part of the State's road network which stretches well over 100 000 kilometres. I am not aware of those details off the top of my head. I will ascertain that information and provide it to the Leader of the Opposition. Main Roads is changing from a construction-orientated work force to project and asset management. That has been well known for some time.

FOREIGN-TRAINED DOCTORS

998. Hon TOM STEPHENS to the minister representing the Minister for Health:

(1) Is it the case that foreign-trained doctors can practise in rural areas of unmet need before being required to sit the Australian Medical Council's examination to gain full registration and permanent residency?

(2) How many vacancies are there for doctors in regional and rural Western Australia and where are those vacancies?

(3) What representations has the minister made to the AMC to allow adequately trained foreign doctors to practise in these areas permanently and with full registration without needing to sit the examination?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) There were 21 advertised vacancies -

Albany	4	Pemberton	1
Augusta	2	Northam	1
Collie	1	Port Hedland	1
Busselton	1	Pinjarra	2
Denmark	1	Wickham	1
Esperance	1	Wagin	1
Australind	1	York	1
Kalgoorlie	1		
Karratha	1		

Some of these vacancies are currently filled on a short-term basis until doctors are recruited.

(3) The Minister for Health has raised the issue with the Medical Board of WA and that body is taking it up with the Australian Medical Council. The former Minister for Health, Hon Kevin Prince, has previously raised this and related issues at the Australian health ministers' conference in order to ensure that Western Australia's needs are better understood, and the current Minister for Health, Hon John Day, will take the matter further in that forum later this year. Other representations will also be made by the minister as appropriate.

BANDYUP WOMEN'S PRISON

999. Hon N.D. GRIFFITHS to the Minister for Justice:

(1) Is the statement in today's *The West Australian* that prisoners in Bandyup Women's Prison are either double-bunked in single cells or sleeping in the gymnasium correct?

(2) Does the minister recall that on Tuesday, 8 December 1998, I asked him for his timetable to ensure that all prisoners at Bandyup had a bed, to which he responded that he went to Bandyup on Friday and issued instructions that all beds should be obtained instantly?

(3) Does the minister recall that on 15 December 1998 I sought an assurance from him that by the end of that week every prisoner would be provided with a bed?

(4) When will every prisoner in Bandyup have a bed to sleep in?

Hon PETER FOSS replied:

(1)-(4) My understanding is that all prisoners have beds. That was certainly the advice given to me some time ago. Those who are sleeping in the gymnasium are sleeping in beds, and they consider it a preferable place to be. It is suitable for Aboriginal prisoners who like to have a number of people in the same area. If there is objection to it, it comes from the officers, from a security point of view. I do not know whether every single cell is double-bunked. If the member wants me to ascertain those details, I will do so. However, unless something has happened since I was last advised that everybody has a bed, they all have a bed, whether it is in a cell or in the gymnasium. That was the instruction I gave, and I understand that that instruction was carried out.

PRISON SENTENCES

1000. Hon GIZ WATSON to the Minister for Justice:

I refer to escalating numbers of prisoners, the provision of growing numbers of prison facilities and a rate of serious crime similar to that of 20 or more years ago.

(1) Are people being sent to prison for crimes which would not previously have attracted a prison sentence; and, if so, why?

(2) What sorts of crimes now attract a prison sentence which would formerly have been dealt with differently?

(3) Is the Government investigating alternatives to imprisoning these offenders?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(3) It is difficult, if not impossible, to draw comparisons between penalties handed down currently and those handed down in the past. This is because the criminal law has been constantly amended over the past 20 years. For example, new offences such as stalking have been created, statutory penalties for existing offences such as burglary have changed, and some offences, such as drunkenness, have been removed from the statutes. In addition, the sentencing options available to courts have been expanded through the Sentencing Act 1995 to provide a greater range of sentencing alternatives which previously were not available, including alternatives to imprisonment such as intensive supervision orders.

I challenge the member's reference to a rate of serious crime similar to that of 20 or more years ago. Firstly, that statement was made by Dr Indermaur and related to serious assaults and violent crime. I do not think it has been suggested that crimes such as burglary and home burglary are occurring at the same rate as that of 20 or more years ago. I do not believe the premise of the question is correct. Even if it were correct, the member is requesting a value judgment and a qualitative assessment by me, which would be merely an opinion.

TOURISM DEVELOPMENT FUND

1001. Hon NORM KELLY to the Minister for Tourism:

(1) What amount of money has been allocated to fund the tourism development fund for -

(a) 1998-99; and

(b) 1999-2000?

(2) How much money has been granted from the tourism development fund this financial year?

(3) How much government money has been spent in 1998-99 for the Heineken golf event and the world rally championship?

(4) How much government money has been allocated in the 1999-2000 financial year for these two events?

(5) Will the minister table the details of how the claimed economic benefits for the Heineken Classic of $7.1m and Rally Australia of $21.2m were calculated?

Hon N.F. MOORE replied:

(1)-(5) I regret that I do not have an answer to this question. I think it was asked last week. An answer that contained some errors was submitted to me, and I sent it back for correction.

Hon Ljiljanna Ravlich: It probably was the truth.

Hon N.F. MOORE: Isn't she awful, Mr President?

Hon Tom Stephens: She is great. She gets under your skin.

Hon N.F. MOORE: When she said that it probably was the truth, that is insinuating I am telling a lie.

Several members interjected.

The PRESIDENT: Order! Anyone who interjects gets under my skin, because I have a large number of members who want to ask questions.

Hon N.F. MOORE: I was going to suggest that the member put this question on notice. However, I suggest he asks it tomorrow and I will provide the answer.

ROAD CONDITIONS AFTER CYCLONES

1002. Hon DEXTER DAVIES to the Minister for Transport:

What is the state of Western Australia's public roads system following the cyclonic activity over the past two weeks?

Hon M.J. CRIDDLE replied:

I have just been informed by Main Roads Western Australia that a series of road closures has been instituted in the goldfields-Esperance region as a result of heavy rain in that area. At 4.00 pm today the following roads were closed to all traffic for safety reasons: Great Eastern Highway, from Southern Cross to Coolgardie; the Coolgardie-Esperance Highway, from Coolgardie to Norseman; the Goldfields Highway, from Coolgardie-Esperance Highway - Emu Rocks - to Menzies; Eyre Highway, from Norseman to Balladonia; and Anzac Drive in Kalgoorlie. The situation on all of these roads will be reviewed tomorrow morning. I need not remind members how vital the Eyre Highway and Great Eastern Highway are to Western Australia.

Hon Tom Stephens: Tell us about the north of the State.

Hon M.J. CRIDDLE: These are the road lifelines to this State. Some limestone rock has been placed 100 kilometres east of Norsemen, so the detour will be quite solid. We hope that will overcome some of the problems in that area when the water subsides. Members will be aware of the devastation caused by ex-tropical cyclone Elaine on the township of Moora. The Brand Highway was closed last night when the Regan's Ford bridge was covered by flood waters for a short time; however, that highway is now open.

To answer the interjection of Hon Tom Stephens, in the north of the State the North West Coastal Highway is open throughout, after a number of closures yesterday and overnight; however, there is some risk of further closure at major waterways north of Carnarvon. Elsewhere in the north on the Minilya to Exmouth road, the Lyndon River is likely to be a problem when it peaks, although it is currently still passable. The shire is clearing creeks south of Exmouth in the hope of gaining access to Learmonth Airport. The Pannawonica Road is closed to all traffic. Burkett Road has sustained damage at floodways. The Onslow access road has been reopened.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! The member will come to order. She fails to understand that other members want to ask questions. She is wasting their time by making me waste the time of the House.

Hon M.J. CRIDDLE: The Great Northern Highway is closed to all traffic between Wubin and Kumarina, and the Geraldton to Mt Magnet road is closed to all traffic between Mullewa and Mt Magnet. There has been substantial damage to the railway in the wheatbelt and the midlands areas. We will look at that, but due to the condition of the country in that area, it will take some days to get an estimate of that damage and to commence work to repair it.

LAND CLEARING APPEALS

1003. Hon J.A. COWDELL to the minister representing the Minister for Primary Industry:

(1) Why has the minister rejected advice from his department in supporting four land clearing appeals near Albany, Esperance and Jerramungup?

(2) Is it correct, as has been reported, that one of the appeals involves 95 hectares at Corckerup, which is a focus catchment area under the salinity action plan?

(3) Why has the minister refused to answer questions from the media on this important issue?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The Minister for Primary Industry is required under the Soil and Land Conservation Act to refer each appeal to a committee appointed to examine each case. In reaching decisions on those appeals, the minister took into account advice tendered by those committees.

(2) No.

(3) The minister provided written advice to the editor of the *Albany Advertiser* on this issue.

CASUARINA PRISON RIOT, SMITH REPORT

1004. Hon JOHN HALDEN to the Minister for Justice:

(1) When was the Smith report into the riot at Casuarina Prison originally proposed to be released?

(2) Has a draft report been submitted to either the chief executive officer or the minister about this matter; and, if so, when?

(3) Have the contents of the draft report been referred to Crown Law for advice; and, if so, what was that advice?

(4) When is it expected that the report will be released?

(5) If the delay has not been as a result of the referral in the third part of this question, what is the reason for the delay?

Hon PETER FOSS replied:

(1)-(5) Originally it was proposed that the Smith report would be completed prior to the recommencement of Parliament and be capable of being tabled in Parliament with a government response at that time. I understand that, for a number of reasons - I have not gone into the detail of them - Mr Smith has asked for extensions of time, and those requests have been acceded to. I understand that a draft report has been provided to the Ministry of Justice, not to me. I do not know whether it has been submitted to the Crown Solicitor. If the member wishes me to follow that through, I ask that he put that question on notice. If there is advice, I would not be tendering it because we do not make legal advice available. If that is a material point, I am quite happy to determine it for the member. I thought the report would be coming this week. Obviously, that is not the case, and I will try to get a more accurate idea of when that is likely to happen. When I receive the report, I hope to have with it a draft government response, and I will seek to table both of those documents in the Parliament at the same time. As I understand it, it was a greater task than was originally expected. If the member wishes to know whether there are other reasons for a delay, if he puts that question on notice, I can ascertain that information as well.

HOPE VALLEY SPORTS FACILITY

1005. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

I refer to the proposed international sports facility at Hope Valley.

(1) Is the minister trying to suppress the data supplied in, firstly, the ERM Mitchell McCotter Pty Ltd report on noise levels; and, secondly, the individual and societal risk reports carried out by Environmental Risk Solutions and by AEA Technology?

(2) If not, will the minister table copies of these reports or draft reports supplied by the proponents?

(3) Why are these reports not publicly available in time for the public environmental review submission period on the project?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No.

(2) No. The Environmental Protection Authority has not yet issued guidelines for the preparation of the public environmental review. These guidelines will determine the content of the PER and the nature of the report that will be prepared on noise and whether a quantitative risk assessment will be required. Any reports that have been prepared on these matters are preliminary and, if required by the EPA, the issues will be considered within the PER when it is released for public consultation.

(3) The PER submission period commences when the PER is released. Work cannot start on the PER until the Environmental Protection Authority issues guidelines for its contents. If the guidelines require research into these matters, it will be included in the PER.

MINISTRY OF PREMIER AND CABINET, CLARK CONTRACT

1006. Hon HELEN HODGSON to the Leader of the House representing the Premier:

(1) What is the end date of the consultancy contract between Mr John Clark and the Ministry of the Premier and Cabinet?

(2) Is there an option for this period to be extended?

(3) Will the minister table the contract between the department and Mr Clark; and if not, why not?

(4) Is there a provision in the contract applying to situations of conflict of interest that may arise due to Mr Clark's consultancy work with companies in the private sector; and, if so, what are the terms of that clause?

(5) Is there a confidentiality clause included in the contract; and, if so, what are the terms of that clause?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(5) Unfortunately all afternoon the Premier has been engaged in briefings associated with the situation in Onslow, Exmouth and Moora, and has not had time to be asked any of the questions put to him today. I ask that the question be placed on notice. I indicate to other members who have a question of the Premier today that I do not have an answer to any of them and I suggest that they either ask those questions tomorrow or put them on notice.

RAIL SHUNTING LINES, GERALDTON PORT AUTHORITY

1007. Hon B.K. DONALDSON to the Minister for Transport:

Can the minister outline the impact, if any, the sale of Westrail will have on the ownership or use of the rail shunting yards that lie within the boundaries of the Geraldton Port Authority?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

The sale of Westrail's freight rail service will have no impact on the ownership or the use of the rail track or yards that lie within the boundaries of the Geraldton Port Authority. This railway is a private siding owned by the Geraldton Port Authority and does not form part of the business proposed to be sold.

In parliamentary debate last week the opposition spokesman for Transport said that the bureaucrats representing the government view, including the billion dollar man as he is called, were making outrageous misrepresentations at a series of regional meetings on the sale of Westrail's freight business. In particular, the opposition spokesman said -

> Contrary to what has been said time and again by Dr Whitaker, there is no desire by the New South Wales Government to sell FreightCorp . . .

The member for Armadale made those misrepresentations. Dr Whitaker clearly said that there was a general view within the industry that FreightCorp will be sold after the next state election. He did not ascribe that view to the New South Wales Government. He attributed it to the widespread view within industry. For example, at the recent rail reform conference in Melbourne, Mr Paul Bugler, a senior manager within FreightCorp wrote in his distributed paper that a number of changes

in the industry are imminent adding that one could add the potential sale of FreightCorp and Queensland Rail as reasonable possibilities. A senior employee of FreightCorp made a public statement on the matter. At the same conference, Paul Little, the managing director of Toll Holdings published the following statements -

> FreightCorp: This business is prepared for sale and is likely to be sold after the New South Wales election. Queensland Rail: May be privatised in the longer term.

The opposition spokesman's comments regarding misrepresentations made by Dr Whitaker and Mr Baker are unfounded, and should be withdrawn.

MAIN ROADS, SENIOR EXECUTIVE SALARIES

1008. Hon TOM STEPHENS to the Minister for Transport:

In relation to the advertising by Main Roads for nine senior executive positions in *The West Australian* on Saturday, 20 March I ask -

(1) How many senior executives earned a salary package worth more than $100 000 in the financial years -

(a) 1995-96;
(b) 1996-97; and
(c) 1997-98?

(2) How many senior executives will receive a salary package in excess of $100 000 in the current financial year?

(3) After the nine new senior executives are employed by Main Roads, how many senior executives will earn a salary package of more than $100 000?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) (a)-(b) Four;

(c) Seven.

(2) Six.

(3) Between six and nine, depending on the starting scale of individuals.

AGRICULTURE WA, TRAINING FUNDS

1009. Hon KIM CHANCE to the Minister for Transport:

(1) What amount of commonwealth funding has been made available to Agriculture WA for the purpose of training farmers, farm and other agriculture related employees during the years 1996-97, 1997-98 and 1998-99?

(2) What amount of state-sourced funding has been allocated for the same purpose during the same financial years?

(3) What has been the actual expenditure by Agriculture WA of commonwealth and state-sourced funds for this purpose during those years?

(4) Has the State fully utilised all commonwealth funding that has been available to the State for this purpose during those years?

(5) If the State has not fully utilised all available commonwealth training funds, what amount has not been used?

(6) If the State has not utilised all available commonwealth training funding, why has it not been used?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The Minister for Primary Industry has provided the following information -

Commonwealth funding for farm training is applied through programs of the Rural Adjustment and Finance Corporation (a) and Agriculture Western Australia (b).

(1) (a) The Commonwealth's share of funding for training support provided under both the previous Rural Adjustment Scheme and the FarmBis scheme is drawn from Rural Adjustment Scheme reserves held by the Rural Adjustment and Finance Corporation. There was no commonwealth imposed budget limits under the Rural Adjustment Scheme for utilisation of these reserves for training purposes.

(b) Commonwealth funding made available through the Natural Heritage Trust to Agriculture Western Australia for the purpose of training farmers, farm and other related employees through the national LandCare program only, is as follows -

	1996-97	1997-98	1998-99
Property management planning project	Not applicable.	1 255 403	1 255 403
LandCare training project	163 637	179 432	171 432
Total	163 637	1 434 835	1 434 835

(2) (a) Training grants provided by the Rural Adjustment and Finance Corporation under both the former Rural Adjustment Scheme and the FarmBis scheme are funded on a 90:10 commonwealth-state basis. State sourced funding was allocated for each year equivalent to approximately 10 per cent of total expenditure.

(b) State National Heritage Trust funding allocated for the same purpose -

	1996-97	1997-98	1998-99
Property management planning project	Not applicable.	1 681 928	1 681 928
LandCare training project	177 425	191 864	176 259
Total	177 425	1 873 792	1 858 187

(3) (a)-(b)

	Commonwealth Funds	State Funds
1996-97	424 817	216 760
1997-98	1 125 504	639 479
1998-99 - incomplete	722 516	40 074

(4) (a) The Commonwealth's share of funding is drawn from Rural Adjustment Scheme reserves held by the Rural Adjustment and Finance Corporation. There were no commonwealth imposed budget limits for utilisation of these reserves for training purposes;

(b) NHT - no.

(5) (a) Not applicable.

(b)

1996-97	1997-98	1998-99
94 637	724 259	1 064 983

(6) (a) Not applicable to RAFCOR.

(b) Key personnel left the LandCare training project and it took some time to find suitable replacements NHT.

HOME AND COMMUNITY SAFEGUARDS POLICY

1010. Hon CHERYL DAVENPORT to the minister representing the Minister for Health:

(1) In relation to the home and community care safeguards policy, did the department brief a number of public relations firms to provide advice on how the policy should be marketed to Western Australian communities?

(2) If so, which firms provided the advice?

(3) What was the cost to the Government for that advice?

(4) Why has the new concept been called a safeguards policy when it is actually a compulsory fee-for-service policy that will affect the quality of life of seniors and younger people with disabilities?

Hon MAX EVANS replied:

(1) Yes.

(2) Mary Sankey and Associates.

(3) Total contact value $45 950. The requirement of the consultant is to develop a comprehensive communications strategy that addresses the target groups. With 85 per cent of the HACC target population over 60 years old, we require a more personal approach. Key requirements of the consultancy are -

to advise and assist in the development of appropriate communications tools and strategies, identifying the main principles of the policy relevant to the target populations;

to develop training programs to support providers and carers in the implementation of the policy;

to assist in the organisation of and attendance at stakeholder briefings; and

to undertake market testing of any written materials pertaining to the policy implementation.

(4) To support this comprehensive training approximately $6m is being collected as fees. Prior to the endorsement of the safeguards policy there were no consistent or equitable practices across the sector among the providers already collecting fees. The safeguards policy key feature is a cap or maximum fee level for clients receiving multiple services. Additionally, the policy will ensure the national and state endorsed principle of "no service being denied due to inability to pay" is implemented. The working party developing the policy consisted of provider, consumer and government representatives and the providers as a sector have developed a "recommended fee schedule". The title of "Safeguards Policy" is a recognition of the mechanisms and associated guidelines developed to introduce consistency and fairness for all clients receiving HACC services.

EDUCATION DEPARTMENT, RM plc

1011. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

(1) Has the Education Department of Western Australia executed any contracts or contract with RM plc?

(2) If yes, when was such contract or contracts executed?

(3) What was the term of each of these contracts or contract?

(4) What is the basis of payments to be made by the Education Department to RM plc within the conditions of these contracts or contract?

(5) Do contractual obligations between the Education Department and RM plc preclude government schools in Western Australia from purchasing software from companies other than RM plc?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. Due to the time needed to compile the information, I ask that the question be placed on notice.

FOREST RESERVES

1012. Hon CHRISTINE SHARP to the minister representing the Minister for the Environment:

Given that the minister provided written advice on 29 July 1998 that forest reserves are as follows -

Total formal reserves of jarrah, karri and wandoo forest 462 300 ha

Total informal reserves of jarrah, karri and wandoo forest 159 370 ha

but that the advertisement placed by the Government in *The West Australian* on 9 March 1999 states that -

Overall, we have more than 1,000,000 hectares of the State's forest . . . protected from logging

does the minister intend to publicly correct this public statement and issue the appropriate apology?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The statement in *The West Australian* referred to the "State's forest" as a generic term applying to the mosaic of ecosystems in the south west region. The Regional Forest Agreement public consultation paper lists at page 77 the area of each "forest ecosystem" in reserves. The total area is 1 040 651 hectares. No correction is necessary.

EDUCATION DEPARTMENT, STAFFING AND PAYROLL SECTIONS

1013. Hon TOM STEPHENS to the Leader of House representing the Minister for Education:

I ask this question on behalf of Hon Mark Nevill. I refer to the 143 FTE staff who worked in the staffing and payroll sections of the Education Department before the department's restructure and ask -

(1) How many of these staff were specifically engaged to facilitate the transition of the new payroll and human resource management information system?

(2) How many of these staff were engaged in day-to-day staffing and payroll functions?

(3) How many of these staff were involved in administrative and support functions and special projects?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Approximately 20 FTE in various roles. Some people performed both transitional and core business roles.

(2) 107.5.

(3) 41.5. However, some people were performing dual roles, incorporating such projects and functions in addition to their normal duties. Because the functions of the directorate have changed, it is difficult to make a direct comparison between the current directorate and the former two directorates.

Point of Order

Hon TOM STEPHENS: Mr President, I deliberately did not raise this point of order during question time because of the limited time, as you will appreciate. An answer was given by the Minister for Transport to a question that was asked, in which he made a dramatic departure from the subject matter of the question and went on to give in effect a long and detailed ministerial statement on another unrelated topic. Mr President, could you look at the minister's answer to see whether you could commend to ministers a way of handling ministerial statements that was an alternative to taking up question time?

The PRESIDENT: Order! Which question is the Leader of the Opposition talking about?

Hon TOM STEPHENS: Mr President, I will take the opportunity of drawing your attention outside the House -

The PRESIDENT: The Leader of the Opposition should tell me to which question he is referring. Is it the one that he asked, which required three pages of statistics?

Hon TOM STEPHENS: No. I did not ask one which required three pages of statistics, Mr President. You are also mistaken about the question.

The PRESIDENT: I am not mistaken. To which question is the Leader of the Opposition referring?

Hon TOM STEPHENS: Mr President, you will have heard the members interject. They all recognise the question. It was the question from Hon Bruce Donaldson, the answer to which departed dramatically from the subject matter of the question and went on to make an unrelated ministerial statement.

The PRESIDENT: I will get the *Hansard* and look at the question that was asked. Was that the question that asked about the state of the roads in Western Australia?

Hon TOM STEPHENS: No.

Hon Kim Chance: The Geraldton Port Authority and the rail yard.

The PRESIDENT: I am more than happy to look at the *Hansard*, and if I think there is a need, I will raise the issue with the ministers. Standing Order No 140(a) opens with the words: "Questions shall be concise and not contain". It then outlines a number of items that questions should not contain. When members ask questions in this place that require three pages of statistics, it seems to me that perhaps the question should be: "Will the minister table the following information . . . ?" It is hard enough trying to listen to the specific numbers that are being quoted - and it must be very difficult for the Hansard reporters to get these specific numbers down - but members are doing themselves a disservice in some of the questions they ask. I was about to cut the minister off in respect of that answer, but I then realised that because it was statistical information, if I cut him off he would be giving only half an answer to the question. I ask members to consider the questions they ask. Today, four members missed out on a first question. Some of that was due to interjections, and some of that was clearly due to the length of some of the answers. I put that to one side and say also that some of the questions were pretty lengthy too. I try to do my bit to give everyone a fair go, but members also need to help themselves.

I now return to the point of order that the Leader of the Opposition raised. Yes, I will have a look at that matter. Although I cannot control the specific issues raised in an answer, I have been here long enough to know what is reasonable and what is unreasonable.
