



Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
1999

LEGISLATIVE COUNCIL

Tuesday, 19 October 1999

Legislative Council

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

EAST TIMOR, AUSTRALIAN PEACEKEEPING FORCE

Letter from Prime Minister

THE PRESIDENT (Hon George Cash): I have received a letter from the Prime Minister in response to the motion passed by the Legislative Council following the deployment of Australian peacekeeping forces in East Timor. It reads -

Thank you for your letter of 23 September informing me of the motion of support for the multi-national peacekeeping operation in East Timor moved by the Members of the Legislative Council of the Western Australian Parliament.

The Government's decision to commit Australian forces to the multi-national peacekeeping force was a difficult one. But it was one we took not only because we could not ignore the plight of the East Timorese people, but also because it was in our national interest.

No Prime Minister takes such a decision lightly, but I have great confidence in our armed forces who are not only highly trained, but are totally professional soldiers.

All people of goodwill want peace and order restored to East Timor and the people of that community allowed to enjoy the freedom they clearly desire.

I know that the thoughts and prayers of Australians are with our forces as they go about their important but dangerous mission.

Yours sincerely

John Howard

SOUTHERN LINK ROAD, JARRAHDAL

Petition

Hon Ljiljanna Ravlich presented a petition, by delivery to the Clerk, from one person praying that the Government take heed of the community's needs and concerns and urgently examine the proposed southern link road for Jarrahdale.

[See paper No 268.]

STANDING COMMITTEE ON LEGISLATION

Forensic Procedures and DNA Profiling Legislation - Report

Hon B.K. Donaldson presented the forty-eighth report of the Standing Committee on Legislation on Forensic Procedures and DNA Profiling: The Committee's Investigations in Western Australia, Victoria, South Australia, the United Kingdom, Germany and the United States of America, and on his motion it was resolved -

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

[See paper No 269.]

DRIVERS LICENCES

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 19 October 1999.

Dear Mr President

At today's sitting it is my intention to move under SO 72 that the House at its rising adjourn until 9 am on 25 December 1999 for the purpose of discussing the Government's planned changes to the drivers' licence system.

Yours sincerely

Hon Tom Stephens MLC

Leader of the Opposition in the Legislative Council.

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 TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.40 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December.

I wish to raise my concerns about a report that appeared in the media yesterday. Imagine the surprise - indeed, shock - of most Western Australians when they woke up on Monday morning to read on the front page of *The West Australian* about the Government's secret plan for a Western Australian equivalent of an identity card. This motion provides the first opportunity for the Minister for Transport to urgently put on the record of the Parliament what this Government is up to with regard to the proposed changes to motor vehicle drivers licences, and to explain in detail the nature of those proposed changes. I fear that this is typical of the way this Government makes changes to the system of government that have dramatic ramifications for the entire community; namely, in secret and without proper consultation with the public. This Government needs to cease its secret strategy of foisting such changes upon the Western Australian public without adequate explanation or justification; and it is justification for this step that I am seeking from the Minister for Transport.

I ask the minister the following questions. Why will it be obligatory for motor vehicle drivers licences in this State to include digital photographs? Why will these photographs be stored on computer for five years? What is the apparent urgency in this matter that has led to a contract being given to a Victorian company before the necessary party room approval has been sought or obtained from even the backbench members of this Government, let alone parliamentary approval from either this House or the other place? Is it correct, as reported in the media, that such a contract has been given to a Victorian company?

Hon Ray Halligan: It must be right; it is in *The West Australian*.

Hon TOM STEPHENS: If it is not right -

Hon Ray Halligan: Do you believe *The West Australian*?

Hon TOM STEPHENS: I would believe *The West Australian* before I would believe Hon Ray Halligan.

Why will it be mandatory for a new photograph to be taken every five years and for that photograph to be retained in a database so that the State will be equipped with a permanent record of the physical appearance, and of the changes in appearance, of virtually every Western Australian adult? On what basis did the Department of Transport give a Victorian company, Leigh-Mardon, the job of storing these digital photographs on a computer and producing millions of new drivers licences, in the absence of parliamentary approval? Why did the State Licensing Centre purchase digital cameras for this massive exercise in advance of parliamentary endorsement of this system? When does the minister intend to present the necessary legislation to endorse his scheme? What changes will the minister need to introduce to the Road Traffic Act to accommodate these initiatives? When will the minister present those amendments, and does the minister anticipate that they will be introduced and dealt with before Christmas? Is it proposed that other government departments, such as the Police Service, will be able to access these digital photographic records; and, if so - I think it is incumbent upon the Minister for Transport to listen to my argument rather than talk to Hon Simon O'Brien about what may be of interest to Hon Simon O'Brien in the party room, because I take this matter seriously -

Hon M.J. Criddle: You will get a full and frank reply.

Hon TOM STEPHENS: I ask the minister to at least listen to my questions.

Hon M.J. Criddle: I am listening.

Hon TOM STEPHENS: I am used to ministers not answering questions, but I want the minister to at least listen to my questions so that I have some chance of having them answered. On what basis will the photographic records be stored? On what basis will the police and other government agencies have access to those records? What statutory provisions will govern that access? On what basis have amendments been prepared to the Road Traffic Act to give the Department of Transport the right to retain those images for five years, rather than maintain the current policy of disposing of the negatives within three months of a photograph being taken voluntarily for the purpose of a drivers licence? Will the minister assure the House that those photographs will be destroyed after five years, or is it intended to keep in perpetuity a record of every citizen of Western Australia? If it is not intended to have those images destroyed, for what reason, and upon what basis, will those photographs be retained? If it is intended to have those images destroyed, will their destruction be mandatory, or will some discretion be involved; and if some discretion will be involved, who will possess that discretion? Why has a Victorian rather than a Western Australian company been chosen to store the digital photographs on computer and produce the millions of new licence cards that apparently are forthcoming?

Will this proposed change be in advance of the Government's progressing privacy legislation, which the Labor Party believes should be a mandatory precondition of advancing such an initiative? Is it true, as the minister is reported as saying in the media, that "the Government wanted the databank so it could refer to it if someone needed to be identified", because that is a bit of a risk unless there is some qualification or explanation from the minister? Does the Government have in place a plan to introduce the overarching privacy legislation which the Labor Opposition has been begging the Government to introduce in order to protect the privacy of Western Australians citizens prior to the establishment of this vast databank of photographic record of virtually all the adults of Western Australia; and if not, why not?

What plans are in place to assess the community's attitude to this databank before proceeding down this path? The Government has been pretty big on conducting attitudinal surveys with regard to a range of government activity. Has an analysis been undertaken of the views of the Western Australian community with regard to this issue? To what plans was the Transport Department's Executive Director of Licensing, Trevor Halliday, referring when he indicated that the community's attitude would be assessed prior to any further sharing of the information contained in the databank? What method of assessing that viewpoint is proposed? The minister should be aware that security breaches of databanks such as this are commonplace in this brave new world in which we live. What assurances and guarantees can the minister give that the information that is proposed to be stored will not be able to be hacked into by non-authorized users and left vulnerable

to other security breaches? The failure of the Government to give such a guarantee will be a significantly compelling reason not to have a computer database of the photographic and other information that is proposed to be contained in this databank. Can the minister guarantee that the information that is proposed to be included in this databank will not be linked to information retained by the Health Department, the Education Department and other government agencies? I seek the minister's assurance that such links are not envisaged and will not be on offer under the initiatives that the minister is advancing. If the minister cannot give that assurance, it will provide a further reason that such a computer database of photos and other information, including a person's signature, may lead to security breaches that have serious consequences. Has the minister taken advice on these security implications, and what steps does he propose to put in place to prevent such breaches?

I understand that the minister has confirmed that both the photograph and the signature of drivers will be mandatory under this initiative. Has the minister thought about the inherent risk in including people's signatures in this databank, which may be pirated or hacked into so that, as has regrettably become commonplace in this new age of technology, people's signatures are utilised to authorise things in their name for which no such authorisation has been forthcoming?

Hon Greg Smith: What sort of things?

Hon TOM STEPHENS: Electronic signatures are increasingly part of the way people are doing business and sending correspondence these days. The signature is an important part of the private property of an individual. It should not be a mandatory requirement that it be stored in a databank which could potentially be hacked into and utilised and misused by others seeking mischief. Has the minister thought of the damage that could be done by that type of security breach? Will the minister reassure the House by advising the steps he will take to ensure that those dangers are avoided?

In reference to the microchip and the further possible development of this card, will this card include a microchip to store other information electronically, or will it contain a microchip from day one? Will the minister give a categorical assurance that neither he nor the Government will ever approve the next step of including a microchip on such licence cards to store information electronically about the drivers licence holder? What steps will the minister take to utilise an alternative technology without the capacity to be upgraded to store other information electronically? Will the photograph and signature be recorded in a microchip on that card from day one, or will the microchip be an optional extra only for subsequent inclusion on the card?

The Labor Party responds to the strong and traditional expectation of the Australian community that the privacy of individuals will be protected from unnecessary government intrusion. It believes that a proposal to award such contracts without significant and proper public consultation should not be implemented by a Government. This Government has a habit of acting in a cavalier, arrogant manner in dealing with controversial issues, without any public mandate for such initiatives. The Labor Party recognises yet another initiative heading in that direction. The Minister for Transport has personally had responsibility for the Westrail freight infrastructure sale proposal, and the AlintaGas proposal has been advanced at the same time. The Minister for Transport now advances another highly contentious initiative which runs the risk of being used and misused by this Government and all its agencies. The Opposition asks the minister to give to this House a full, detailed briefing of what he is up to, and what guarantees and protections he is prepared to put in place before he advances this initiative one step further.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [3.54 pm]: I welcome the opportunity to discuss this publicly desired initiative on road safety. The Government will put in place a very good safety initiative for the people of Western Australia. Interestingly, the Leader of the Opposition is running with an initiative of *The West Australian* outlined in an article it published on this matter. The Government briefed *The West Australian* the other day, and I will indicate, so the Leader of the Opposition understands, the differences between that report and what will happen.

Importantly, this initiative of compulsory photograph inclusion on licences is part of the National Road Transport Commission's drivers licence module, which requires all motor vehicle drivers to hold licences which display their photographs and signatures. Western Australia is the last State to introduce this compulsory scheme. We are now doing so.

The Leader of the Opposition is well aware that currently people can voluntarily have their signatures and photographs on their drivers licences. Leigh-Mardon has the storage contract. This storage has been on wet processing, and it was necessary to upgrade that process because of the scarcity of some of the material used. That contract has been in place for some time, and was renewed on 30 June 1998. The about-to-be-signed contract is an extension of the contract required for the present licensing system as part of the procedure to maintain security.

I am informed that Leigh-Mardon is a very responsible company, and has a reputation worldwide for being a secure firm. The Government has in place a procedure by which a password is required, and only transport officers will have access to the information. Also, a trace-back system is on the computer system, which is another security measure to guarantee the security of the information. Microchips will not be used with these cards. Police will not have access to the information, and nor will any other agency. I make that point clear. Other information will not be available on the licence database. It is clearly indicated that the Government is keeping this information separate from other information on this database. I assure people that those security mechanisms are already in place.

The digital imagery will be kept for five years. Therefore, when the police pull up a driver on the road, they will have an image before them of the person driving the vehicle. Fraudulent actions will not get past the police, which is an essential feature of this national scheme. People will travel from one State to another and be readily identified. Incidentally, the same thing happens with the national drivers licensing scheme, which comprises part of this Bill. That is an essential feature.

The compulsory inclusion of the photograph and signature on the licence and the database relates to licence renewal. A licence may be lost or people may want to renew their licences annually. They will be able to enter the licensing centre where the database resides and have their licences renewed without photographs being taken every year. That is a clear benefit. If a person loses his licence, the Transport officer will bring up the person's image on the screen and will know that the correct person is applying for the licence. The procedure will be straightforward and no tricks are involved. Other States have put this procedure in place, and we are the last State to do so.

A question was raised about whether a survey had been done and whether the impacts on the community were known. Yes, Transport has done a survey, and the results were interesting. I understand that on a radio program yesterday the results were similar. The result of the survey that Transport undertook indicated that people recognise there will be an 80 per cent benefit as a result of this initiative, and 84 per cent of the people indicated they support it. That is according to information received as a result of a survey carried out by Transport. Everybody must take into account that there is a clear indication of community support for the initiative. I want to know whether the Opposition supports these initiatives, which will benefit road safety.

Hon Ken Travers: Check with your backbench first.

Hon M.J. CRIDDLE: It will be interesting to see whether the Opposition stands by what its spokesperson for Transport has said.

Hon Tom Stephens: Will you put in place privacy protection laws?

The PRESIDENT: Order! The Minister for Transport has the floor.

Hon Tom Stephens: He is asking us questions.

Hon M.J. CRIDDLE: I asked the Opposition one question. What is the Opposition's answer?

Hon Tom Stephens: You asked me the question and I will give you the answer.

The PRESIDENT: Order! The Leader of the Opposition will come to order when I call for order. He sets a bad example for everyone else.

Hon M.J. CRIDDLE: The group which will manage this initiative and run the database is well respected. Members must understand that it will keep the cards in a secure fashion.

I will touch on some other elements that the Leader of the Opposition mentioned. Under the driver identification scheme, it is intended to send out an initial notice. If a response is not received immediately, or if a response is received from the person who owns the vehicle stating that he or she cannot identify the driver in the first instance, a reminder or another infringement notice on a single page, with a photograph, will be sent. There will be a statutory declaration at the bottom. If the owner of the vehicle can identify the driver, he will send the form back and we will deal with the driver. Alternatively, a statutory declaration can be signed, which will indicate that the owner of the vehicle has investigated the matter and found that to the best of his knowledge, information and belief, the identity of the driver is unknown to him. That is a statutory declaration; it is a responsible statement that people must make. That is a clear indication that the Government is serious about this initiative.

Another proposal concerned driver training and licensing. This initiative is crucial to young people in Western Australia. The lives of too many people between the ages of 17 and 25 years are being lost, and far too many people are being injured. This issue has been under consideration for two years. The Government has consulted the community, including younger people. Seven hundred submissions have been received. The intention is to introduce, at the age of 16 years, a test and a learner permit. Prior to this, young people would have experienced the K-10 initiative in the education system, so that they will have an understanding of some of the traffic rules. From that point on, these people will be able to obtain a learners permit, and they will be trained in driving by senior personnel who have completed at least four years' driving; alternatively they can go to a driver training school. At the age of 16 and a half years, people will have the first opportunity to take a practical driving test. People should be aware that during this test they will be put into situations in which they would normally drive. For instance, they may be required to drive to the shop, park in the parking area, and then return. There may be a simulated system whereby they will imagine that they have left something behind, so they will have to turn around and go back. Therefore, it will be a practical test based on situations that arise. Following satisfactory completion of that test - at the earliest, it may be at 16 and a half years of age - there will be an opportunity for people to gain experience on the road in all conditions.

HON NORM KELLY (East Metropolitan) [4.04 pm]: Part of the problem with issues being raised in this way, through an urgency motion, is that the process used by the Government to try to get legislation through its coalition party room means that the introduction of legislation into Parliament tends to be delayed, and disgruntled people within the coalition party room need to release information in other ways to try to generate support or debate in the public arena. Therefore, the Australian Democrats support the Government bringing these matters into the public arena for proper debate sooner rather than later. It is indicative of the way in which many pieces of legislation are delayed; for example, the prostitution legislation, the road traffic legislation, the medical care for the dying legislation and reproductive technology legislation. The list goes on.

I now move on to the matters at hand. Dealing specifically photographs on drivers licences, three issues arise: First, the change in technology by going to the digital system; secondly, the compulsion to have photographs on licences; and, thirdly, the retention and use of those images. I refer to the first point, the change in technology. Moving from wet film to digital technology is a good move and is probably about 10 to 15 years after this technology first became available on a commercial

basis for this type of use. Most people are familiar with, for example, student identification cards and various other identification cards which use a digital camera to produce an access pass or any type of licence. Therefore, it is just a sensible and logical extension of what is available.

I appreciate the minister's comments about existing and pre-existing contracts with Leigh-Mardon for negative storage. I was not aware of that.

Hon M.J. Criddle: It has been an ongoing contract, and we put it out to tender just recently.

Hon NORM KELLY: When did that contract first commence?

Hon M.J. Criddle: I do not know the commencement date, but it was renewed in June 1998.

Hon NORM KELLY: To some degree, that fills in the picture about the storage of this information. Initially, I was surprised to learn that this sort of database was stored by a private company. That could be an issue in itself. However, in view of the fact that this is a pre-existing contract and there have been no obvious problems with it, that is not a difficulty.

The compulsion for photographs on drivers licences is supported by the Democrats. People should be correctly identified when they are driving vehicles. If somebody has a legitimate reason to identify a driver, it will be much easier if a photograph is available to do that. It is reasonable to expect that the police will look at these drivers licences. If a drivers licence does not have photographic identification, it is susceptible to fraudulent use. A person could lend it to a friend. When somebody is stopped by a police officer for a minor offence, the normal procedure would probably be to check that person's licence to make sure it has not been suspended or that there are no outstanding warrants or the like. However, beyond that, the police officer would just write a ticket and that would be the end of the story. This system will strengthen the legitimate driving of vehicles in this State. We believe that should be supported. As the minister said, Western Australia is lagging behind the other States, and if it introduces this system, it will be the last State to do so.

Of course, we do not necessarily have to follow what other States do.

Hon M.J. Criddle: It is part of a national strategy.

Hon NORM KELLY: It is good, commonsense legislation.

The third issue relates to the retention of the images. This is probably of more concern to the Democrats. The proposal to change the retention period from the current three months to five years is one concern but we are also concerned about the change in the way the images are stored - from a wet film negative to electronic material which can be used in different ways. The current legislation states that the pictures need to be destroyed after three months. Reading the current legislation invites an interesting question about whether it would cover electronically stored information. Section 42(7) of the Road Traffic Act states -

Where a photograph of a person is taken for the purposes of a driver's licence, all photographs and photographic negatives created, other than the photograph appearing in the licence, shall be destroyed, or damaged so as to be unusable, not later than 3 months after the photograph is taken.

The key words are "all photographs and photographic negatives created". Photographic negatives will not be created in the new system; only digital, electronic material will be created. One would think the Government would have an obligation to change the legislation to reflect this change in technology. We accept the arguments put forward by the minister. When I spoke to one of his officers earlier today, the argument was that it is to drivers' benefit to have these images stored for more than three months. It means drivers would not have to physically revisit a licensing centre and have another photograph taken for an annual renewal. The Democrats support the compulsory nature of the photographs and this would mean people would not need to revisit and have a photograph taken each year. If there is an issue about compulsion and that compulsion is not supported, perhaps the option of having a photograph could be reflected in the licence fee; people who wish to have a photograph on their licence could be encouraged to do so by having a variable licence fee. However, the Democrats would prefer to go down the route of having compulsory photographs in the first place.

There is a need to ensure and guarantee that the electronic material, the images, cannot be used in any way other than the legitimate uses of the Department of Transport and the police in identifying drivers.

Hon M.J. Criddle: It is only available to Transport personnel.

Hon NORM KELLY: Okay. At the moment there is a \$2 000 fine for misuse or abuse of the images. Given that there is to be a shift from three months to five years, that provision should be strengthened and the penalty for such abuse increased.

The minister said in his response that there would not be microchips on these licences but I ask why it is within the contract with the company.

Hon M.J. Criddle: I have said they will not be on the licences.

Hon NORM KELLY: The minister has said that and I wonder why the contract with Leigh-Mardon makes it possible for microchips to be placed -

Hon M.J. Criddle: It is not relevant.

Hon NORM KELLY: My understanding is that the contract between Leigh-Mardon and the Department of Transport states that it is possible for Leigh-Mardon to include microchips on these licences. If microchips are not to be placed on these licences, why is there a provision within the contract to allow that?

Hon M.J. Criddle: It is not relevant. I have said there will be no microchips on the licences.

Hon NORM KELLY: That is my question. If it is not relevant, why is it in the contract? That is our only concern about this issue. We support the compulsion.

HON B.M. SCOTT (South Metropolitan) [4.14 pm]: An important motion has been put before the House. It states in part -
 . . . for the purpose of discussing the Government's planned changes to the drivers' licence system.

I will refocus the attention of the House on the issue of the drivers licence system. The minister has outlined to the House a number of reasons for the Government being so concerned. I am alarmed that the Leader of the Opposition can stand in this House and suggest that this Government shows arrogance and a cavalier attitude to road safety when the minister is building on a number of major reports to bring about changes in driver licensing, drivers licences, and driver safety. I will go into detail about those changes in a few moments. The focus is on driver safety and the huge road toll in this State. Any member of this House or any family which has been affected by a death on the roads could not take other than a responsible and supportive attitude to something which will make our novice drivers better drivers.

I will consider two points: The issue of driver licensing and the licences themselves. It is important to bring national consistency into drivers licences. We have a mobile society in this State and in Australia generally. It is important for us to have national consistency and to be able to recognise immediately whether a person is driving without a licence. I am sure if detailed research were done, we would find that many of our road accidents and the trauma on the roads is caused by people driving without licences. We regularly pick up the newspaper and read that that is the case.

The photograph on the licence and the new licence system will help police to eradicate the problem of people driving without licences as these people will soon be identified. It will also help deal with the issue of stolen licences and vehicle ownership because that information can be related easily through the computer. The minister has assured us that the photographs will be secure and the licences will not have microchips. I do not know how many times we have to say that but in this new age of technology, whether members have made themselves aware of it or not, it is possible to protect that information. The protection of an individual's privacy is an irrelevant issue in this argument because we are talking about the protection of the safety of many Western Australians.

Hon Tom Stephens: It is not irrelevant. It is never irrelevant.

Hon B.M. SCOTT: It has been overworked in this debate. It has been exaggerated.

Hon Tom Stephens: I am amazed that you would say that. You know the invasions that have occurred in this area in recent times.

Hon B.M. SCOTT: As the mother of four young people I have the opportunity to mix with many young people and I have tested them and they do not have a problem with this. Every nightclub they go to requires some identification. They do not have a problem with this.

I return to the Leader of the Opposition's accusation that no research has been done to support the minister's move and that the Government has a cavalier attitude. I remind the Leader of the Opposition that the Select Committee on Road Safety was made of up members of both Houses and it conducted extensive research here and overseas before reporting in both Houses of this Parliament on the very issue we are considering today; that is, the need to improve driver safety and training.

Hon Tom Stephens: You did not talk about photographs.

Hon B.M. SCOTT: The motion talks about changing drivers licences, not just the physical licence. In 1994 I reported to the previous Minister for Transport on the issues of driver safety and driver training in the traffic calming report. I have done a quick count. We went out into the broad community and suggested that the community had not had any input into the argument. Twenty-two local government authorities responded to our call for input, in addition to 49 groups and 114 individuals, and they are listed in the report.

Hon Tom Stephens: What did they say?

Hon B.M. SCOTT: They said a number of things and suggested some changes. I will quote David Thompson, who is a driver and instructor. He wrote a letter to *The West Australian* which is partly cited in the report. He stated -

. . . one should remember that we must tutor students within specific boundaries.

That means we should give them exposure to different conditions. He also said we should consider allowing learner drivers to exceed 72 kilometres an hour when driving on a freeway.

Hon Ken Travers: What is the date of that report?

Hon B.M. SCOTT: 1995.

Hon Ken Travers: That was four years ago.

Hon B.M. SCOTT: The select committee sat after that and it presented two reports. There has been public consultation. The public of Western Australia is demanding that this Government do something about the road toll. The most important thing it can do is turn around the training of novice drivers and make sure that all drivers about to go on the road are properly trained. The minister has outlined some of the changes about to be introduced. It is a nonsense argument to talk about photographs and how the elderly are complaining that they have to produce a photograph.

Hon Greg Smith: The Australian Labor Party has no policy of its own.

Hon B.M. SCOTT: The photograph is on record for five years. Anybody who misplaces their licence or has it stolen can go to a licensing office and not incur the expense of having another photograph taken because it is on record.

Hon Tom Stephens: Does Hon Barbara Scott support the owner-onus legislation?

Hon B.M. SCOTT: I do, but that is outside the current debate. I am appalled at the Opposition's attitude. It suggests it will not support the Government's changes to driver pre-licensing and education and its efforts to improve national consistency. The minister outlined the importance of national consistency, licensing and the reasons the Government is trying to find the causes of road accidents, and the Opposition is not supporting him.

HON KEN TRAVERS (North Metropolitan) [4.21 pm]: Mr President -

Hon M.J. Criddle: Will Hon Ken Travers tell the House about the Australia Card? It was the Australian Labor Party's idea.

Hon KEN TRAVERS: I am more than happy to tell the House. I find it extraordinary that members opposite, many of whom were involved in the campaign against the Australia Card and its implications, now universally support the Government's proposal.

Government members interjected.

The PRESIDENT: Order! Members should not interject. I cannot hear what is said by the member with the call. If I cannot hear then others cannot hear. It makes it difficult for Hansard to record what is being said.

Hon KEN TRAVERS: It is clear from the minister's interjections that he was questioning the Labor Party's position on this issue. I make it clear that the Opposition supports photographs on licences. However, it wants to ensure there is adequate privacy legislation to cover that. Personally, I am not a big fan of the idea. I do not have a photo on my current drivers licence and I am intrigued to find out how many members have a photo on their licences.

The difference between the Government and the Opposition is that I support the decision of the Labor Party spokesperson on transport. I will comment to her about the dangers I see with civil liberties issues. Sometimes people forget why civil liberties were introduced. I understand that people want to see photos introduced so they can identify the villains in society. However, civil liberties exist because people want to protect themselves against the time when Governments become the villains. Society must be careful about that. At a personal level, I have some concerns. Privacy issues are crucial in this debate.

I accept that this is part of a package of measures that came out of the national competition policy. I understand the Government will get competition payments through that process if this is introduced. It is one of many measures that people in this place have been waiting for. The Leader of the Opposition was absolutely right to be critical of this Government's attitude, although not the Minister for Transport's attitude. I have already said that I think the Minister for Transport has done a good job on certain road safety issues.

Hon B.M. Scott: Hon Ken Travers said the Government had done no research.

Hon KEN TRAVERS: The Government has not introduced the legislation that should also be brought in. The Government has dropped it off the backburner. Legislation for roll cages on utes and the Transport Co-ordination Amendment Bill, which would deal with safety standards on buses, have fallen by the wayside. The minister described the status of the owner-onus legislation this afternoon as if there has been a backdown on his previous position. He was beaten up by the back bench. Hon Barbara Scott's colleagues did not support him on road safety issues.

The other issue is the drivers licensing system. It will be interesting to see what comes out of that. It is a crucial area that needs to be tightened up. I was lucky that I learnt to drive when driver education schemes were running in high schools. I thought they were excellent programs. I still remember the defensive driving techniques I learnt. I got a refresher course when I got my bus drivers licence a few years later. The things I learnt in the driver training course have stayed with me throughout my driving career. I am happy to say that I have never had a significant accident in the time I have been driving and have never lost a demerit point. I suspect that my record is better than that of most of my colleagues. I put that achievement down to having had a decent and proper training program that was not aimed at getting people through their licence test. I understand a number of driver training schools train people to pass their licence test. They do not train people to drive. That is a significant difference. The House should look at that when it discusses the licensing system. We have the money to spend on a program. I know Hon Barbara Scott agrees with me on this point because I have seen her comments in the media. The money this Government rings up on its cash registers on the side of the roads each day - by that I mean the Multanovas - should not go into general revenue. It should go into ensuring that the people who drive on our roads do it properly and are correctly trained from day one. The money should not go into general revenue.

Hon M.J. Criddle: A third of the money goes into health and education.

Hon KEN TRAVERS: It is not as if the money is not there to fund the things I am talking about - the things the minister's back bench is so quickly and happily able to knock on the head.

The proposed process has major privacy problems. The minister has told the House that only Department of Transport officers will have access to these photos. I assume private contractors will also have access. I do not know how the contractors can store the information unless they have access to it and a password. We have seen in recent times how secure the police system's criminal records are. The Lord Mayor of Perth was able to find his way through that system and find

out bits and pieces. How can we be assured that the photographs the Department of Transport stores through its private contractor will be secure? That must be adequately addressed. It is a shame we are not in a position to debate the legislation to which the media has drawn attention.

Hon M.J. Criddle: The legislation will come through the House.

Hon KEN TRAVERS: It will come through the House only after the debate. It is typical.

Hon M.J. Criddle: The Opposition brought on the debate.

Hon KEN TRAVERS: The information is in the public domain. The Opposition will bring on the debate if the information enters the public domain before the minister introduces it. A minister took the courtesy of briefing me before introducing legislation into Parliament tomorrow. I congratulate him for that. I found it to be a novel idea as it is not something that has happened regularly. Members opposite come into the House and want the Opposition to give its commitment on things it is unable to look at and properly vet. The Opposition must enter the public debate long before it can see the detail.

In conclusion, I stress that the Labor Party supports these initiatives. The Opposition has supported the Minister for Transport on initiatives to improve road safety for some time, more so than his own backbenchers. However, we want to ensure that privacy measures in the legislation are adequate. I would have thought that members opposite, who were so concerned about the introduction of an Australia card, would be worried about privacy issues.

Motion lapsed, pursuant to standing orders.

ADDRESS-IN-REPLY

Amendment, as Amended, to Motion, as Further Amended

Resumed from 13 October on the following amendment, as amended, moved by Hon Ken Travers -

And further we advise His Excellency that the Legislative Council is opposed to an international nuclear waste dump in Western Australia, such as the one proposed by Pangea.

HON B.K. DONALDSON (Agricultural) [4.31 pm]: I have been disappointed at the number of amendments that have crept into the Address-In-Reply debate, because of the limiting effect such motions have on many members who would like to speak on a wider range of issues but are confined to the amendment. Although I do not have any problem with the last amendment that was moved by Hon Ken Travers on Pangea Resources Australia Pty Ltd, it was a strange motion when one considers that this House had previously passed a motion that identified its opposition to a nuclear waste dump.

Hon Ken Travers: When?

Hon B.K. DONALDSON: I do not know where Hon Ken Travers was at the time, but the President read out a letter from the Prime Minister thanking the Legislative Council for its support.

Amendments moved to the Address-in-Reply limit the opportunities of many members in the House to have a wider debate.

Government members appreciated the efforts of His Excellency the Governor, Major General Michael Jeffery, on the sixth occasion on which he opened the Parliament of Western Australia; that is, the fifth session of the Thirty-fifth Parliament. However, that was accompanied by a degree of sadness when we learnt it was probably the last time he would open Parliament as he will retire in March 2000. Major General and Mrs Jeffrey have endeared themselves to all Western Australians. We have been fortunate to have people of their calibre to carry out vice-regal responsibilities. Over the years we have been fortunate in the choice of many other Governors, which causes one to wonder what the current debate on the republic is all about. However, I will not go into that. We are fortunate to have people of their calibre who conduct their duties with the dignity that they bring to that office. We wish them well in whatever their future may hold and are sorry they will stand down in March next year.

I am reminded of the opening of the Red Cross shop in Geraldton when Mrs Jeffery was in the unfortunate position of having her finger slammed in a car door. That is pretty painful. I was told that whoever shut the door on Mrs Jeffery gave it a pretty good slam. Mrs Jeffery's finger was bandaged. She carried on as if nothing had happened with her finger showing above the lectern. She spoke brilliantly and with humour. She was very interesting, and everybody warmed to what she was saying. I will bet that she was suffering extreme pain. Many of us at some stage in our life may have had a finger slammed in a car door and it is very painful. That was indicative of the spirit, dedication and commitment Major General and Mrs Jeffrey have shown in accepting their responsibility, irrespective of what happens, to fulfil that function.

I will refer to some of the people who have opted out of local government in the past couple of years. I had the privilege to attend a farewell dinner at the Shire of Cunderdin for Mr Norm Alcock. Norm Alcock started off 49 years ago as a 16 year old in the old Cunderdin roads board office. I do not know what he would have done in those days as a 16-year-old junior, but he worked his way up through the system to become roads board secretary, shire clerk and then chief executive officer, as those name changes occurred. He gave outstanding service to the Cunderdin community. Not only did he buy a house and live at Cunderdin, but he was involved in sporting and other community organisations. He played a leading role in those organisations over many years. I was pleased to see the Shire of Cunderdin honour him by making him an honorary freeman of the shire. I doubt we will see that era again. Other people in local government who have retired in the past two or three years who spring to mind include Roy Little, the long-serving Shire Clerk of the Shire of Merredin, Norm Wallace of the Shire of Gingin, Jack Pickering from the Shire of Irwin and the late Wally Felgate, who spent 38 years in the employ of the shire of my home town of Koorda. We were all saddened when Mr Felgate passed away recently, because he had little

opportunity to enjoy his retirement, as I believe he deserved. Collectively that group of people, who are just a few of the people I could mention, have made a significant contribution to their communities. However, with the changing of the guard and the introduction of five-year contracts I do not think we will see again that type long-serving commitment to one local authority. I will not argue whether that is good or bad. They oversaw the development of many of those communities during a time of change with improved recreational and sporting facilities and quality of life for the aged and retired. They always seemed to be elected as the president, secretary or treasurer of local organisations. If an organisation in town got into difficulty the community would coax the roads board secretary, and then the shire clerk, into taking those offices because they were able to bring some professional expertise into the communities in which they lived.

His Excellency the Governor mentioned primary industries. I do not know whether many people touched on the Governor's Address-in-Reply speech during debate, but he talked about the importance of primary industry to Western Australia. It is still true that mining and agriculture are the mainstays of the Western Australian economy, although tourism and many other industries have diversified our economy. We are looking at an industry worth about \$4.5b currently, and in 10 to 15 years the exports in this industry will be valued at between \$8b and \$10b for Western Australia. There has been quite a rapid growth in productivity as science has enabled this State to take the lead in what we call dry-land farming.

Importantly, the Governor talked about the introduction of the Horticultural Produce Commission Amendment Bill; however, I will not elaborate on it because currently it is before the other House. When we talk about the recent proposal of Pangea Resources Australia Ltd for the dumping of nuclear waste, the perception of whether it is safe is irrelevant. People around the world, the consumers of our products, do not realise the size of Western Australia. If the Pangea proposal were to come to fruition, Western Australia would lose its reputation for clean primary products. Above anything else, that is the important message for those people who talk about nuclear waste dumps.

Hon Norm Kelly: Do you extrapolate that to uranium mining?

Hon B.K. DONALDSON: No. I do not think so. We are exporting that commodity. The mining of uranium is a much cleaner issue than that of accepting nuclear waste from around the world. We have to be responsible in the disposal of any uranium that we use, but Western Australia should not have to accept the nuclear waste of others. Western Australia has a very good clean, green image, which the Governor confirmed in his speech.

Primary production has also benefited from funding from Agriculture Western Australia. As a result of a joint venture between local government and the State Government, through Agriculture Western Australia, 23 community agricultural centres have been established around this State, which number will be extended to about 40 within the next 12 months. They provide an on-the-ground service. We have also seen a decentralisation of Agriculture Western Australia. Some quite large sections of that department have been transferred to regional areas in Western Australia, which enables many farmers to have access to information. Previously, they would have to contact someone in Perth or rely on receiving reports by facsimile, letter or telephone. Those centres have been developed in Northam, Katanning, Albany and Geraldton, and the one at Merredin has been enhanced.

There has been a positive move by the Government in recognising that primary producers must be supported as new technology moves into farming. Many who started to farm some years ago are very cognisant of how much things have changed. The high cost of some of that technology has brought great challenges to many farmers; in particular, the high cost of plant and equipment that is now needed in primary production. The farmers who walk around the paddocks on field days need very big chequebooks to pay for just three items of essential plant which cost close to \$1m. This represents a huge capital outlay.

Farmers have been able to increase their productivity as a result of this technology, part of which has come about from research that has gone into cereal crops especially, whether they be barley, wheat or oats. A 5 per cent or 10 per cent increase in productivity in some strains of produce might not sound like a lot; however, when we look at the 10 million tonnes produced in Western Australia each year, a 10 per cent increase across the board represents another one million tonnes of produce and additional revenue for the farmers and primary producers from the same input costs. There have been some significant shifts and advantages as a result of some of that research.

Let us look at the fishery industry in the Agricultural Region. We see more deep-sea fishing for tuna and swordfish. That has been assisted by the opportunity to export that product to the Selfridges group in the United Kingdom, after representatives from the group were involved in the Western Australian products display there some time ago; I think it was at the end of September. It gave a window of opportunity for Western Australian producers of a range of products, from wine to seafood and to meat of all sorts. People visiting the display could taste some of the cooked swordfish which is a by-product of tuna fishing. We are now seeing the development of previously untapped markets which people did not believe could be lucrative.

Previously other countries fished outside Australian waters for these species. We can now participate in those catches as a result of better boats which are geared up and built to withstand the severe weather conditions encountered, which have a long fuel range and enough freezing space to fish in those areas for about a fortnight before the boats must return to port. A lot has happened in primary industries, and we will see a lot more technology being used in fishing.

One of the great challenges farmers are facing is the tightening of the margins between the expenditure to grow crops and the necessary maintenance and capital equipment and plant replacement costs. The margins are being narrowed further, because 20 years ago the costs associated with the returns to farmers were half of what they are today. There has been a shrinking of the bottom-line figure. I know it will be very difficult for many farmers in the next few months. I was very sad to learn that some farming areas were hit by another severe frost recently. Unfortunately, many farmers growing cereal crops

who were enjoying a good season and thought they would have a pretty good crop and could claw their way back from a disaster last year have been among those whose crops have been hit again. I have great empathy for farmers in that situation. One of the most debilitating things for farmers with a good crop is to be hit by a heavy stem or flower frost, because in only 24 hours they can lose megabucks. During a drought year or a very poor year, although it is pretty heart-rending, at least farmers are living through it without any expectation of having a good year. Last year many of the wheat crops of 14 or 15 bags an acre were reduced to yields of nothing or a couple of bags an acre. I feel very sorry for the farmers caught by the frosts this year.

Another great challenge faced by farmers is the introduction of genetically modified foods. Genetic engineering has been going on for a long time, and we have seen some good work as a result of it. Cotton production in the Ord River is a good example. A gene was transferred to the cotton which created a sap which killed some of the insects that were continually attacking cotton. Spraying was undertaken to combat those insects. I would prefer to see something like that done rather than the continual chemical spraying of cotton in that area. If we can genetically modify a plant to achieve that, that will be good. A sweetening gene that attracts ladybirds was introduced into the cotton plants to combat a destructive insect. Large colonies of ladybirds were established to feed on the insect and that eliminated the need for a great deal of spraying. If we can keep spraying to a minimum, we will be a mile in front. We want to retain our clean, green image in international markets.

This is one of the greatest challenges facing our producers and the Governments of this State and nation. Emotional hype has been generated overseas; people are trampling genetically modified crops in Europe because they are afraid. We must have a sensible and rational debate about this issue. If it gets out of hand, it will affect producers in this State and this nation.

Hon W.N. Stretch: And the cost of food.

Hon B.K. DONALDSON: Yes. It is very important that we have far better communication and a more productive debate about genetic engineering. It is very important that we establish whether there is any threat to health. We want to be dinkum about taking advantage of these scientific breakthroughs. We must also ensure that we are doing no harm, not only to the various species of flora and fauna but also to the health of our consumers. I welcome the changes and opportunities that may exist as a result of these developments - there are some positives - and I look forward to being involved in a rational debate.

I wish to recognise the contribution that Mr Rich Maslen of Greenough has made to the community. He was presented with the first local government medal issued by the Western Australian Municipal Association at the local government week conference in August. Rich Maslen has been a long-term member of the councils of the City of Geraldton and the Shire of Greenough, of which he was president, and he has been the chief fire control officer in the area for many years. He was also President of the Country Shire Councils Association of Western Australia and vice president of the South East Asian division of the International Union of Local Authorities when the Governor of Jakarta was the president. Supported by Jeff Carr and the then Premier Brian Burke, he successfully proposed holding the 1989 IULA conference in Perth. There is no organisation in the Geraldton and Greenough areas in which he has not been involved. He has made a significant contribution and one that would be difficult to equal.

The local government medal will not be awarded every year or awarded lightly; it is a prestigious award. Protocol allows Mr Maslen to use the letters "LGM" after his name. That award is only one of many he has received; he has been recognised in the national honours list. He is a role model for numerous people and many wonder how he has managed to work for these many organisations over the years and maintain his farm.

Hon Tom Stephens: He has contributed very significantly to the Liberal Party as well.

Hon B.K. DONALDSON: At one stage he was a member, but he is not at the moment. That was long before I got to know him.

Hon Tom Stephens: It was not long ago.

Hon B.K. DONALDSON: It was some time ago. As far as I am concerned, he has made a significant contribution.

Hon Tom Stephens: I do not mean to disparage him. He was prominent Liberal Party member.

Hon B.K. DONALDSON: We all have our priorities. Young farmers do not get the free time that farmers had in the past, and that I had during my time in farming. As country populations have diminished many have made huge contributions, and that will continue. One notices that the same people belong to almost every organisation in small towns. That is a product of the numbers; the people are not around. Other people have priorities with children, and I can understand that. All members can name many people in their electorates who have made similar contributions. However, I have taken this opportunity to acknowledge these few.

I wish His Excellency and Mrs Jeffrey all the very best in their future life, wherever that may be.

HON GIZ WATSON (North Metropolitan) [4.58 pm]: I wish to put on the record why I will not speak at length on this matter. As much as the Greens (WA) fully support this amendment, the Address-in-Reply debate has been prolonged. I hope we will have a question before this place addressing the motion itself.

Amendment, as amended, put and passed.

Question (motion, as amended), put and passed; the Address-in-Reply, as amended, thus adopted.

Presentation to Governor

On motion by Hon N.F. Moore (Leader of the House), resolved -

That the Address-in-Reply be presented to His Excellency the Governor by the President and such members as may desire to accompany him.

[Questions without notice taken.]

GENETICALLY MODIFIED MATERIAL (TEMPORARY PROHIBITION) BILL 1999

Introduction and First Reading

Bill introduced, on motion by Hon J.A. Scott, and read a first time.

Referral to Standing Committee on Legislation

On motion by Hon J.A. Scott, resolved -

That the Bill be referred to the Standing Committee on Legislation for consideration and report.

MISUSE OF DRUGS AMENDMENT (CANNABIS CAUTIONING NOTICES) BILL 1999

Introduction and First Reading

Bill introduced, on motion by Hon Christine Sharp, and read a first time.

Second Reading

HON CHRISTINE SHARP (South West) [5.44 pm]: I move -

That the Bill be now read a second time.

Due to the vagaries of Parliament's system of prorogation, I am reintroducing two Bills. These are the Misuse of Drugs Amendment (Cannabis Cautioning Notices) Bill and the Poisons Amendment (Cannabis for Medical and Commercial Uses) Bill. I believe these twin Bills are an important step forward in drug reform in Western Australia, and about cannabis law reform in particular. This comes at a time when other States have considered, or are seriously considering, reform of their drug laws.

It is time to get real about cannabis. The fundamental fact is that prohibition has not worked. This is now widely recognised within the Police Force and the legal profession, as well as by health and community workers. Other State and Territory Governments, including South Australia, Victoria and the Australian Capital Territory, have already gone down the road of cannabis law reform - which I will briefly detail later - and, after the recent New South Wales drug summit, the New South Wales Government has said that it too will introduce a cannabis cautioning system. It is time for Western Australia to endorse a new approach. There is already general agreement on new guiding principles: That drugs should be treated as a health and not a criminal issue and that the objective should be harm minimisation, not punishment. The Bills I have tabled here today represent what could be an important step forward towards a new and more successful approach in Western Australia.

The current criminalisation of marijuana in Western Australia has given rise to a host of very real problems. These include a huge imposition on the work of the Police Force and the court system, and criminalisation is a major contributor to the congestion in our prisons - congestion which has reached crisis point. From 1994 to 1996, 82.1 per cent of all drug charges were cannabis related. The possession of 100 grams and less of marijuana constituted 73.8 per cent of all possession charges in Western Australia during 1994 to 1996. Of the 82.1 per cent of cannabis-related charges, a huge 32.5 per cent was for possession of a smoking implement while only 7.2 per cent was for trafficking. These levels quite clearly show that police efforts are focusing at the wrong end of the drug problem. So when we talk about the drug problem, in effect over 80 per cent of it is about marijuana. These are astounding figures. They are why we are here today setting about change.

Secondly, smoking marijuana is primarily a youth issue; most cannabis smokers are young or very young. Some 40 per cent of Western Australian school students have used cannabis and 75.5 per cent of adults charged with cannabis offences during 1994 to 1996 were under the age of 30 years. It is simply not acceptable that the intolerance of the older generation should expose Western Australians to criminal convictions for pursuing an activity that is arguably less harmful than the drugs with which the older generation are familiar - alcohol and tobacco. This hypocrisy is not lost on young people.

A report released earlier this year by the National Centre for Research into the Prevention of Drug Abuse on "The Social Impact of a Minor Cannabis Offence Under Strict Prohibition - The Case of Western Australia", found that -

Together these results suggest that for the vast majority of these offenders their arrest, and conviction had little impact on their use of cannabis. Furthermore there is little in the quantitative or qualitative data to suggest that subsequent involvement in the criminal justice system is likely to result in more than a small minority reducing their use of the drug. The qualitative data suggest that the poor deterrence effect is due in no small part to many seeing the cannabis laws as unjust, and the use of cannabis as a 'victimless crime'.

It is one of the fundamental causes of the much-discussed social alienation of the younger generation. This is partly why the generation gap is so intense nowadays.

Another major reason that cannabis law reform is essential is the problems that we are facing with worsening heroin addiction. Because the impacts of heroin addiction are so blatantly dysfunctional - the crime, the street deaths - there is a significant push to reform heroin laws and to provide heroin free to addicts. However, it is essential that this reform process

be holistic. We must not ignore one of the important causes of the heroin epidemic; that is, the marijuana so-called gateway. Of course, marijuana smoking of itself does not lead to heroin use, any more than riding a bicycle leads to owning a motorbike. There is no causal relationship. The report "Cannabis Use, a Stepping Stone to Other Drugs? The case for Amsterdam" by Peter Cohen and Arjan Sas found that 0.5 per cent of cannabis users go on to use heroin. From extensive research they were able to confirm that although most heroin users had previously used cannabis, the majority of cannabis users did not move on to any harder drugs. However, as Emeritus Professor David Pennington has pointed out, it is we who have made cannabis into a gateway drug simply because of its illegality. Our laws are exposing our young people to criminal networks, to self-identification outside the system, to rejecting the out-of-date values enshrined in the judgment of the statutes. If heroin reform is pressing, it is because cannabis reform is so long overdue.

I acknowledge the encouragement and help that Professor Pennington has provided to me in formulating this legislative package. In commenting on my Bills he noted -

The criminal environment of the use of marijuana provides a "happy hunting ground" for those seeking to expand the market for heroin. The rising death rate from heroin and all the crime and spread of disease associated with it is an enormous social problem for this country with very serious implications for our future. Anything which goes down the path towards separating marijuana users from that criminal environment would be a very important step forward.

For those who do not know of Professor Pennington's work, he chaired the 1996 Drugs and Our Community Inquiry for the Victorian Premier's Drug Advisory Council.

According to *Community Attitudes to Cannabis Use in Western Australia* by Simon Lenton, research fellow, and Claudia Ovenden, research assistant, 71.5 per cent of the WA population believes that cannabis should be decriminalised. That was published by the National Centre for Research into the Prevention of Drug Abuse in 1996.

Decriminalisation does not increase use. The report *Legislative Options for Cannabis Use in Australia* by the Australian Institute of Criminology 1994 states -

. . . most studies suggest that the policies implemented in the Netherlands have not resulted in any significant increase in drug use or changes in patterns of use. . . .

A comparison with data from other countries with a more restrictive policy reveals that the use of cannabis in the Netherlands is on the same level as in Sweden and Norway - 10 to 15 per cent - but far lower than that in the United States - 50 per cent.

Since 1971 the following Australian government reports have been published on the issue of drug reform: The 1971 Senate Select Committee on Drug Trafficking and Drug Abuse known as the Marriott committee; the 1977 Senate Standing Committee on Social Welfare, *Drug Problems in Australia - An Intoxicated Society*; the 1978 New South Wales Joint Parliamentary Committee on Drugs; the 1979 Williams Royal Commission; the 1980 South Australian Sackville Royal Commission into the Non-Medical Use of Drugs; the 1989 Parliamentary Joint Committee on the National Crime Authority; the 1990 Australian Capital Territory Legislative Assembly Select Committee on HIV, Illegal Drugs and Prostitution; the 1994 Legislative Options for Cannabis in Australia; the 1995 Drugs and Our Community Report of the Victorian Premier's Drug Advisory Council; the 1998 Report of the Capital City Lord Mayors; and the 1999 New South Wales Drug Summit.

What all of these reports had in common, except for the Williams Royal Commission, was that they believed the current prohibition on cannabis was not working and that personal use of cannabis should no longer be a criminal offence.

The following quotes have appeared recently in medical journals -

. . . it would be reasonable to judge cannabis less of a threat than alcohol or tobacco, products that in many countries are not only tolerated and advertised but are also a useful source of tax revenue.

That appeared in *The Lancet*, volume 352 No 9140 1998.

The following quote appeared in the *British Medical Journal* in 1998 -

Lord Winston, professor of fertility studies at the University of London, said that cannabis might have some rare dangers, but those risks are clearly much less than with many other drugs.

The following quote was from the Institute of Medicine in 1999 -

However, except for the harm associated with smoking, the adverse effects of marijuana use are within the range tolerated for other medications.

In 1987, the South Australian Government introduced the cannabis expiation notice scheme, which involves fines for all simple cannabis offences and usually involves multiple fines to each offender. This system has created a "net-widening" effect due to the ease at which a fine notice can be issued. A large proportion of those issued with a CEN eventually face the court due to failure to pay the fine. This adversely affects those from a lower socioeconomic background.

In 1993 a similar scheme called the simple cannabis offender notice scheme was introduced in the Australian Capital Territory. Unlike the situation in South Australia, the police in the ACT decide whether to issue a SCON or to proceed through the criminal justice system. In 1998, the Victorian Government allowed the introduction of a cautioning system. This followed two trials of the system in specific police districts. This is the model on which my legislation is based.

Western Australia is lagging behind other parts of Australia. The Misuse of Drugs Amendment (Cannabis Cautioning Notices) Bill will set up a cautioning system for simple cannabis offences very similar to that operating since 1998 in Victoria.

I have chosen the figure of 100 grams or less as the amount of dried cannabis for which one may receive a caution, as this is in line with the level cited in schedule V of the Misuse of Drugs Act 1981, which identifies 100 grams as the amount that gives rise to a presumption of intent to sell or supply. Anything below that amount is treated as personal use. I have not, however, followed the same logic in relation to the amount of plants specified in schedule VI and have instead settled on two plants as the amount that can be cautioned. Under schedule VI, the number of plants giving rise to a presumption of intent to sell or supply is 25. I feel that this is a huge disparity between the amount of dried material and the number of plants that give rise to the same offence. This may be appropriate for determining the penalty for a conviction. However, because the cautioning system would not be discretionary, the higher number of plants seems inappropriate.

One of the important provisions in this legislation is that under the definition of a simple cannabis offence, if a person is caught with both dried material and plants it will be treated as one offence. Many people caught cultivating cannabis for personal use are also likely to have a quantity of dried material - that is only natural. If this was then treated as two separate offences, they will have exhausted their maximum amount of cautions in one go. That is neither fair nor reasonable. Allowing the two to be treated as one offence, if it is on the same occasion, is a much fairer system and acknowledges that both generally go hand in hand.

Furthermore, a section within this legislation repeals the smoking implement offence. The implement offence, which can create a multiple offence charge for the offender - through having possession of cannabis and an item through which to smoke it - would have to be one of the most draconian sections of the Misuse of Drugs Act. These items can be legally bought but not used.

In 1996, 2 697 persons were charged with possession of an implement. Of those, 357 had that offence recorded as their most serious. Similar figures can be found for 1995 and 1994 from data obtained from police P18 forms which contain apprehension and charge data compiled by Simon Lenton from the National Centre for Research into the Prevention of Drug Abuse.

As I indicated earlier, the legislation allows a maximum of two cautions before the offender has to proceed through the court system. I believe this creates a greater opportunity for offenders to re-evaluate their drug use before they are suddenly faced with a criminal conviction that could dramatically alter their lives. As a parent of teenage children, I think it is critical that we adopt a softly, softly approach to our children to bridge the generation gap that the current drug laws help to promote.

A letter which I received from the assistant Commissioner of Police to the Minister for Police, on the topic of the cannabis cautioning trial reads -

Rates of cannabis use and comparisons with other Australian jurisdictions indicate that the criminal justice resources applied to simple cannabis offences, and the penalties imposed on individuals, are not contributing to the policy objective of discouraging cannabis use. Also, there is a substantial portion of the community which believes that only a small proportion of persons committing cannabis related offences are convicted for such offences and that those who are convicted suffer a penalty that, by its imposition of a permanent criminal record, is disproportionate to the behaviour.

Sitting suspended from 6.00 to 7.30 pm

Hon CHRISTINE SHARP: It is on the basis of this police advice that the Western Australia Government introduced trials in the police districts of Mirrabooka and Bunbury. According to articles in *The West Australian* on 5 and 6 October, the cautioning trials have been a success and the Government will consider whether it is appropriate to implement a cautioning system throughout the entire State. The legislation I have introduced differs slightly from the current cautioning trial taking place in Mirrabooka and Bunbury. It is important that a cautioning system be enshrined in legislation to ensure that it becomes the normal practice for all police, rather than being left to their discretion.

An objects clause has been included in the legislation in order to identify the intent of the cautioning system. This is important because a proper evaluation of the legislation can be achieved only when one is aware of the actual intent of the legislation. The current cautioning trial has as its stated intent what is called "net widening". I say this because it is aimed at enabling more people to be brought into the forced educational program. It is ironic to note that according to *The West Australian* of 5 October, Hon Rhonda Parker has claimed that there has been an 85 per cent compliance rate. It is hardly surprising considering the offenders have no choice but to accept counselling, other than to be formally charged and appear before the courts.

The intent of this Bill, however, is different in that it specifically has in mind reducing the financial burden on our criminal justice system and also reducing the social burden on the community by decreasing the likelihood of making criminals out of otherwise law-abiding citizens. Why waste funding resources by forcing people to attend who have no interest in being there? We need to move away from a morally judgmental stance on cannabis. I believe cannabis is a health issue not a moral issue; hence, health and counselling information rather than compulsory re-education will be provided to offenders as an important provision of this Bill. There is no evidence to suggest that forcing offenders to attend educational sessions will alter their drug use habits. Only a willingness to change by the offender will bring about these results. This is following the Victorian approach rather than the Western Australian trials.

The letter from the assistant commissioner of police which was quoted earlier gives the following report about the trials that took place in the Victorian system -

The trials commenced in the pilot areas on Thursday October 1, 1998. However a recent evaluation of the Victorian Cannabis Cautioning Pilot program, whilst having slightly different aims and objectives in that their system did not include an education component, was encouraging. The following is an extract of the Victorian program which was run over a six month period in "1" District - Broadmeadows between July 21, 1997 and January 21, 1998.

- 97 cautions were issued during the pilot period;
- Cautioned offenders were predominantly young males aged between 17-21 years;
- 57% of cautions were issued to first time offenders, thus many of the total cautioned avoided the stigma of a formal court appearance;
- In 82% of cautions issued, the amount of cannabis seized was less than 5 grams (upper limit 50 grams). Half of the offenders cautioned were detected with equal to or less than 1 gram of cannabis;
- 74% of those found with cannabis were located during vehicle inspections or traffic infringements;
- The cautioning system saved time and police resources - 93% of police members surveyed believed that police resources were saved in terms of time and paperwork as compared with the previous process involved in prosecuting offenders;
- Members generally found the criteria and procedures adopted for the pilot were easy to follow;
- The evaluation did not indicate any supervisory concerns. There was a high level of awareness of the requirements of the program and station commanders took an active role in its implementation and conduct;
- No complaints or concerns were registered either at district level or with the ethical standards department regarding the pilot;
- A high level of accountability and ethics was maintained, particularly in respect to the seizure, transportation and disposal of the cannabis. A trial of tamper proof audit bags proved a useful mechanism as it allowed for transparency in the audit trail and in the handling of the property;

I now await the publication of the results of the Western Australian trials and anticipate with great interest the Government's reaction to this legislation.

Mr President, I give you a Bill which seeks to reduce the social impacts of a conviction for simple cannabis offences; makes the penalties which apply to the drug consistent with its capacity to produce harm; reduces the costs to the criminal justice system; makes cannabis laws more consistent with community values; and acknowledges cannabis as primarily a health issue, not a moral issue and certainly not one deserving of an immediate criminal conviction.

Debate adjourned, on motion by Hon B.K. Donaldson.

POISONS AMENDMENT (CANNABIS FOR MEDICAL AND COMMERCIAL USES) BILL 1999

Introduction and First Reading

Bill introduced, on motion by Hon Christine Sharp, and read a first time.

Second Reading

HON CHRISTINE SHARP (South West) [7.37 pm]: I move -

That the Bill be now read a second time.

The second of the two Bills that I am introducing and second reading tonight, the Poisons Amendment (Cannabis for Medical and Commercial Uses) Bill, does two things. Firstly, it will set up a system whereby general practitioners will be able to recommend to the Commissioner of Health that particular patients be permitted to use cannabis to relieve specific ailments. With the commissioner's consent, these patients will be allowed to obtain or grow a specified amount of cannabis for their medicinal use. The very fact that the general practitioner will make a recommendation that must then be scrutinised by both the commissioner and the Poisons Advisory Committee provides a guarantee that cannabis will be authorised only for those with a legitimate need.

The core issue in this section of the legislation is the removal of criminal penalties for patients who use cannabis medicinally. It is important to recognise that this legislation is not about making a "new drug" available, but rather protecting from arrest and imprisonment those patients already using cannabis, as well as the doctors who do or would like to recommend it.

The fact that cannabis has known therapeutic values has been established for thousands of years. It is believed that the first recorded evidence of its medical use was in a Chinese herbal during the reign of the Chinese Emperor Shen Nung, 5 000 years ago. Through the classical and Hellenistic eras it was noted by Galen and other physicians that cannabis was a remedy for various illnesses. It was also recorded in most of the English dispensaries published during the 1600s and 1700s.

In the period 1840 to 1900 more than 100 papers were published within western medical literature citing a varied range of

ailments for which cannabis was useful. Even Queen Victoria was given cannabis by her court physician. These are just some snippets from the history of its medicinal use contained in the book *Marijuana: The Forbidden Medicine* by Grinspoon, Lester and Bakalar.

Now, coming right up to date, the medicinal use of marijuana has gained considerable attention in Australia since the judgment of the Queensland Supreme Court earlier this year. In this, Justice Alan Demack ruled that the use of marijuana for pain relief is acceptable despite the drug being illegal. This ruling has set an important precedent challenging the statutes across Australia. Most members will be aware that a national campaign on medical cannabis was launched on 30 September last and this has generated a considerable amount of community attention. The President of the New South Wales branch of the Australian Medical Association, Dr Kerryn Phelps, has come out as one of the strongest proponents for use of cannabis for medical ailments, and the New South Wales Attorney General has indicated that he is keen to look at how the proposal for medical cannabis could be implemented.

The idea of the Western Australian Bill is to clarify that using marijuana for pain relief in conditions such as multiple sclerosis, terminal illnesses and the relief of the nausea induced by chemotherapy is permissible if prescribed by a doctor. It rectifies the problem currently facing patients for whom the standard, legal drugs are not safe or effective. At present these patients must continue either to suffer or to obtain cannabis illegally and risk criminal conviction as well as the possibility of obtaining cannabis that has been chemically adulterated. The aim of this new legislation is to arrest suffering, not patients.

The following are quotes from highly respected medical journals and institutions. The *British Medical Journal*, 1998, 316:1034-1035 of 4 April states -

The BMA recommends that the government should amend the Misuse of Drugs Act to allow cannabinoids to be prescribed in a range of medical conditions . . .

The BMA is not alone in arguing for enhanced access to cannabinoids . . . Others include the Royal Pharmaceutical Society, the previous president of the Royal College of Physicians . . . and many British doctors.

Volume 273, No 23 of the *Journal of American Medical Association* of 21 June 1995 states -

Marihuana is also far less addictive and far less subject to abuse than many drugs now used as muscle relaxants, hypnotics and analgesics.

The *Institute of Medicine* publication at page 159 states -

Terminal cancer patients pose different issues. For those patients the medical harm associated with smoking is of little consequence. For terminal patients suffering debilitating pain or nausea and for whom all indicated medications have failed to provide relief, the medical benefits of smoked marijuana might outweigh the harm.

It states also at page 154 -

It is possible that the harmful effects of smoking marijuana for a limited period of time might be outweighed by the antiemetic benefits of marijuana, at least for patients for whom standard antiemetic therapy is ineffective and who suffer from debilitating emesis.

This legislation thus acknowledges that for some patients cannabis is actually more effective than other drugs. The medical profession is well aware that the "most" effective drug for one person might not work at all for another person. This is why we have so many different drugs on the market to treat the same ailment. People respond differently to different medicines. Cannabis and patients' reactions to it are no exception.

I will quote again from a letter I received from Emeritus Professor Pennington, who chaired the 1996 drugs and our community inquiry for the Victorian Premier's Drug Advisory Council, in which he states -

Many aspects of public policy in relation to the current illicit drugs have enormous inconsistencies and are quite illogical. Whilst for centuries, the medical profession has used various derivatives of opium, including morphine, codeine and the related compound pethadine for the relief of pain and other aspects of suffering, heroin remains an illicit drug. We have still not allowed the development of drugs derived from marijuana for the relief of nausea, muscle spasm, pain and other symptoms of suffering in disease conditions such as terminal carcinoma, AIDS, multiple sclerosis or even glaucoma. Marijuana is far less addictive than any of the opioid derivatives and I am delighted that you are proposing a sensible and logical approach to this problem which is long overdue.

This section of the Bill will break new legislative ground in Australia, although it follows the example of approximately 36 American state referendums and the findings of an extensive inquiry by the British House of Lords.

Although there are those in the community who believe that allowing cannabis to be used medicinally will increase its use as a recreational drug within the greater community, there is no evidence to support this claim and the following quote from the Institute of Medicine's report "Marijuana and Medicine, Assessing the Science Base" makes this clear. It states -

Finally, there is a broad social concern that sanctioning the medical use of marijuana might increase its use among the general population. At this point there are no convincing data to support this concern.

This Bill also sets out to legalise the commercial production of low tetrahydrocannabinol cannabis for hemp. This section of the legislation is based, with only minor changes, on the Victorian statute, The Drugs, Poisons and Controlled Substances Amendment Act 1997, which contains a rigorous system for scrutiny of hemp crops to prevent illicit substitution with high THC cannabis.

Just as the medical uses of cannabis have been known throughout history, so too have the uses of industrial hemp. I will read to the House an extract from the report "Legislative Options for Cannabis Use in Australia" by the Australian Institute of Criminology under the heading in chapter 3, "Cannabis in history" -

Its major use in Europe during the Middle Ages and into the time of the colonial expansion of the European powers was to produce ropes and cordage - especially for ships' rigging and anchor ropes. In Italy, hemp was a major crop, particularly important in establishing states such as Venice as seafaring powers. The Venetians operated a state-run hemp factory as a way of achieving quality assurance.

The historical importance of hemp is evidenced by a decree issued by Henry VIII in 1533 that 'for every sixty acres of arable land a farmer owned, a quarter acre was to be sown with hemp. The penalty for not doing so was to be three shillings and four pence' . . .

'During the 17th century Indian hemp was the basis of the American colonialists' trade and commerce, and so great was the need to equip the British Navy that James 1 issued a Royal Decree to instruct colonialists to increase their hemp production.'

The United States census of 1850 counted 8 327 hemp plantations - with a minimum acreage of 2 000 - growing hemp for cloth, canvas and cordage. It also informs that Benjamin Franklin started one of America's first paper mills with hemp, which allowed America to have a free colonial Press without having to beg or justify paper from England.

I have carefully studied the outcome of the Western Australian hemp growing trials. The Minister for Primary Industry is to be congratulated for initiating them. The results indicate that more work needs to be done before hemp production could be commercially viable in Western Australia. We need to test wider seed provenances, to extend the range of the trials to the northern part of the State and to develop a range of product feasibility studies. Hemp clothing is now well known; however, it is only one aspect of a wide range of environmentally friendly products which can be manufactured from hemp, such as medium density fibreboard and paper. Hemp paper is especially important and it was used for centuries due to its exceptional durability. This durability is not a feature of chlorine-bleached paper, which is causing a crisis in libraries throughout the world as books in national collections are starting to disintegrate. Another very interesting use of hemp is under investigation, according to the North American Industrial Hemp Council, in BMW's current experiments with hemp materials in automobile bodies in an effort to make cars recyclable.

The Greens (WA) are aware of enormous popular support for exploring the potential of this industry. The removal of the legislative impediments is an important step on this course. It is the precursor to the establishment of growers' associations, breeding work and market research. The definition of "low-THC cannabis" in this legislation is "cannabis, the leaves and flowering heads of which do not contain more than 0.35 per cent of tetrahydrocannabinol". This is the level which has been used in the Western Australian trials and which is set in the Victorian statute.

The legislation contains provisions for a police clearance to be obtained for any person applying for an authority to cultivate hemp, and the Minister for Primary Industry has the ability to demand any information required to determine whether the applicant is a fit and proper person to be given an authority. The minister is prohibited from issuing an authority if the applicant has been convicted of a serious offence in the 10 years preceding the application. The authority to cultivate hemp will also take into consideration the suitability of the applicant's property in relation to location, soil types and facilities available. The authority, when issued, will cover a period of five years and may be renewed at the end of this period.

A new section 5A will be inserted into the Poisons Act, which will exempt from the operation of the Act certain processed products made from cannabis or cannabis seed which do not pose a drug risk. New part IVA empowers the minister to authorise any person holding a position under the Public Sector Management Act 1994, or any other appropriately qualified person, to be an inspector for the purposes of this new Act. It also gives general and wide powers to the inspectors in order to determine whether the hemp crops have been grown in accordance with the Act.

Since the original second reading of this Bill in March of this year, I have been made aware that the Minister for Primary Industry is having similar legislation drafted which allows for the commercial production of hemp. I have given him an undertaking that if I consider his legislation is adequate and covers all my concerns, I will withdraw the parts of this legislation dealing with hemp. If we are both working towards the same goal, I shall be very pleased to support a government Bill instead of my Bill.

As members will have realised when listening to this outline, the cannabis law reform package has been formulated very carefully. I have been very conscious of the Court Government's conservative approach on these issues and, quite frankly, they are conservative Bills designed precisely as a step forward that any Government can take with confidence. They will put the cannabis laws in Western Australia alongside those of the conservative Government of caretaker Premier Jeff Kennett. This Bill acknowledges that cannabis, apart from its popularity as a recreational drug, also has an important role to play in both medicine and agriculture.

Finally, although it is not part of my circulated second reading speech, I add that today the Premier of New South Wales, Mr Bob Carr, announced that his Government would investigate the use of cannabis for medicinal purposes. The Premier of New South Wales issued a press release saying that he felt "we owe the 27,000 people in NSW who are diagnosed with cancer each year a full investigation of a drug which could ease their suffering." The terms of reference of the working study are -

To assess the efficacy of cannabis for medical purposes.

To review the extant medical and scientific literature.

To establish what further research is required.

To establish if cannabis can be effectively administered with the least harm to patients.

To establish if cannabis, or any of its extracts of synthetic analogues, should be supplied for medical use and how diversion for recreational use or dealing or trafficking could be avoided in these circumstances.

To identify legal, ethical, pharmacological, physiological, mental, general health and community implications and issues concerning the use of cannabis.

To make recommendations to the Expert Advisory Committee on Drugs.

The fact that this announcement was made on the other side of Australia today is a coincidence, although I have been working with people throughout Australia in various States who support this measure. It is a case of many like minds thinking along the same direction.

With the endorsement of the approach of a Government in another State, although this is breaking completely new legislative ground in Western Australia and Australia generally, it can be seen that there is a movement throughout this nation to accept that medicinal use of cannabis may have an important role to play in relieving the suffering of people in the community. On that basis, I commend the Bill to the House.

Debate adjourned, on motion by Hon Ray Halligan.

SENTENCING LEGISLATION AMENDMENT AND REPEAL BILL 1999

Committee

Resumed from 27 May. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Progress was reported after the Bill had been split into two Bills.

Clause 1: Short title -

Hon N.D. GRIFFITHS: In speaking to the short title, I shall make a number of points. They may not be very short but when they have been heard, those who have listened will know that it will indeed shorten the Australian Labor Party's contribution to the remainder of the committee stage. I note the clauses of the Bill; I note the subject of clause 2; and I note the contents of the Supplementary Notice Paper.

The Opposition's treatment of the Supplementary Notice Paper will be in these terms: We will support the Government because we are a very bipartisan Opposition on these matters. We will support those amendments in the name of the Attorney General, but we will oppose the amendment to clause 5 in the name of Hon Helen Hodgson because that amendment will undermine the integrity of what this Bill and the other Bill that follows relate to; namely, the Hammond Report of the Review of Remission and Parole. The Australian Labor Party has been very consistent in its support of the substantive recommendations of the Hammond report. Where it differs from the Government is in the timing. It is proper that I explain Labor's position in that context so that members understand more clearly why we are treating the matters raised in the Supplementary Notice Paper in the way I propose. If something should occur out of the blue, we will deal with that as and when it arises, if such an unlikely event should occur.

The real difficulty with this much-needed, much-wanted legislation is that it has been delayed for a long time. That is due to the priority given to it by the Liberal-National Party Government of Western Australia, which is long on rhetoric and very short on action. It has failed to give the Bill priority. In fact, last year it was not even mentioned in the speech of His Excellency, and the Government was dragged by public opinion into bringing these measures before the Parliament. The clauses of this legislation, which eventually was split, first came before the Parliament on 28 October 1998 when the Bill was introduced into the Legislative Assembly. The Government has a very significant majority in the Legislative Assembly and has the use of a guillotine - it has absolute control of that House. It had absolute control of how long the matter would take and, finally, it dealt with the legislation on 3 December 1998 after the second reading was agreed to on 2 December 1998. The Bill was first read in the Legislative Council on 8 December 1998. Its treatment in the other place is testament to the Government's lack of urgency for this important legislation, as is its treatment of law and order generally.

It is important to note that after the Bill was first read, it appeared the following day, 9 December, on the Notice Paper as Order of the Day No 30. On the Notice Paper of 15 December, the Bill appeared as Order of the Day No 30. On the Notice Paper of 17 December - we were getting close to Christmas - it was Order of the Day No 30. It pains me to look at these notice papers for December. The Bill appears as Order of the Day No 30 in the Notice Paper for 22 December. We almost sat on my birthday! On the Notice Paper of 23 December, it appeared as Order of the Day No 27. This is the great prioritisation of measures which were substantially bipartisan and which the Australian Labor Party had called on the Government to bring before the Parliament. The Parliament resumed and a couple days thereafter, on 11 March, the Bill appeared on the Notice Paper as Order of the Day No 21. The Government thought this Bill was very important for its legislative program! We made some progress on 22 April.

Hon N.F. Moore: There could have been 20 disallowance motions on the Notice Paper.

Hon N.D. GRIFFITHS: There were not, as the Leader of the House knows. The cooperative Opposition continued to pass legislation at a rapid rate. On 22 April, the Notice Paper lists the Bill as Order of the Day No 6. On the Notice Paper of 5 May, oh, dear me, it dropped back to Order of the Day No 7. The Notice Paper of 6 May shows it as Order of the Day

No 8. Eventually, the matter was brought on for debate on Thursday, 13 May. There was a cognate debate on this Bill, before it was split, with the Sentence Administration Bill. On that day, I was the lead opposition speaker and Hon Ljiljana Ravlich commenced to speak. The House then adjourned to 25 May, and there were a number of speakers in the debate.

I will go through the history of this legislation, so that people understand why we are adopting this stance and why we are critical of the way the Government has behaved. Hon Ljiljana Ravlich commenced her remarks on 13 May. On the next sitting day, 25 May, she concluded her remarks. Hon John Halden spoke in the debate, as did Hon Giz Watson of the Greens (WA). Of course, the Australian Labor Party has no control over members of the Greens (WA); I wish it did. Hon Mark Nevill spoke in the debate, and we have no control over him now! On Wednesday, 26 May, a member of the Australian Democrats, Hon Helen Hodgson, spoke in the debate. Then a couple of Labor Party members, Hon Kim Chance and Hon Tom Helm, spoke in the debate. We do not even have control of Hon Ray Halligan, but he spoke on the Bill. Then Hon Jim Scott spoke in the debate. *Hansard* records that at 8.56 pm, Hon Peter Foss commenced his concluding comments in the debate. He was still on his feet when the House adjourned that evening. Perhaps we can call those words his introductory remarks. My introductory remarks in the committee stage will not be as long as his were. The House moved to adjourn at the usual time of 10 o'clock. The Attorney General recommenced his remarks, as *Hansard* records at page 8507, at 2.04 pm on 27 May. He finished his comments - *Hansard* does not quite record the time that happened - and the votes were taken and concluded at about 2.50 pm. It was not one of the longest speeches of the Attorney General, but not one of his briefer ones either.

Hon Peter Foss: I drew proper attention to all the points that had been made.

Hon N.D. GRIFFITHS: Then a vote was taken, with the Australian Labor Party voting with the Government on each of these Bills. I then moved a motion to give an instruction to the Committee. That being passed, we went into committee. A division of this Bill into two occurred. Since then, nothing has happened to these Bills in the House: Since 27 May 1999, the Government has not brought this Bill on for debate, notwithstanding that it has had bipartisan support from the Australian Labor Party. I wonder why that was the case. No doubt there are reasons; I know movement was made on home detention and work release orders, and that is fine. According to the statement made in the other place in December by the Minister for Police on behalf of the Attorney General, the number of prison beds was not great, and that is fair enough. That does not impinge on the integrity of the Hammond report, even though it suggested that those measures be done away with so that the general public could more easily understand the system. The Labor Party welcomed those changes, but there was no need to delay the passage of this legislation to this extent. Pieces of paper were thrust at me and I read them and religiously ticked them off on behalf of the Labor Party. They were presented with great urgency and with the implicit message that this so-called Government wanted to get on with the job. It did not do that.

It was obnoxious to hear someone who prides himself as being the head of a Government saying on 6PR on 22 June 1999 that the Government wanted to pass legislation providing for tougher sentences but that it was stalled in the upper House because the Labor Party was having second thoughts. The incompetent member for Nedlands was blaming the Labor Party because his own people could not get their act together. There is an unparliamentary word to describe his conduct, but I will not use it. However, he knowingly told an untruth. Once again he has descended to the gutter and said something he knows is untrue.

Hon Bob Thomas: He probably does not know.

Hon N.D. GRIFFITHS: He knows it is untrue because he has a very close and proper relationship with the Attorney General, whom he quite properly supports. Surely he would have paid some attention to the truth. I do not have much truck with people who say things that are untrue, blaming the Opposition for their own incompetence. The Premier did that in the knowledge that on that very same day - 22 June 1999 - a Supplementary Notice Paper appeared in the Legislative Council containing amendments in the name of the Attorney General, not in the name of any Labor Party member. We have always been bipartisan on this issue, as the Attorney General well knows. He and I have cooperated to the nth degree to achieve proper outcomes. I find the Premier's comments disgusting and untruthful. If he were not a member of Parliament, he would be described in unparliamentary terms.

Hon Peter Foss: He was not dealing with the matrix.

Hon N.D. GRIFFITHS: No, he was not. The matrix has been properly dealt with by a Legislative Council committee that has a majority of Liberal Party members.

Parliament was prorogued and sittings recommenced on 10 August. On 12 August, this legislation was Order of the Day No 6. Order of the Day No 3 has not yet been dealt with, and it was listed before this legislation. Order of the Day No 5 - the Crimes at Sea Bill - also awaits debate. The bottom line is that the Labor Party wants this legislation enacted and it always has. It has urged the Government to get on with it. However, the Government has played a very dirty game of politics in accusing members on this side of delaying when the Government has control of the Notice Paper. The Labor Party's proposition is that if the Government lists the order of debate for Bills, we will debate them in that order. If I take two, five or 10 minutes, it does not matter.

I do not propose to speak at length about any clause or about any clause in particular, because it is about time we got on with this debate. I have commented on how the Labor Party will treat the clauses. If someone has a go at the Labor Party, I will be obliged to speak. However, there is no scope for any honest person to have a go because the Labor Party has been consistent in its view that the public deserves a better system of sentencing that they are able to understand in accord with the substantive recommendations of the Hammond report. It has held that view since March last year, when the report was made public. Members on this side look to this debate being concluded as soon as possible. We differ with the Government,

which tries to blame us for its own delays, and with the Australian Democrats because we seek to govern on behalf of all Western Australians. We are after the deserved approval of the vast majority of Western Australians. We are not trying to find a niche market of 5 to 6 per cent of the electorate, hoping to scrape home with a couple of seats.

Hon HELEN HODGSON: I disagree with Hon Nick Griffith on a couple of points, the first being the length of time it has taken to process this legislation. I agree that the process has been remarkably lengthy. However, over the past few months much good work has been done to address many of the concerns raised in the second reading stage. Home detention orders and work release orders will now be reinstated following the concerns raised not only by me but also by members of the Labor Party. I am sure the member agrees that it takes some time to review such clauses and to ensure that they will work in the new scheme. Although the delay may be seen as regrettable by those who are reacting to an agenda set by the public, in this case the delay has worked in our favour in ensuring sound public policy; we will end up with far better legislation as a result.

Having said that, there are still some aspects of the Bill that I must address at various stages. I specifically note reparation orders - I have some concerns about the way they will impact in practice. I have serious concerns about requiring a third party to be involved in dealing with reparation orders. That amendment has appeared on the Supplementary Notice Paper only recently. I have seen so many amendments, I cannot recall when that one appeared. My files are obviously not as tidy as those of Hon Nick Griffiths. However, the issue deserves some scrutiny in this place.

I note that the Labor Party has indicated its lack of support for one of my amendments. I am sure we will address that at some stage in the debate tonight. However, if I skip over it now, it is because I believe it can be dealt with more fully at another point without breaching the standing orders. When we have interrelated Bills it is sometimes difficult to canvas issues without contravening the standing orders. Although I may skip an amendment when it comes up for debate on the Supplementary Notice Paper, that does not mean I have abandoned the issue. It is simply that I am trying to determine the best time at which to raise those points.

The Bill will be significantly improved if the amendments on the Supplementary Notice Paper are passed. I am still not totally satisfied with the scheme of the legislation, and I will make my dissatisfaction known at the appropriate points. I voted against the Bill at the second reading stage, and my final decision at the third reading stage will depend on the passage of the amendments and whether the Bill is adequate when we complete the committee stage. I am happy to start debating the detail of the Bill.

Hon PETER FOSS: I thank Hon Helen Hodgson for her support of the process that has taken place because the Government has tried to tackle a difficult problem that took a committee two years to tackle, and I do not think the committee was entirely happy that it had solved the problems. Some are insoluble and it is matter of picking the best compromise.

On the question of delay, I remember when Hon Joe Berinson accused the then Opposition of delaying Bills even before they arrived in the Legislative Council.

Hon N.D. Griffiths: He would have been right.

Hon PETER FOSS: It was difficult for this place to debate a Bill before it had been introduced.

Hon N.D. Griffiths: There was an Opposition in the other place.

Hon PETER FOSS: He accused the upper House of delaying. Delays do not always occur because of filibustering on the Bill in question. Members know that we have not made much progress since we resumed sitting in August. The problem is that it does not matter at which point legislation appears on the Notice Paper; if little progress is made, the Notice Paper becomes notional.

Hon N.D. Griffiths: If you had brought forward this Bill, it would have been debated.

Hon PETER FOSS: That is interesting as many Bills have been on the Notice Paper and not many have been debated. Everybody is keen to proceed with this Bill now and I welcome that. I welcome the bipartisan support that the Australian Labor Party has given to everything other than the Sentencing Matrix Bill 1999, which it hived off to a committee to consider. I welcome the support it is giving to the remainder of the original Bill. I thank Hon Helen Hodgson for her support in that we have endeavoured to make changes to the Bill to allay not only her concerns but also those of Hon Mark Nevill and Hon John Halden. The result of that has led to a better piece of legislation.

Clause put and passed.

Clause 2: Commencement -

Hon PETER FOSS: I move -

Page 2, lines 6 and 7 - To delete the lines and substitute the following lines -

- (1) Subject to this section, this Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.
- (3) If section 4 of the *Bail Amendment Act 1998* has not come into operation when the second amendment to section 3(1) of the *Bail Act 1982* in Schedule 1 comes into operation, that amendment comes into operation immediately after section 4 of the *Bail Amendment Act 1998* comes into operation.

The difference is to allow for the fact that parts of the Bail Act have not yet been proclaimed as the police need to implement a number of information provisions. Some of the remaining provisions of this Act should be proclaimed this month and some next month so that the totality of the legislation will come into effect. This amendment is probably hypothetical but it is necessary because those sections remain to be proclaimed.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Section 85 amended -

Hon PETER FOSS: I move -

Page 3, lines 13 and 14 - To delete the lines and substitute the following lines -

- (1) Section 85(1) is amended in the definition of "early release order" by inserting after "*Sentence Administration Act 1995*" -

or *Sentence Administration Act 1999*

We will be moving amendments to the Sentence Administration Bill 1998 and if these amendments are carried, this amendment will be required to this Bill.

Amendment put and passed.

Hon HELEN HODGSON: I do not intend to move amendment P5 standing in my name on the Supplementary Notice Paper. As I explained earlier, it relates to matters that can be canvassed more fully in the Sentence Administration Bill 1998. As the Australian Labor Party has indicated that it does not support that Bill, there is no point in wasting the Chamber's time at this stage.

Hon PETER FOSS: I move -

Page 4, line 29 - To delete the words "a parole order" and substitute "an early release order".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6 put and passed.

Clause 7: Section 89 replaced -

Hon HELEN HODGSON: I am looking at the insertion of new section 89(2) at clause 7 and the way in which the wording affects the new legislation compared with the old legislation. I am concerned that the judicial discretion is being limited by the way that the four factors to be considered are more prescriptive than in the previous Act. There is a requirement also that the court consider at least two of those four factors. The court would normally consider those factors. This is a far more prescriptive method and I am concerned about the potential impact of that method on the sentencing procedure.

Hon PETER FOSS: This clause is a recommendation from the Hammond report which is essentially to reverse the onus when a person is entitled to parole. The current Act states that the court must decide whether it should not make an order for parole; whereas this Bill asks the court to justify whether there should be an order for parole. The presumption is that an order for parole should not be made if any two of those four factors occur. The reason for this clause was the way in which the current Act was interpreted seems to have made it difficult for the court to have control of whether a person should be granted parole. If there were a possibility that a person might benefit from parole, that person had to be granted parole; whereas this Bill will alter that as at least two of these four factors will have to be satisfied to refuse parole. If we had not stated that there had to be at least two factors, one factor would have sufficed; having two factors rather than four in the Bill makes it less restrictive as it will give the court more, rather than less, discretion, although that discretion enables the court to more easily refuse parole. Currently, the authorities do not have much of a discretion to review parole.

Clause put and passed.

Clause 8: Section 89A inserted -

Hon PETER FOSS: I move -

Page 7, line 16 - To delete the words "Part 4 of the *Sentence Administration Act 1998*" and substitute the following words -

Part 7 of the *Sentence Administration Act 1999*

This is a consequence of amendments we have been moving.

Amendment put and passed.

Hon HELEN HODGSON: I have a question in respect of the program assessment orders and the way in which those new orders will operate. If a cost is involved with these, will it be transferred to the offender?

Hon PETER FOSS: No.

Clause, as amended, put and passed.

Clauses 9 to 14 put and passed.

Clause 15: Sentencing courts to take into account this Part's effect -

Hon PETER FOSS: I move -

Page 13, lines 5 to 8 - To delete the lines.

This amendment is moved due to the fact that the Bill initially had a provision which has now been split from it and therefore reference to that provision at this stage is not appropriate. If the Bill is brought back again, what we are taking out today will have to be inserted by amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 16 and 17 put and passed.

Clause 18: Sentences of imprisonment imposed before commencement -

Hon PETER FOSS: I move -

Page 15, line 4 - After "paragraph (a)" to insert the following "or (c)".

This amendment is to cross-reference the various types of orders.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19 put and passed.

Clause 20: HDOs and WROs -

Hon PETER FOSS: I move -

Page 15, lines 21 to 26 - To delete the clause and insert the following clause instead -

20. WROs

(1) If immediately before commencement a person is subject to a sentence of imprisonment to which the old provisions apply, then on or after commencement -

(a) subject to Part 4 of the repealed Act, a work release order may be made in respect of the person; and

(b) Parts 4, 6, 7 and 8 of the repealed Act continue to operate for those purposes and in respect of any such order, subject to subsection (2).

(2) If on or after commencement -

(a) a work release order is made under the repealed Act in respect of the person; and

(b) after the order is made it is cancelled under section 70 of the repealed Act by reason of the person having been sentenced to imprisonment for an indictable offence (whether or not it was tried on indictment),

the Board must not make another work release order under the repealed Act in respect of the person in relation to the sentence to which the cancelled order related unless satisfied there are exceptional reasons for making another order.

These are transitional provisions.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 21 to 25 put and passed.

Clause 26: Section 115 amended -

Hon HELEN HODGSON: Clause 26 includes a provision that when compensation is provided under the Criminal Injuries Compensation Act 1985 it is excluded when it comes to reparations. I have some concerns with the way the reparations section operates, as I indicated in my contribution to the second reading debate. I am concerned that the way in which this works will result in offenders being liable for double jeopardy. The fact that amounts received from other forms of compensation cannot be taken into account could result in an increased award being made against an offender. It could result in the reparations provisions, while intended to work to aid of the victim - and I have no quarrel with supporting the victim -

working against the offender to the point where it could interfere with his potential rehabilitation and his ability to find gainful employment after he has fulfilled his prison sentence. For those reasons I am concerned about the provisions of clause 26.

Hon PETER FOSS: One of the realities of most cases of orders made against people for reparation is that they do not get paid. We do not want the situation which would otherwise be the case of having people missing out on criminal injuries compensation when they know they will be paid because the Government pays it with a capacity to recover against the accused. Our concern was to ensure that a person did not end up with a substitution of a civil judgment against an offender with no chance of recovery as opposed to an order under the Criminal Injuries Compensation Act with guaranteed recovery of the amount concerned. The Criminal Injuries Compensation Act has provisions which require the assessor to take into account matters for which people are entitled to receive compensation. That is the intent. The concern of double jeopardy does exist theoretically although the court has the capacity to make its order to reparation as it sees fit, whereas the criminal injuries compensation order does not have that ability.

Clause put and passed.

Clause 27: Section 119 amended -

Hon HELEN HODGSON: This clause deals with the section in the principal Act which states that a reparation order shall be treated like a fine. Again, it raises the question of whether the offender with a reparation order against him may be subject to harsh treatment in attempts to recover the funds. Fines are dealt with in various ways, such as licence suspensions. I will be able to discuss the reparation provision in more detail on further clauses. If reparation orders are treated as fines, the person could be imprisoned for failure to pay the reparation order, which is very harsh and quite unconscionable.

Hon PETER FOSS: The Government is trying to take away the likelihood of imprisonment. Importantly, the Government wishes to make it possible for a victim to obtain a civil judgment, although whether the victim will be able to execute that civil judgment is another matter. We do not want the victim to go to the expense and difficulty of proving the matter. In many cases, the victims must then go through the trauma of appearing in court again with the perpetrator. The normal enforcement of a compensation order is as though it were a judgment debt, not a fine. The alternative is purely a civil remedy. Proposed section 119A will apply where a person has the means to pay, but just does not do so. It represents a far better approach. It probably will not be applied very often. The application and interpretation of section 119 means that the courts do not make orders unless they are satisfied that the matters set out in proposed section 119A are met. Therefore, they do not make the orders.

The Government wants to make certain that the courts will make the orders. This will have the effect of a civil judgment, not the enforcement remedy which follows on from a fine. The court will more readily make such an order under this provision. If the person subsequently has money, or has the money, or the order can be executed against property, people will not go through the business of suing, which is a fairly regular occurrence: I receive complaints from people because the courts were not prepared to make an order under section 118 of the principal Act. The Bill will take away the penal consequence of section 119, and apply the new penal consequences under proposed section 119A. The proposed section is a less draconian section than section 119 as it will take away the current form of penalty. Although Hon Helen Hodgson may not agree with proposed section 119A, it is more generous in its treatment of a person than the current provision.

Clause put and passed.

Clause 28: Section 119A inserted -

Hon HELEN HODGSON: The Attorney General indicated that I would probably have a problem with proposed section 119A - I have a number of problems. I notice that proposed section 119A(1) applies imprisonment, not only if the offender concerned has not commenced compensation payment, but also if the person "ought to have" means to pay the compensation. For a start, that is very difficult for a judge to decide. Secondly, what will the criteria be for determining whether one "ought to have" the means for that payment? Will this be similar to other provisions relating to drug traffickers? As one has a record, and it is believed one is trafficking in drugs, one must have money hidden away somewhere which can be used for payment of compensation. I am concerned that the term "ought to have" can be used and argued to work against the interests of the person against whom the order was awarded. That provision is not tight enough to achieve the ends the Attorney General seeks.

My second concern relates to proposed subsection (2), which outlines that the offender will be imprisoned until the compensation is paid. Subsection (4) reads -

Service of the period of imprisonment does not discharge the offender's liability to pay the compensation.

Therefore, a person commits a crime and does time in prison. An order is made against that person to pay compensation, but he or she does not have the means to pay that compensation. If the court states that the person has the means or "ought to have" the means to pay, the proposed section will be applied against that person. He or she will be imprisoned until the amount is paid, yet the money must still be found to pay it anyway. The formula is one day's imprisonment per \$50 of debt. That is a huge backward step in the direction in which our penal system is headed. One should not be imprisoned for non-payment of debts, as this provision essentially provides. The debt arises from the crime, but the person is dealt with separately for a crime in serving the sentence applied under the Criminal Code. The compensation is a separate issue. He will then be imprisoned because of the non-payment of compensation. That is a huge backward step, no matter how sorry I feel for victims.

Also, this provision will not assist victims in the manner we would like it to. It will not assist the person whose house is

broken into and whose television and video are stolen. The provision will apply to white-collar crime - that is, fraud. Banks have the resources and knowledge to apply the reparation part of the Criminal Code. A person need not be locked away as punishment for a debt. He is punished for the crime, but he may have a debt, which is the compensation order. This can be thousands of dollars because he did the wrong thing by his employer. He may have gambled away the money. The court will say that he should have the capacity to pay the funds. If he is not prepared to mortgage or sell his house, more time will be spent in prison. It is ill-conceived, bad public policy and will not assist victims. It will not assist the mums and dads or the granny whose bag is snatched. It will be used for corporate crime. It is a backward step.

Hon PETER FOSS: The member may well be right regarding the nature of the crime to which this provision will apply: It certainly will not apply to the person who plainly has no means. It will not apply to the petty crook - namely, the person who obviously never made or kept any money. Let us take a theoretical offender called AB.

Hon N.D. Griffiths: Alphabetical offenders.

Hon PETER FOSS: I pick two letters which happen to be at the beginning of the alphabet.

Hon Helen Hodgson: Why not YZ?

Hon PETER FOSS: AB is a good place to start. AB commits an offence and is accused of stealing a substantial amount of money.

Hon N.D. Griffiths: Say, \$1b.

Hon PETER FOSS: His penalty is, say, a substantial period of seven years' imprisonment for stealing \$1b. We have no idea where the \$1b has gone. Perhaps it went overseas to Switzerland. This person, although bankrupt, is able to access money fairly easily.

Hon N.D. Griffiths: He must have very charitable lawyers.

Hon PETER FOSS: That is right. One may wish to make an order against that person that he should go to jail for, say, five years unless he pays back that amount of money. That person then has the choice.

Hon N.D. Griffiths: He will be there for a long time at \$1b.

Hon PETER FOSS: Yes, it could be a very long time, I suppose, at \$1b. However, that is the maximum order, not the absolute order, that can be made. The point I am trying to make is that that type of person will not come along regularly.

It is interesting that a couple of defendants were imprisoned on this basis of holding on to their ill-gotten gains. Members will remember the Mickelbergs. The sentencing of the Mickelbergs was adjourned so that the judge could consider their case. He then gave them a whacking great sentence on the basis that they had not returned their ill-gotten goods. There was also that puzzling stage when a lot of gold turned up later; I think it was left at Channel 7. At least under this circumstance, if the court is right in its supposition that a person was holding on to his ill-gotten gains, that person has a choice: He either coughs up the ill-gotten gains or spends an amount of time in jail reasonably equivalent to the value of those ill-gotten gains. One of the problems at the moment is that some people might think it is worth a few years in jail for, say, \$1b, and it is those people with ill-gotten gains whom we are seeking here.

I agree that there will not be too many cases, and it may be that it will be major fraud. However, it offends the sensibilities of society that people can live in a fashion which indicates they have kept the proceeds of their offence, that they can arrange their affairs in such a way that it is impossible to get to those proceeds, and that all they must do is serve the base sentence for the offence and then live the life of Riley. As I said, it may not be an awful lot of cases, but in those cases in which it is appropriate, the public would be well served by an order in these terms, whether it be against AB or XY or somebody else.

Hon HELEN HODGSON: To comment on that example, according to my quick mathematics, \$1m equals 20 000 days in jail at \$50 a day. That is more than just a couple of years.

Clause put and passed.

Clauses 29 to 33 put and passed.

Clause 34: Section 143A inserted -

Hon HELEN HODGSON: This is the clause which allows the Chief Stipendiary Magistrate to publish guidelines for the sentencing of offenders in the courts of summary jurisdiction. I draw the analogy with section 143 of the Supreme Court Act, which basically gives the Supreme Court the power to issue such guideline judgments.

Hon N.D. Griffiths: It is the guideline judgments under the Sentencing Act.

Hon HELEN HODGSON: I am sorry; my notes on that were incomplete. Last year I asked a question in this place about whether that had ever been applied. At that time I was told that the Supreme Court had never issued any guideline judgments, and that although those judgments had been asked for on a couple of occasions, it had not happened. What we are doing here is giving a lower court, and the Chief Stipendiary Magistrate in the courts of summary jurisdiction, a power that the Supreme Court has chosen not to exercise. Does the Attorney have an updated position on the use of guideline judgments, and will he explain why, if that power is ineffective at the Supreme Court level, it is being introduced at the courts of summary jurisdiction level?

Hon PETER FOSS: This is quite different from the guideline judgments. There has not yet been one, although I am hopeful there will be. Noises have been coming out of the court which indicate that maybe one is coming.

Hon N.D. Griffiths: I think the New South Wales experience is encouraging to every judicial officer in the country.

Hon PETER FOSS: Yes, I agree.

This comes from the United Kingdom, where the chief magistrates did this. It recognises a different situation in the Courts of Petty Sessions, which deal with a large number of cases in a summary way. Members of the Criminal Law Association are concerned that there are considerable degrees of variation in sentencing. Although this is non-binding, it would be of assistance to certainly the Supreme Court in dealing with these matters on appeal if the Chief Stipendiary Magistrate could give the sorts of tariffs which are being applied in these cases, which happen in large numbers. It will not have the subtlety, depth or philosophy of a guideline judgment, but we hope that it will be useful for all magistrates to use. Members should keep in mind that as the court currently stands, each court of summary jurisdiction is a separate court. That has problems at the moment, because the Chief Stipendiary Magistrate's capacity even to make suggestions to magistrates in other courts is limited. The only suggestion he can make is that they might like to sit in another court of summary jurisdiction, and that sometimes has the appropriate effect.

Hon N.D. Griffiths: It is a very powerful suggestion.

Hon PETER FOSS: Yes, it is. However, it is a somewhat blunt instrument, and it is intended to allow the Chief Stipendiary Magistrate to do what was done on a voluntary basis in the United Kingdom, which has proved effective and which has given a greater degree of justice and parity in the sentencing of offenders.

Clause put and passed.

Clause 35: Review -

Hon PETER FOSS: I move -

Page 24, line 7 - To delete the figure "4" and substitute "7".

This picks up the part number substitutions.

Amendment put and passed.

Clause, as amended, put and passed.

New clause 21 -

Hon PETER FOSS: I move -

Page 15, after line 26 - To insert the following new clause -

21. HDOs

If immediately before commencement a person is subject to a sentence of imprisonment to which the old provisions apply, then on or after commencement —

- (a) Part 5 of the repealed Act applies for the purpose of determining —
 - (i) whether the person is eligible to be released under a home detention order; and
 - (ii) the period of any such order;
- (b) if a home detention order is to be made in respect of the person, the order is to be made under Part 5 of the *Sentence Administration Act 1999* and for that purpose the period of the order is to be the period calculated under the repealed Act; and
- (c) if a home detention order is made in respect of the person, the *Sentence Administration Act 1999* applies to and in respect of the person and the order except to the extent that paragraph (a) or (b) provide otherwise.

These are the transitional provisions for home detention orders.

New clause put and passed.

New clause 22 -

Hon PETER FOSS: I move -

To insert the following new clause -

22. Warrants in force at commencement

A warrant issued under the repealed Act and in force immediately before commencement remains in force despite the repeal of the repealed Act.

New clause put and passed.

New clause 24 -

Hon PETER FOSS: I move -

Page 18, after line 1 - To insert the following new clause -

24. Section 111 amended

After section 111(3) the following subsection is inserted —

- " (4) A court that makes a reparation order may make any other order that is necessary to give effect to the reparation order, including an order to be obeyed by a person other than the offender. "

This will allow orders to be made when it is necessary to give effect to a reparation order. It may be that something can pass into the hands of a third party, and that allows the order to be made against that third party.

Hon HELEN HODGSON: It concerns me that there may be an order to be obeyed by a person other than the offender. This proposed new clause is in fairly broad terms in that respect. In what sort of situations is it envisaged that action might be taken against a third party, who may very well be an innocent third party? If one examines some of the law on conversions and so on, there are rules as to when one can trace property into the hands of a third party. I would like to know how it is envisaged that that will operate.

Hon PETER FOSS: One can never give title to stolen property. It could be that stolen property is in the hands of a third party. Whether or not the third party is innocent, the property belongs to the victim. The person who has the stolen property is not entitled to that title as against the true owner. That is an example of where such an order may need to be made.

Hon HELEN HODGSON: The Government is envisaging this applying in the case of traceable property. What about where a cash compensation payment is required? The property may have been converted into another form of property. How would we deal with that situation?

Hon PETER FOSS: Having made that general statement, I did not deal with negotiable instruments and money. Of course, the rules of law govern that and it is not intended for this to give a court the power to order the handing over of something to which good title has been given. Obviously if a person is paid in cash, that cannot be traced because good title can be given to a person taking cash for value without notice.

New clause put and passed.

New clause 27 -

Hon PETER FOSS: I move -

Page 18, after line 15 - To insert the following new clause -

27. Section 117 amended

Section 117(2) is repealed and the following subsections are inserted instead —

- " (2) Such a compensation order is an order that the offender must pay an amount of money set by the court to the victim as compensation for —
 - (a) the loss of, or damage to, the victim's property; and
 - (b) any expense reasonably incurred by the victim, as a direct or indirect result of the commission of the offence.
- (2a) A compensation order must not be made in respect of injury or loss as defined in section 3(1) of the *Criminal Injuries Compensation Act 1985*. "

I refer all members to the clause notes which I circulated some time ago as Hon Nick Griffiths would know.

Hon N.D. Griffiths: I read them and I was prepared to pass everything on the spot but the Government continued to delay.

Hon PETER FOSS: Yes. This new clause deals with the question raised by Hon Helen Hodgson about compensation orders.

New clause put and passed.

New clause 29 -

Hon PETER FOSS: I move -

Page 19, after line 22 - To insert the following new clause -

29. Section 120A inserted

After section 120 the following section is inserted —

"120A. Sheriff's powers to enforce restitution order

- (1) If a person against whom a restitution order has been made does not comply with the order, the victim in whose favour the order was made may request the Sheriff of Western Australia to seize the property and deliver it to the victim.
- (2) On receiving such a request and a copy of the restitution order, the Sheriff may seize the property and deliver it to the victim and for that purpose may enter any place where the Sheriff reasonably believes the property may be.
- (3) Regulations may provide for the costs of the Sheriff to be paid by the victim and then recovered from the person who did not comply with the restitution order. "

New clause put and passed.

Schedule 1 -

Hon PETER FOSS: I move -

Page 25, in the amendments to the *Bail Act 1982* - To delete the second amendment to s. 3(1) and substitute the following -

"

s. 3(1)	Delete the definition of "early release order" and insert instead — "early release order" means an early release order made under the <i>Sentence Administration Act 1995</i> or <i>Sentence Administration Act 1999</i> ;
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"

This takes into account the changes we made to the Sentence Administration Act.

Amendment put and passed.

Hon PETER FOSS: With the leave of the committee I will move en bloc the next two amendments which similarly take into account the changes to the Sentence Administration Act. I move -

Page 28, in the amendments to the *Sentencing Act 1995* - To delete the amendment relating to s. 23(3) and substitute the following -

"

s. 23(3)	Delete "under the <i>Sentence Administration Act 1995</i> ." and insert instead — made under the <i>Sentence Administration Act 1995</i> or the <i>Sentence Administration Act 1999</i> .
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"

Page 28, in the amendments to the *Sentencing Act 1995* - To delete the amendment relating to Part 13 and insert instead -

"

s. 97	Delete " <i>Sentence Administration Act 1995</i> ." and insert instead — <i>Sentence Administration Act 1999</i> .
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"

Amendments put and passed.

Schedule 1, as amended, put and passed.

Title put and passed.

Bill reported, with amendments.

SENTENCE ADMINISTRATION BILL 1998

Instruction to the Committee of the Whole

HON PETER FOSS (East Metropolitan - Attorney General) [9.08 pm]: I move -

That it be an instruction to the Committee of the Whole House on the *Sentence Administration Bill 1998* that in its consideration of any amendment proposed to be made -

- (1) the questions -

- (a) for the adoption of the amendments to clauses 4, 8, 10, 27, 28, Part 3 Division 9, clauses 41, 42, 44, 45, Part 3 Division 12, Part 3 Division 13, clauses 52, 54, 55, 59, 60, 61, 62, 66, 67, 78, 81, 93, 95, 96 and 99;
- (b) to add new Division 10, standing in the name of the Attorney General on supplementary Notice Paper 2, and
- (2) the questions for the addition of new Parts 4, 5, and 6 standing in the name of Hon Helen Hodgson on supplementary Notice Paper 2,
must be put and determined before proceeding to consider any other amendment that may be proposed to the Bill.

If this motion is passed by the House, the intention is to move into committee, move en bloc the amendments in the motion which have been agreed to by myself, Hon Helen Hodgson and Hon Nick Griffiths, report the Bill and then recommit it so that the Bill in its amended form can be considered.

Question put and passed.

Committee

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

Hon PETER FOSS: I move -

Clause 4

Page 3, after line 7 — To insert the following definitions —

" **"early release order"** means —

- (a) a parole order;
- (b) a home detention order;
- (c) a work release order;

"home detention order" ("HDO") means a home detention order made under Part 5; "

Page 3, after line 13 — To insert the following definition —

" **"work release order"** ("WRO") means a work release order made under Part 4. "

Page 3, after line 16 — To insert the following —

" **"HDO"** for home detention order; "

Page 3, after line 18 — To insert the following —

" **"WRO"** for work release order. "

Clause 8

Page 6, after line 21 — To insert the following subclause —

" (3) A term does not elapse while a prisoner is not in lawful custody unless this Act or another written law provides otherwise. "

Clause 10

Page 7, line 3 — To delete the words "a parole order" and substitute the following words —

" an early release order "

Clause 27

Page 18, lines 6 and 7 — To delete the words "the effect of section 45 and the general effect of Divisions 12 and 13" and substitute the following words —

" the general effect of Divisions 2, 3 and 4 of Part 6 "

Clause 28

Page 18, lines 14 to 16 — To delete the words "the effect of section 45 and the general effect of Divisions 12 and 13" and substitute the following —

" the general effect of Divisions 2, 3 and 4 of Part 6 "

Part 3, Division 9

Page 23, lines 3 to 24 — To delete the Division.

Clause 41

Page 24, line 22 to page 25, line 4 — To delete the Clause.

Clause 42

Page 25, lines 8 to 11 — To delete the lines and substitute the following lines —

" (2) Without limiting subsection (1) or affecting the operation of section 73 the Board may cancel a parole order if, during the parole period, the prisoner is charged with or is convicted of an offence. "

Clause 44

Page 26, line 5 — To delete the word "was" and substitute the following word —

" is "

Clause 45

Page 26, lines 8 to 29 — To delete the Clause.

Part 3, Division 12

Page 27, line 1 to page 29, line 4 — To delete the Division.

Part 3, Division 13

Page 29, line 5 to page 31, line 14 — To delete the Division.

Clause 52

Page 31, after line 24 — To insert the following paragraph —

" (c) under Division 10 the order is suspended and the suspension is not cancelled by the Board within 30 days afterwards; or "

Page 32, line 1 — To delete "section 40, 41 or 42" and substitute the following —

" Division 11 "

Page 32, line 5 — To insert after "section 43" the following —

" or 45 "

Clause 54

Page 34, line 5 — To insert after the words "is released" the following words —

" or, if the offender is subject to a WRO or HDO, after the end of the period of the order "

Page 34, lines 10 and 11 — To delete the lines.

Clause 55

Page 34, line 17 — To insert after the word "unless" the following —

" —
(a) "

Page 34, line 19 — To insert after the word "offender" the following words —

" ; or
(b) when the prisoner is released, he or she will be subject to a parole order made in respect of another term. "
(2) If —
(a) an offender is serving a fixed term, or an aggregate of fixed terms, of at least 24 months; and
(b) none of the terms is a parole term,
the CEO must make an RPO in respect of the offender unless —
(c) the CEO considers that such an order is not warranted for the offender;
(d) when the prisoner is released, he or she will be subject to a parole order made in respect of another term.

Clause 59

Page 38, lines 6 and 7 — To delete the words "a parole order" and substitute the following words —
" an early release order ".

Clause 60

Page 39, line 1 — To delete the following word in the second place where it occurs —
" who ".

Page 39, line 2 — To delete the following word —
" who ".

Page 39, line 3 — To delete the following word —
" who ".

Clause 61

Page 40, line 8 — To insert after the words "parole order" the following words —
" or a WRO ".

Page 40, line 11 — To delete the words "cancelled under Part 3" and substitute the following words —
" suspended or cancelled under Part 3 or 4 (as the case may be) ".

Page 40, after line 11 — To insert the following new paragraph —
" (c) if the offender is subject to an HDO, report the matter to the CEO and recommend that the order be suspended or cancelled under Part 5; ".

Clause 62

Page 41, line 7 — To delete the words "a parole order" and substitute the following words —
" an early release order ".

Page 41, line 21 — To delete the words "supervision period of a parole order" and substitute the following words —
" the period of an early release order ".

Page 42, line 7 — To insert after the words "parole order" the following words —
" or a WRO ".

Page 42, after line 10 — To insert the following new paragraph —
" (c) in relation to an HDO — means the requirement to do the prescribed number of hours of community corrections activities in each period of 7 days; ".

Clause 66

Page 44, lines 1 to 4 — To delete the lines.

Clause 67

Page 45, lines 6 and 7 — To delete the words "a parole order" and substitute the following words —
" an early release order ".

Clause 78

Page 52, lines 6 and 7 — To delete the words "parole orders" and substitute the following words —
" early release orders ".

Clause 81

Page 53, line 11 — To insert after the words "parole order" the following words —
" or a WRO ".

Clause 93

Page 57, line 23 — To insert after the words "parole order" the following words —
" or a WRO ".

Clause 95

Page 58, line 18 — To insert after the words "parole order" the following words —
 " , a WRO ".

Clause 96

Page 59, line 2 — To insert after the words "parole orders" the following —
 " , to WROs ".

Page 59, line 3 — To delete the word "parole" and substitute the following word —
 " those ".

Clause 99

Page 60, line 11 — To delete "Part 2, 3, 4 or 5" and substitute the following —
 " Parts 2 to 8 ".

New Division

Page 24, after line 14 — To insert the following new Division —

" **Division 10 — Suspension of parole orders (supervised)**

38. Suspension by CEO during supervised period

- (1) The CEO may, at any time during the supervised period of a parole order (supervised), suspend the parole order, irrespective of whether it was made by the Board or by the Governor.
- (2) Written notice of the decision to suspend is to be given by the CEO to the Board within 3 working days after the decision and in any event before the end of the supervised period.
- (3) The written notice must include reasons for the decision.

39. Suspension by Board during supervised period

The Board may, at any time during the supervised period of a parole order (supervised), suspend the parole order, irrespective of whether it was made by the Board or by the Governor.

40. Period of suspension

- (1) If under section 38 the CEO, or under section 39 the Board, suspends a parole order (supervised), the Board is to set the period of suspension.
- (2) The period of suspension may be for a fixed or indefinite period, as the Board thinks fit.
- (3) The Board may cancel the suspension of a parole order (supervised) at any time before the suspension period ends.

41. Suspension, effect on other parole orders

When a parole order (supervised) is suspended any parole order applicable to the prisoner when the order is suspended, including a parole order (unsupervised), is suspended by virtue of this section, irrespective of whether it had taken effect or not.

42. Prisoner to be notified

- (1) If under this Division a parole order (supervised) is suspended, written notice of the decision to suspend is to be given by the Board to the prisoner as soon as practicable after he or she is returned to custody.
- (2) The written notice must —
 - (a) subject to section 126, include the reasons for the decision; and
 - (b) inform the prisoner of his or her right to make submissions under subsection (3).
- (3) A prisoner whose parole order has been suspended may make written submissions to the Board about the decision and reasons (if any are supplied). "

Amendments put and passed.

New parts 4, 5 and 6 -

Hon HELEN HODGSON: I move -

Page 33, after line 13 - To insert the following new Parts -

"

Part 4 - Work release order**49. Certain prisoners may apply to Board for WRO**

A prisoner may apply to the Board to be released under a work release order ("WRO") if -

- (a) he or she is at least 17 years old;
- (b) he or she is not serving a life term or indefinite imprisonment;
- (c) he or she is not a person referred to in section 14(1);
- (d) at the release date that would be specified in the WRO if it were made, he or she will have been in custody under sentence for a continuous period of at least 12 months; and
- (e) within 6 months after the release date that would be specified in the WRO if it were made, he or she would in any event be eligible for release (whether under a parole order or not).

50. CEO to report to Board about WRO applicants

- (1) The CEO must report to the Board about every prisoner who applies to be released under a WRO.
- (2) A report by the CEO under subsection (1) must be given to the Board as soon as practicable after a prisoner applies to be released under a WRO.
- (3) A report by the CEO under subsection (1) must report about the risk that the release of the prisoner under a WRO will or may pose to the personal safety of people in the community or of any individual in the community.

51. Board may make WRO

- (1) The Board must consider the case of every prisoner who applies to be released under a WRO and may, in respect of such a prisoner -
 - (a) make a WRO;
 - (b) defer the making of a WRO; or
 - (c) refuse to make a WRO.
- (2) The Board must not make a WRO in respect of a prisoner unless satisfied that the prisoner is a person whose release would pose a low risk to the personal safety of people in the community or of any individual in the community.
- (3) Except with the prior approval of the Governor, a WRO must not be made in respect of a prisoner serving a fixed term, or an aggregate of fixed terms, of more than 15 years.
- (4) A WRO may relate to more than one term.
- (5) The fact that an RPO may be made in respect of a prisoner does not prevent a WRO being made in respect of the prisoner.

52. Prisoner to be notified of refusal to make WRO

- (1) If the Board refuses to make a WRO, written notice of the decision is to be given by the Board to the prisoner as soon as practicable.
- (2) The written notice must -
 - (a) subject to section 126, include the reasons for the decision; and
 - (b) inform the prisoner of his or her right to make submissions under subsection (3).
- (3) A prisoner whose release on a WRO has been refused may make written submissions to the Board about the Board's decision and the reasons for it (if any are supplied).
- (4) The Board must consider the submissions and may make a further decision under section 51.

53. WRO, nature of

- (1) A WRO is an order that on a release date specified in the order a prisoner is to be released if he or she -
 - (a) acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the order be cancelled;
 - (b) gives a written undertaking that while the WRO is in force he or she will comply with -
 - (i) the standard obligations in section 54; and
 - (ii) any additional requirements imposed by the Board under section 55.
- (2) A WRO ceases to be in force when the period of the WRO ends, or when it is cancelled, whichever happens first.
- (3) The period of a WRO is the period -
 - (a) beginning on the day when the prisoner is released under the WRO; and
 - (b) ending on the first to occur of -
 - (i) the release date in a parole order made in respect of the prisoner;
 - (ii) the date when under section 93 or 95 of the *Sentencing Act 1995*, the prisoner must be released.
- (4) A prisoner who is released under a WRO is nevertheless still subject to the sentence or sentences of imprisonment to which the WRO relates.

54. WRO, standard obligations

The standard obligations of a WRO are that the prisoner -

- (a) must, in each period of 7 days, do the prescribed number of hours of community corrections activities;
- (b) must -
 - (i) seek or engage in gainful employment or in vocational training; or
 - (ii) engage in gratuitous work for an organization approved by the CEO;
- (c) must not leave the State;
- (d) must not change address or place of employment without the prior permission of a CCO; and
- (e) must comply with section 88.

55. WRO, additional requirements

- (1) The Board may impose such additional requirements as it thinks fit on a WRO.
- (2) Without limiting the generality of subsection (1), additional requirements may include -
 - (a) requiring the prisoner to wear any device for monitoring purposes;
 - (b) requiring the prisoner to permit the installation of any device or equipment at the place where the prisoner resides for monitoring purposes.

56. Prisoner's undertaking

- (1) A prisoner must give the written acknowledgment and undertaking required by section 53 on or before the release date specified in the WRO and if he or she does not, the WRO is to be taken as having been cancelled.
- (2) If a WRO is cancelled by the operation of subsection (1) and the prisoner subsequently gives the Board written notice that he or she is prepared to give the required written acknowledgment and undertaking, the Board, if it thinks fit, may then make a WRO.

57. Prisoner may be paroled or returned to custody after WRO

- (1) The making of a WRO does not affect the operation of Part 3, and in particular Division 4 of that Part.

- (2) If under Division 4 of Part 3 the Board refuses to make a parole order, or if a prisoner subject to a WRO refuses to be released on parole or to give the written acknowledgment or undertaking, or both, required by a parole order, the Board may cancel the WRO.

58. Suspension by Board or CEO

- (1) The Board or the CEO may suspend a WRO at any time during the period of the order.
- (2) The period of suspension may be for a fixed or indefinite period as the Board or the CEO (as the case may be) thinks fit.
- (3) Without limiting subsection (1), if a prisoner subject to a WRO is charged with or convicted of an offence, or if the CEO is satisfied that a prisoner has failed to comply with a requirement of a WRO, the CEO may do either or both of the following -
- (a) suspend the WRO;
- (b) refer the prisoner's case to the Board for consideration.
- (4) If the CEO suspends the WRO of a prisoner who is charged with an offence the CEO must, when the charge has been determined -
- (a) if the prisoner is not convicted of the charge - lift the suspension; or
- (b) if the prisoner is convicted of the charge -
- (i) cancel the suspension;
- (ii) suspend the order for a further period; or
- (iii) refer the prisoner's case to the Board for consideration.
- (5) If the CEO suspends a WRO for a fixed period of one month or more, or if an indefinite suspension extends for a month, the CEO must refer the prisoner's case to the Board to consider.
- (6) If the CEO suspends a WRO and the prisoner's case is not referred to the Board, the CEO may cancel the suspension of the WRO at any time before the suspension ends.
- (7) If the Board suspends a WRO, it may cancel the suspension at any time before the suspension ends.
- (8) If the case of a prisoner is referred to the Board, the Board may vary the suspension period of or cancel the CEO's suspension order, or cancel the WRO.

59. Suspension, prisoner to be notified

Written notice of a decision to suspend a WRO is to be given by the Board or the CEO (as the case may be) to the prisoner as soon as practicable.

60. Cancellation by Board

- (1) The Board may cancel a WRO at any time during the period of the order.
- (2) Without limiting subsection (1) or affecting the operation of section 73 the Board may cancel a WRO if, during the period of the order, the prisoner is charged with or is convicted of an offence.

61. Cancellation, prisoner to be notified

- (1) If a WRO is cancelled, written notice of the decision to cancel is to be given by the Board to the prisoner as soon as practicable.
- (2) The written notice must, subject to section 126, include the reasons for the decision.

Part 5 - Home detention order

62. Certain prisoners may apply to CEO for HDO

- (1) A prisoner may apply to the CEO to be released under a home detention order ("HDO") if -
- (a) the term or terms that he or she is serving or is yet to serve are not parole terms;

- (b) the term, or aggregate of terms, that he or she is serving or is yet to serve is not more than 12 months; and
- (c) at the release date that would be specified in the HDO if it were made -
 - (i) he or she would have served two thirds of the term or the aggregate of terms (as the case may be); and
 - (ii) there would be at least one month of the term or the aggregate of terms (as the case may be) left to be served.
- (2) For the purposes of this section, to calculate the length in days of two thirds of a term -
 - (a) determine the dates on which the term as imposed by the court will begin and end and then express the term as a number of days ("T");
 - (b) then divide T by 3 and disregard any remainder; and
 - (c) then subtract that result from T.

63. CEO may make HDO

- (1) The CEO must consider the case of every prisoner who applies to be released under an HDO and may, in respect of such a prisoner -
 - (a) make an HDO; or
 - (b) refuse to make an HDO.
- (2) In deciding whether to make an HDO, the CEO must have regard to -
 - (a) the nature and circumstances of the offence for which the prisoner is imprisoned;
 - (b) the degree of risk that the release of the prisoner appears to present to the personal safety of people in the community or of any individual in the community; and
 - (c) the views of other people residing at the place where it is proposed the prisoner will remain while subject to the HDO.
- (3) Subsection (2) is a directory provision only and a breach of that subsection does not affect any issue relating to the lawfulness of the release of a prisoner under an HDO.
- (4) An HDO may relate to more than one term.
- (5) The fact that an RPO may be made in respect of a prisoner does not prevent an HDO being made in respect of the prisoner.

64. HDO, nature of

- (1) An HDO is an order that on a release date specified in the order a prisoner is to be released if he or she -
 - (a) acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the order be cancelled;
 - (b) gives a written undertaking that while the WRO is in force he or she will comply with -
 - (i) the standard obligations in section 65; and
 - (ii) any additional requirements imposed by the CEO under section 66.
- (2) An HDO ceases to be in force when the period of the HDO ends, or when it is cancelled, whichever happens first.
- (3) The period of an HDO is the period -
 - (a) beginning on the day when the prisoner is released under the HDO; and
 - (b) ending on the day when the prisoner would have been released under section 93 or 95 of the *Sentencing Act 1995* had he or she not been released under the HDO.
- (4) A prisoner who is released under an HDO is nevertheless still subject to the sentence or sentences of imprisonment to which the HDO relates.

65. HDO, standard obligations

- (1) The standard obligations of an HDO are that the prisoner -
 - (a) must remain at and not leave the place specified in the HDO except as provided by subsection (2);
 - (b) must, in each period of 7 days, do the prescribed number of hours of community corrections activities;
 - (c) must not leave the State; and
 - (d) must comply with section 88.
- (2) A prisoner may only leave the place specified in an HDO -
 - (a) to do the community corrections activities referred to in subsection (1);
 - (b) to work in gainful employment approved by a CCO;
 - (c) with the approval of a CCO, to engage in vocational training;
 - (d) with the approval of a CCO, to seek gainful employment;
 - (e) to obtain urgent medical or dental treatment for the prisoner;
 - (f) for the purpose of averting or minimizing a serious risk of death or injury to the prisoner or to another person;
 - (g) to obey an order issued under a written law (such as a summons) requiring the prisoner's presence elsewhere;
 - (h) for a purpose approved of by a CCO; or
 - (i) on the order of a CCO.

66. HDO, additional requirements

- (1) The CEO may impose such additional requirements as he or she thinks fit on an HDO.
- (2) Without limiting the generality of subsection (1), additional requirements may include -
 - (a) requiring the prisoner to wear any device for monitoring purposes;
 - (b) requiring the prisoner to permit the installation of any device or equipment at the place where the prisoner is required by the HDO to remain for monitoring purposes.

67. CCO's powers in relation to home detention

- (1) A CCO may give such reasonable directions to a prisoner subject to an HDO as are necessary for the proper administration of the order including, without limiting the generality of the foregoing, directions as to -
 - (a) when the prisoner may leave the place where he or she is required by the order to remain;
 - (b) the period of any authorized absence from the place where he or she is required by the order to remain;
 - (c) when the prisoner must return to the place where he or she is required by the order to remain;
 - (d) the method of travel to be used by the prisoner during any absence from the place where he or she is required by the order to remain; and
 - (e) the manner in which the prisoner must report his or her whereabouts.
- (2) To ascertain whether or not a prisoner is complying with an HDO, a CCO may, at any time -
 - (a) enter or telephone the place where the prisoner is required by the order to remain;
 - (b) enter or telephone the prisoner's place of employment or any other place where the prisoner is permitted or required to attend; or
 - (c) question any person at any place referred to in paragraph (a) or (b).

- (3) A person must not -
- (a) hinder a person exercising powers under subsection (2); or
 - (b) fail to answer a question put pursuant to subsection (2)(c) or give an answer that the person knows is false or misleading in a material particular.

Penalty: \$12 000 or imprisonment for 12 months or both.

68. Amendment by CEO

- (1) The CEO may amend an HDO at any time by -
- (a) substituting a different place for the place where a prisoner is required by the HDO to remain;
 - (b) amending or revoking any of the additional requirements imposed on the HDO; or
 - (c) imposing additional requirements or further additional requirements on the HDO.
- (2) Written notice of a decision to amend an HDO is to be given by the CEO to the prisoner as soon as practicable.

69. Suspension by CEO

- (1) The CEO may suspend an HDO at any time during the period of the order.
- (2) The period of suspension may be for a fixed or indefinite period as the CEO thinks fit.
- (3) Written notice of a decision to suspend an HDO is to be given by the CEO to the prisoner as soon as practicable.
- (4) The CEO may cancel the suspension of an HDO at any time before the suspension ends.

70. Cancellation by CEO

- (1) The CEO may cancel an HDO at any time during the period of the order.
- (2) Without limiting subsection (1) or affecting the operation of section 73 the CEO may cancel an HDO if, during the period of the order, the prisoner is charged with or is convicted of an offence.
- (3) Written notice of the decision to cancel is to be given by the CEO to the prisoner as soon as practicable.
- (4) Subject to section 126, the written notice must include reasons for the decision.

Part 6 - Provisions applicable to early release orders

Division 1 - General

71. Period of early release order counts as time served

- (1) If during the period of an early release order, other than a parole order (unsupervised) -
- (a) the prisoner does not commit an offence (in this State or elsewhere) for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after that period); and
 - (b) the early release order is not cancelled,
- then the period of the early release order is to be taken as time served in respect of the term or terms to which the early release order relates.
- (2) If during the parole period of a parole order (unsupervised) the prisoner does not commit an offence (in this State or elsewhere) for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after that period), then the parole period of the parole order is to be taken as time served in respect of the term or terms to which the parole order relates.

72. Prisoner under sentence until discharged

- (1) Subject to this Part, a person sentenced to imprisonment and released under an early release order remains under and subject to that sentence until discharged from it.

- (2) Subject to this Part, a person sentenced to imprisonment is discharged from the sentence -
 - (a) if released under a parole order - at the end of the parole period;
 - (b) if released under a WRO - at the end of the period of the WRO unless the sentence is a parole term;
 - (c) if released under an HDO - at the end of the period of the HDO.
- (3) Subsections (1) and (2) do not affect the operation of section 71 and Divisions 2 and 3.

Division 2 - Automatic cancellation

73. Cancellation automatic if prisoner imprisoned for offence committed on early release order

- (1) If a prisoner, while subject to an early release order, commits an offence (in this State or elsewhere) and is sentenced to imprisonment for that offence -
 - (a) any early release order applicable to the prisoner when the offence was committed is cancelled by virtue of this section; and
 - (b) any early release order made in respect of the prisoner on or after the date on which the offence was committed and before the sentence of imprisonment was imposed is cancelled by virtue of this section, irrespective of whether it had taken effect or not.
- (2) For the purposes of subsection (1) it does not matter if the sentence of imprisonment for the offence committed while subject to the early release order is imposed on the prisoner -
 - (a) after the period of the order; or
 - (b) after the date when, but for the cancellation of the order by virtue of subsection (1), the prisoner would have served or be taken to have served the term to which the order relates.

Division 3 - Consequences of suspension and cancellation

74. Suspension, effect of

- (1) If an early release order in respect of a prisoner serving a fixed term is suspended, the prisoner is then liable to resume serving the fixed term in custody and, unless the suspension ceases or the early release order is cancelled, is not entitled to be released until he or she has served the whole of that term, despite, in the case of a parole term, section 93(1) of the *Sentencing Act 1995*.
- (2) If an early release order in respect of a prisoner serving a life term is suspended, the prisoner is then liable to resume serving the life term in custody.
- (3) The suspension of an early release order ceases at the end of the suspension period or when before then the suspension is cancelled.
- (4) When the suspension of an early release order ceases, the early release order and any other early release order taken to be suspended again have effect unless during the period of suspension the early release order was itself cancelled.
- (5) Nothing in this section prevents another early release order being made under this Act in respect of a prisoner.

75. Cancellation, effect of

- (1) If an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the fixed term in custody and is not entitled to be released until he or she has served the whole of that term, despite, in the case of a parole term, section 93(1) of the *Sentencing Act 1995*.
- (2) If a parole order in respect of a prisoner serving a life term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the life term in custody.
- (3) If a parole order in respect of a prisoner serving indefinite imprisonment is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the indefinite imprisonment in custody.

- (4) If a parole order in respect of a person referred to in section 14(1) is cancelled after the person is released under the order, the person is liable to be again kept in strict or safe custody at the Governor's pleasure.
- (5) Subject to Division 4, this section does not prevent another early release order being made in respect of a prisoner.

76. Returning prisoner to custody

- (1) When an early release order is suspended or cancelled, the warrant of commitment that relates to the sentence of imprisonment to which the early release order relates is again in force and the prisoner may be arrested and kept in custody under that warrant.
- (2) Despite subsection (1), if an early release order is suspended or cancelled as mentioned in subsection (1), a warrant to have the prisoner arrested and returned to custody may be issued, whenever necessary -
 - (a) by a Supreme Court Judge or a District Court Judge;
 - (b) by the Board if it suspended or cancelled the order; or
 - (c) by the CEO if the CEO suspended or cancelled the order.
- (3) Notwithstanding section 71 or 80, a warrant under subsection (2) may be issued, and the prisoner may be arrested, whether under that warrant or under the warrant of commitment referred to in subsection (1) at any time -
 - (a) during or after the period of the early release order; or
 - (b) after the date when, but for the suspension or cancellation of the early release order, the prisoner would have served or be taken to have served the term or terms to which the order relates.

77. Clean street time counts as time served

- (1) Subject to subsection (2), if an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order -
 - (a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is cancelled counts as time served in respect of the fixed term; and
 - (b) the period (if any) beginning on the day when the order is cancelled and ending on the day when the prisoner concerned is returned to custody does not count as time served in respect of the fixed term.
- (2) If an early release order in respect of a prisoner serving a fixed term is suspended and, without the suspension ceasing, is subsequently cancelled, then -
 - (a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is suspended counts as time served in respect of the fixed term;
 - (b) the period (if any) beginning on the day when the order is suspended and ending on the day when the prisoner is returned to custody does not count as time served in respect of the fixed term.
- (3) For the purposes of subsection (1), the day when an early release order is cancelled is -
 - (a) if it is cancelled by a decision of the Board or the CEO (as the case may be) — the day of the decision; or
 - (b) if it is cancelled by virtue of section 73 -
 - (i) the day when the offence that resulted in the cancellation was committed; or
 - (ii) if the CEO cannot ascertain the day when that offence was committed - the latest day on which that offence could have been committed, as determined by the CEO.
- (4) For the purposes of subsection (2), the day when an early release order is suspended is the day of the decision to suspend the order.

Division 4 - Re-release after cancellation**78. Re-release after cancellation of order made by Board or CEO**

- (1) If -
- (a) an early release order made by the Board or the CEO is cancelled by virtue of section 73; and
 - (b) the offence referred to in that section for which the prisoner was sentenced to imprisonment was an indictable offence (whether or not it was tried on indictment),
- the Board or the CEO, as the case may be, must not make another early release order in respect of the prisoner in relation to the term to which the cancelled order related unless satisfied there are exceptional reasons for making another order.
- (2) If an early release order made by the Board or the CEO -
- (a) is cancelled under section 43, 44, 60 or 70; or
 - (b) is cancelled by virtue of section 73 in circumstances where subsection (1) does not apply,
- then the Board or the CEO, as the case may be, may, subject to Parts 3, 4 and 5, subsequently make another early release order in respect of the prisoner.
- (3) If the early release order that was cancelled was a parole order (supervised) any subsequent parole order may be a parole order (supervised) or a parole order (unsupervised) as the Board decides.
- (4) The parole period in the subsequent parole order is the period that begins on the day when the prisoner is released and ends when the parole term ends.
- (5) If the subsequent parole order is a parole order (supervised) the supervised period is to be such period as the Board decides; but it must not -
- (a) end after the parole term ends; or
 - (b) be longer than 24 months.

79. Re-release after cancellation of parole order made by Governor

- (1) If a parole order (supervised) made by the Governor is cancelled under section 43 or 44 or by virtue of section 73, the Governor may subsequently make another parole order in respect of the prisoner.
- (2) If a parole order (unsupervised) made by the Governor is cancelled by virtue of section 73 the Governor may subsequently make another parole order in respect of the prisoner.
- (3) The subsequent parole order may be a parole order (supervised) or a parole order (unsupervised) as the Governor decides.
- (4) The parole period in the subsequent parole order is to be set by the Governor and must be at least 6 months, not more than 5 years, and not longer than the parole period of the cancelled parole order.
- (5) If the subsequent parole order is a parole order (supervised) the supervised period is to be such period as the Governor decides.

80. Parole period under new parole order deemed to be time served

- If -
- (a) under section 78 or 79 a parole order is made in respect of a prisoner;
 - (b) in the case of a parole order (supervised), the CEO or the Board does not cancel the parole order under Division 11 of Part 3; and
 - (c) the prisoner does not commit an offence (in this State or elsewhere) during the parole period for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after the parole period),
- then the prisoner is taken to have served the term, or the aggregate of terms, to which the parole order relates. "

Bill reported, with amendments.*Recommittal*

On motion by Hon Peter Foss (Attorney General), resolved -

That the Bill be recommitted for the reconsideration of all sections of the 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 HELEN HODGSON: The major issue in this debate is whether there will be a time limit on the length of time a person should be on parole - that is, two years or 24 months. I will deal with the amendments standing in my name on the Notice Paper in more detail at the appropriate time. The amendments which have just been accepted dealt comprehensively with the issue of home detention and work release orders which we canvassed in the second reading stage of the Bill. However, some issues need to be clarified and hopefully at the end of this evening we will have a fair idea of where we stand.

Clause put and passed.**Clauses 2 and 3 put and passed.****Clause 4, as amended, put and passed.****Clauses 5 to 7 put and passed.****Clause 8, as amended, put and passed.****Clause 9 put and passed.****Clause 10, as amended, put and passed.****Clauses 11 to 26 put and passed.****Clause 27, as amended, put and passed.****Clause 28, as amended -**

Hon HELEN HODGSON: I refer to the amendment that stands in my name on the Notice Paper. Proposed new clause 15A is directly related to this issue and there is no point proceeding with debate on this issue until we see the outcome of proposed new clause 15A. I ask that consideration of the amendment be deferred until after consideration of proposed new clause 15A.

Further consideration of the clause postponed until after consideration of proposed new clause 15A, on motion by Hon Helen Hodgson.**Clauses 29 to 40 put and passed.****Clauses 41 and 42, as amended, put and passed.****Clause 43 put and passed.****Clauses 44 and 45, as amended, put and passed.****Clauses 46 to 51 put and passed.****Clause 52, as amended, put and passed.****Clause 53 put and passed.****Clauses 54 and 55, as amended, put and passed.****Clauses 56 to 58 put and passed.****Clauses 59 to 62, as amended, put and passed.****Clauses 63 to 65 put and passed.****Clauses 66 and 67, as amended, put and passed.****Clauses 68 to 77 put and passed.****New clause 78 -**

Hon HELEN HODGSON: My understanding, Mr Chairman, is that you have been working from supplementary Notice Paper No 2-2. That means that the clause numbers are as in the Bill as presented. The clause which I need to speak to is part of the new part. When all the numbering is adjusted, it will become clause 78(1)(b). However, it is part of amendment AWP on page 9, clause 78 of which appears on page 25 of Supplementary Notice Paper No 2-2. I move -

To delete the words after "was" and insert the words "a crime tried on indictment".

I am particularly concerned about the issue of prisoners on unsupervised parole and the circumstances in which they can

be returned to prison to serve the whole of their former sentence as well as any subsequent sentence that may be imposed. As regards the rehabilitation function of sentencing, it is very difficult to provide a person with incentives for rehabilitation if he has hanging over his head the possibility of the smallest misdemeanour resulting in his being returned to prison to serve the whole of the original sentence behind bars, as it were. The way this clause was originally drafted it referred to "an indictable offence (whether or not it was tried on indictment)", which means issues such as shoplifting. Although I do not dispute that it is a serious crime of great economic consequence to its victims, it is not in a similar category to violent assault, which should be seen as putting the offender at risk of being returned to prison to serve his original sentence. The amendment ensures that it applies only where a crime is tried on indictment. It means the threshold at which the provision for a prisoner to be returned to prison kicks in has been raised significantly. The amendment deals with some of my concerns with this Bill.

Hon PETER FOSS: That slightly misdescribes how the system works. Two sets of events occur: One is that which sends an offender back into prison because he has breached his parole; that is, if he is sent to jail. It does not matter what he is sent to jail for; it is a breach which sends him back into prison. That is the case now. This clause deals with his right to be granted parole again. The clause prevents the Parole Board under certain circumstances from granting a further parole on that offence. The threshold has been changed, in that instead of it being merely an indictable offence, it is a crime tried on indictment.

Firstly, there are two forms of indictable offence - misdemeanours and crimes - and this provision takes it to the higher level of a crime. Secondly, the crime must be of sufficient seriousness to be tried on indictment. Some offences are crimes and misdemeanours under the Criminal Code and in some circumstances they can be tried summarily, although there is a possibility of their being tried on indictment. The original Act dealt with indictable offences. This Bill provides that the offence be not only indictable but also a higher level of indictable offence, a classic example being burglary. People guilty of burglary are likely to be sentenced to jail, especially if they are out on parole. Having gone back to jail they would not be allowed out again.

Hon N.D. GRIFFITHS: Concerns have been raised. This measure was originally part of clause 49. Both the Australian Labor Party and the Government have been concerned for a long time about the effect of clause 49 as it was originally drafted. As a result, discussions took place some months ago and the test was tightened by adding the words "exceptional reasons for making another order". Further constructive discussions have taken place recently involving the Opposition, the Government and the Australian Democrats; all are the parents of this clause. The Government and the Opposition have been concerned to ensure a proper form of words are used to minimise the opportunity for injustice. It is hoped that these words will give effect to what both the Opposition and the Government have sought to do.

Amendment put and passed.

New clause, as amended, put and passed.

The CHAIRMAN: I think I got into a bit of difficulty there but we are now back on course. We are going to leave the new clauses alone and work our way through the old clauses and then get to the new clauses 49 to 61, 62 to 70 and 71 to 80 via new clause 78, which we have just passed. The question is that old clause 78, as amended, be agreed to.

Clause 78, as amended, put and passed.

Clauses 79 and 80 put and passed.

Clause 81, as amended, put and passed.

Clauses 82 to 92 put and passed.

Clause 93, as amended, put and passed.

Clause 94 put and passed.

Clauses 95 and 96, as amended, put and passed.

Clauses 97 and 98 put and passed.

Clause 99, as amended, put and passed.

Clauses 100 to 104 put and passed.

New clause 15A -

Hon HELEN HODGSON: Since we started working on the sentencing legislation reforms to the Sentence Administration Bill and the Sentencing Legislation Amendment and Repeal Bill, I have been concerned about the way in which the parole period is essentially half of the sentence, and that can be a very prolonged period. Under the old legislation there was a ceiling of 24 months. Most people working in the area of penal corrections and policy accept that a maximum period for parole must be defined simply because it gives the prisoner the incentive to reform and rehabilitate.

A lot depends on what we see as the key objective of sentencing legislation. I consider rehabilitation to be one of the key objectives in most cases. I think that prisoners are capable of being rehabilitated; that is, being released into the community at an appropriate time with the appropriate skills in terms of any programs and psychological issues that had to be dealt with. If they are released into the community with the prospect of a prolonged period of parole - six years would not be uncommon under the legislation as it is now framed - we will be reducing the incentives for prisoners to

reform and participate fully in society. To a certain extent, those prisoners will be unable to participate in society. If a person is a parolee, he must disclose that in a number of situations; for example, in employment situations, if he wishes to travel overseas for a holiday or if he wishes to move interstate. There are a number of situations in which the fact that a person is a parolee, even if he is on unsupervised parole, will be something the offender must carry with him and it will inhibit his reintegration into the community.

I appreciate that I will be told that one of the key features of the Hammond report is to get rid of remissions. To get rid of remissions, the prisoner must serve the full sentence. I am probably a bit of a heretic because I do not agree with this aspect of the Hammond report. That is where my key problem is with this part of the legislation. We have just amended section 89 of the Sentencing Act, which will ensure that it is more difficult for a convicted person to be declared eligible for parole in the first place, because other considerations must be taken into account. It will mean that the onus of proof has shifted to the offender in terms of showing that he is eligible for parole, rather than the prosecution showing that the offender should not be eligible for parole. When I spoke to a practitioner in the area of criminal law yesterday, I was informed that up to date it has almost been a matter of course that an offender is made eligible for parole, except in the most extreme cases. I do not expect that to continue to be the case from now on.

The second point is that once offenders have been declared eligible for parole, it will mean they will spend a minimum of half their sentences in prison. I appreciate that some sections will say that this should not impact on the length of time the offender spends in prison. However, every commentator who has looked at this legislation has said that it is likely to increase the length of time offenders serve in prison, not only because of the way in which judges will respond when setting their sentences, but also because of general community pressure. In the past six months newspaper articles have been released which indicate statistically that sentences are being increased by judges as a result of community pressure. I do not think that is likely to change. Offenders are getting more jail time, so members of the public are getting what they want. I do not necessarily agree with locking up people for longer.

The third point is that parole is not automatically at the halfway point of a prisoner's sentence. It is only the time at which the prisoner becomes eligible for parole, and it is still a matter for the Parole Board of WA to determine whether a particular prisoner is eligible for parole. Statistics show that a significant proportion - it was about 15 per cent in the budget papers - of prisoners are not released at their earliest possible release date. Once a prisoner receives a parole hearing, strict guidelines are also put in place for the Parole Board to follow in deciding whether to recommend that the prisoner be released on parole. We have already passed clause 16 of the Bill, which gives the guidelines that the Parole Board must consider when determining whether the prisoner will be released. The eligibility does not mean that a prisoner is automatically released at that time. It is a decision made by the Parole Board, which is based on very strict guidelines.

Once the offender is released on parole, there are provisions, which we have just amended to some extent, which enable the individual to be sent back to jail for the remainder of the original term. My concern is that if a prisoner is on this new animal of unsupervised parole, essentially he is at risk for the rest of that sentence. Although that was one of the recommendations of the Hammond report, in recommendation 6, the Chief Judge said that it was quite clear that the Parole Board should determine whether an offender is eligible for release and on what conditions. It is fairly clear that there is some concern about that.

The public is concerned about the actual time served in prison. The series of amendments that will flow from this ensure that there is a two-year parole period, which is the maximum time that the person serves on parole. It will get rid of this new unsupervised parole and will recognise that that is an appropriate period in which to rehabilitate and reintegrate a person into the community. These changes will not interfere with what the public is demanding in terms of changes to sentencing. They will be a step forward in terms of public policy rather than a retrograde step. I move -

Page 10, after line 14 - To insert the following new clause 15A -

15A. Maximum time for parole period

A parole period may not extend for a period of more than 24 months.

[Resolved, that the House continue to sit beyond 10.00 pm.]

Hon PETER FOSS: The problem with these amendments and those not yet dealt with is that they seem to reintroduce the whole idea of remission - either that, or people may end up spending more time in jail than they do now because they will be there for two-thirds of their sentence rather than for half of it. The whole starting point for this Bill was the problem that the public finds remission perplexing. I do not think anyone really understands why remission was used. People also found the process of parole and its relationship to the entire sentences difficult to understand.

The Bill is to ensure that the sentence represents the actual penalty. At least half of the time will be spent in prison; of the remainder, a maximum of two years will be spent on supervised parole. If anything is left over after that the person will be on his word. It is not a matter of saying it is unfair for prisoners because they have served their sentence; they have not served their sentence. If the sentence is to have reality it must mean something.

It is not until we get past what is now a nine-year sentence that we start to get into this area. We are therefore dealing with a rare occurrence. Not many people receive sentences of nine years or more. It is only when they do that real problems arise. If a person previously received a nine-year sentence, effectively one-third of it was remitted, which brought it down to six years - one-third in jail and one-third on parole. Under the new system, that would effectively mean a sentence of six years.

I oppose this new clause. All it does is leave a lot of questions unanswered. It will leave the question of remission

looming again. It may also lead to people spending longer in jail. I do not think it has been fully thought through; I do not think it can be fully thought through. This issue engaged the committee for approximately two years. There is no easy solution. Even the committee said there was no simple answer. If there were it would have reached it after six months. The Government will oppose this amendment because it undermines the work done by the committee.

Hon N.D. GRIFFITHS: It is a very good idea that the maximum period of parole be two years. Those who have any involvement with our system accept that. However, it cannot be achieved without reintroducing remission or increasing periods of imprisonment. The Australian Labor Party would very much like the maximum period to be two years. However, it cannot see how it can be achieved without remission or increased periods of imprisonment. We have invited all concerned to show us how that can be done, as has the Government, and no answer that satisfies those matters has been forthcoming.

It is appropriate to reflect on where this came from. It came from the Hammond report, or what is now called the "Report of the Review into Remission and Parole" in which there is acceptance of a two-year period. Recommendation 7 reads -

An offender who has been released on parole will remain under supervision for a period equivalent to one third of the term up to a maximum of two years.

The words are "released on parole will remain under supervision". We now have supervised parole and unsupervised parole. The words in the report that follow deal with that succinctly. They are -

This arrangement applies at present and affords a reasonable balance between ensuring compliance and reducing over intrusion in an offender's life which can "set them up to fail".

There is the concept of the over-intrusion in an offender's life setting him up to fail. However, the important words are -

The offender will also remain "at risk" for the whole of the balance of the sentence.

We have that concept of supervised and unsupervised parole.

His Honour the Chief Justice has brought his mind to bear on this problem on a number of occasions over the years. In fact, on 22 June 1990 he gave evidence to the Joint Select Committee on Parole. I am referring to the Transcript of Evidence to the Joint Select Committee on Parole dated August 1991. The Chief Justice, who is the current Chief Justice, gets to the point when he states -

Another problem is that experience has shown that there is an optimum time under which people can usefully be kept under supervision in the community. To have a very long parole period, the chances are it will not work, and statistically it has been shown that an optimum time is around two years.

That is fine; nobody disagrees with that. To continue -

That is the rationale of the current legislation, which has fixed upon a maximum parole period of two years.

The legislation that we are changing is about looking at the maximum period on parole of two years and moving back from there. That is why we have remissions, but they are not acceptable for the reasons set out in the Hammond report and for the reasons set out in the evidence of the Chief Justice of 22 June 1990. He goes on to say -

One of the difficulties with the fixing of the formula at one-third essentially for parole is that it is arbitrary; it leaves no residual discretion to deal with either the hard case or the easy case, either way. I suggest that the combination of increasing remissions of good behaviour to one-third, coupled with introducing a non-parole period of a third, detract from the force and authority of the head sentence which is imposed by the court.

He went on to say on page 3 of this transcript of evidence -

It seems to me that if we are going to retain, in the interests of certainty, -

Certainty is very important in responding to what the community properly wants.

- an across-the-board arbitrary non-parole period, we ought to be thinking seriously about making it 50 per cent with a residual discretion on the part of the judge to reduce that in particular cases.

The Chief Justice went on to make a somewhat detailed criticism of the concept of remissions. This is a difficult problem which has been grappled with on many occasions over the years but the bottom line is that the two-year maximum period of parole - which is the end product of the formula - has only ever been able to be arrived at because of the remission process. The remissions make the head sentence unrealistic with respect to the sentence served and that is the difficulty we must grapple with. Even now, if Hon Helen Hodgson can come up with a form of words which ensures that which we all want to achieve, that would be fine. However, the fact is that although Hon Helen Hodgson is quite properly expressing a good principle, I am afraid this is Western Australia, not some utopia, and it cannot be done. The bottom line is that what is sought to be achieved substantially by this Bill is worthy of support and if this clause is supported, the substantive propositions of the Hammond report will be voted down.

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

Ayes (5)

Hon Helen Hodgson
Hon J.A. Scott

Hon Christine Sharp
Hon Giz Watson

Hon Norm Kelly

(Teller)

Noes (20)

Hon Kim Chance
 Hon J.A. Cowdell
 Hon Cheryl Davenport
 Hon E.R.J. Dermer
 Hon B.K. Donaldson
 Hon Max Evans

Hon Peter Foss
 Hon N.D. Griffiths
 Hon John Halden
 Hon Ray Halligan
 Hon Barry House

Hon Murray Montgomery
 Hon N.F. Moore
 Hon M.D. Nixon
 Hon B.M. Scott
 Hon Greg Smith

Hon Tom Stephens
 Hon Derrick Tomlinson
 Hon Ken Travers
 Hon Muriel Patterson
 (Teller)

New clause thus negatived.

Postponed clause 28, as amended, put and passed.

New clause 56 -

Hon HELEN HODGSON: I move -

Page 35, after line 2 - To insert the following new clause 56 -

56. Preparation for RPO before release

- (1) Not later than 12 months before the CEO is required by section 55 to make a determination whether the making of an RPO is warranted for an offender, the CEO must consider whether, to help achieve the purposes mentioned in section 57(1), the offender should before his or her release be started on a programme ("a pre-release programme") consisting of —
 - (a) the assessment described in paragraph (a) or (b) of section 57(2), and any necessary treatment;
 - (b) attendance at any programme or course of the kind described in section 57(2)(c); or
 - (c) more than one of the above.
- (2) If the CEO determines that the offender should be started on a pre-release programme before his or her release, the CEO is to take the steps necessary to provide the programme under section 95 of the *Prisons Act 1981* and to ensure completion prior to the date on which the prisoner is eligible to be released on parole under section 93(1) of the *Sentencing Act 1995*.
- (3) Sections 57(3) and (4) apply for the purposes of this section in the same way as they apply in the carrying out of an RPO.

The new legislation and the provision inserted allow for release program orders, which means a prisoner on parole may be required to fulfil certain commitments as part of his rehabilitation process. The purpose of the program requirement is to allow for personal factors which contributed to the offender's criminal behaviour to be assessed; to provide an opportunity for the offender to recognise, take steps to control and, if necessary, receive appropriate treatment for those factors; and to facilitate the offender's reintegration into the community.

I am concerned that this may be delivered too late in the process of rehabilitation if no action is taken until the prisoner has reached his parole date. The purpose of proposed new clause 56 is to place an obligation on the CEO to ensure that the programs are made available while the person is in prison. No later than 12 months prior to the release date, the CEO must assess the offender and make sure the appropriate programs are available. The clause refers to assessment, attendance on programs and more than one of the above. I am aware of moves within the Ministry of Justice to ensure individual programs are available from the time a person is introduced into the prison system. That is the way to go but, under the current situation, it is possible for someone to not receive formalised programs, except in cases involving the sex offender programs which people must complete before they are eligible for parole. Apart from a few exceptions, prisoners may not have access to some of the preliminary work and when released into the community they will be subject to a program requirement. It is important to ensure that that is addressed before they are released.

Hon PETER FOSS: There are a number of problems with this. Firstly, at present the majority of non-parole sentences are short sentences, because no parole is currently available for people with sentences of 12 months or less. Most prisoners have a much shorter period in jail than is being set in proposed new clause 56 for the chief executive officer to deal with. Secondly, the requirements are prescriptive. For example, Hon Helen Hodgson mentioned that the Parole Board has made sex offender treatment programs compulsory as a condition to obtaining parole. However, sex offenders will often refuse to take any courses and then at the last moment change their minds and say, "I would be eligible for parole next week, but I have not taken any programs so I want to be in the next program." However, everyone else has been programmed to go in a particular program and if a person suddenly changes his mind and wants to be in a program, somebody else must be taken out who has asked to take their program in the appropriate time. In other areas the Parole Board has not been prepared to release people because of, say, their aggressive behaviour and they have not taken a program to deal with their aggressive behaviour. Again, it is hard to ensure that people complete that program if they have been uncooperative. I am concerned about what this prescriptive provision might do if suddenly prisoners changed their minds at the last moment. Do we have to take out other offenders who have been cooperative and appropriately programmed in at the right time to do this program? Research shows that some programs are better taken just prior to release rather than at another stage of imprisonment.

I suggest the better way to deal with this, because this is highly prescriptive and deals with offender management and the issue of programs, is perhaps through the Inspector of Custodial Services. That would be more flexible and would keep in step with what is seen to be best practice at that time. Rather than freezing it in some form of statutory requirement, when it is at present a management matter, and making it a sentence administration matter, it will be dealt with in a more appropriate area so that the Inspector of Custodial Services will oversee it. The Government opposes this.

Hon HELEN HODGSON: I refer to the issue raised by the minister of whether this relates to short sentences. This relates to the clause 55 requirements for release program orders which specify offenders who are serving a fixed term or an aggregate of fixed terms of at least 24 months, and none of the terms has a parole term. It also says that the CEO must make the assessment to put the plan in place at least 12 months prior to release. If a program is better delivered within the month prior to release, the CEO must be able to identify that six months prior to release, so that he can schedule courses at the appropriate times. There is sufficient flexibility as long as the assessment and decision are made 12 months before the most appropriate time, whether it is one month or 12 months prior to release.

I agree that we are putting prison management matters into the sentencing legislation. However, that is true of the whole issue of release program orders. If an argument holds for a program that is delivered while a person is in custody, that argument also holds for a program that is required to be delivered while a person is on parole. It is not inconsistent with what the minister will insert in the legislation. I hope the Government and the Opposition will support this proposed new clause.

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

Ayes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon N.D. Griffiths

Hon John Halden
Hon Helen Hodgson
Hon Norm Kelly

Hon Ljiljanna Ravlich
Hon J.A. Scott
Hon Christine Sharp

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Noes (12)

Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore

Hon M.D. Nixon
Hon B.M. Scott
Hon Greg Smith

Hon Derrick Tomlinson
Hon Muriel Patterson
(*Teller*)

Pairs

Hon Bob Thomas
Hon Tom Helm
Hon Tom Stephens
Hon Mark Nevill

Hon W.N. Stretch
Hon Simon O'Brien
Hon Dexter Davies
Hon M.J. Criddle

New clause thus passed.

New clause 86 -

Hon PETER FOSS: I move -

Page 37, after line 7 - To insert the following new clause -

86. Facilitation of proof

- (1) This section applies only in relation to proceedings under this Division.
- (2) A copy of an RPO certified by the CEO is, in the absence of evidence to the contrary, evidence of its contents.
- (3) In proceedings for an offence under section 85(1) in relation to an alleged breach of an RPO, evidence of the alleged breach may be given by tendering a certificate signed by the CEO stating the particulars of the alleged breach.
- (4) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by the CEO was signed by a person who at the time was the CEO.

New clause put and passed.

New clause 100 -

Hon PETER FOSS: I move -

Page 60, after line 15 - To insert the following new clause 100 -

100. Arrest warrant may issue where warrant of commitment in force

- (1) If a court has issued a warrant of commitment in respect of an offender that requires the offender to be imprisoned for a period, then at any time before the prisoner has

served the period the CEO may issue a warrant to have the offender arrested and taken to a prison to serve or to continue to serve the period.

- (2) A warrant must not be issued under subsection (1) if the offender has been released pursuant to an order made in accordance with this Act or another written law in respect of the sentence or made in the exercise of the Royal Prerogative of Mercy.
- (3) Without limiting subsection (1) or affecting subsection (2), a warrant may be issued under subsection (1) if in error an offender is released before having served the period of imprisonment specified in the warrant of commitment.
- (4) Subsection (1) does not limit any power to arrest a person who has escaped lawful custody.

New clause put and passed.

Schedule 1 put and passed.

Title put and passed.

Bill again reported, with further amendments.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.22 pm]: I move -

That the House do now adjourn.

Western Coastal Highway - Adjournment Debate

HON J.A. SCOTT (South Metropolitan) [10.23 pm]: I draw the attention of the House to a review of major road proposals in the western suburbs which was lodged today. The study was conducted by Nelson English Loxton and Andrews Pty Ltd on behalf of the Coastal Highway Review Group, which consists of the western suburbs councillors from Fremantle, Claremont and Cottesloe. The group wanted to look at the proposal for the western coastal highway which will run through Cottesloe and the area proposed for development at Leighton. The Government needs to look closely at this study because it casts quite a deal of doubt on government forecasting and on the planning of roads in that area. It probably reflects on the whole of the road planning for the State. The study revealed that the traffic data used by Main Roads is hugely out of date. Main Roads is using data from a transport study conducted in 1970. As the years have gone by, it has become more and more flawed. Mr Nelson, the chief consultant, pointed out that the errors in the old transport study have compounded over the years, and since the 1980s they have become much greater. Some of the forecasts were up to 100 per cent out.

One of the headings in the report is "Main Roads traffic forecasts unreliable" and it states -

The Review found that MRWA modelling, used as the basis for road construction and planning throughout Perth, is unlikely to provide reliable forecasts, and that this has been the situation since the 1980s at least:

It also points out that road planning is ineffective and states -

The Review cannot be confident that the established framework is capable of doing this.

That is, of establishing a statutory planning policy framework to ensure that options are properly identified and evaluated in terms of transport, social, economic and environmental criteria. The report continues -

Agencies such as MRWA which have both planning and implementation responsibilities are placed in a position of conflict of interest. Rather than being a vehicle for listening to information from community so as to tailor projects to meet social, economic and environmental concerns, its role in public consultation appears to be to try to achieve community acceptance of completed designs at minimum technical modification and cost.

That is a critical problem with the consultation that has occurred in the past. The report also goes on to point out that environmental assessments conducted for major road projects are cursory. It states -

Environmental assessment of MRWA proposals, including social and heritage impacts, appears to be cursory at best. This may be a product of a current Memorandum of Understanding between EPA and MRWA. The case of the Northbridge Tunnel suggests that the EPA does not require MRWA projects to undergo the same level of environmental assessment as it requires of proposals sponsored by the private sector.

The conclusion of the report is that there is no need for the western suburbs highway to be built; there are much better solutions. The fault in Main Roads' model is that it always looks at a single-modal solution to the transport problems of the regions rather than at multimodal planning. It does not look at all the different transport modes and the various access issues.

The report called for a major review of the transport planning processes for metropolitan Perth. It states -

The review should include a study of the area's existing transport infrastructure and an overhaul of demand forecasting capabilities aimed at providing the substantial improvement required to achieve Australian and

world best practice. . . . There should be an immediate multi-modal design study of the transportation requirements in the Leighton Peninsula, to form a basis for long term development of road and rail facilities in the corridor. It is doubtful whether the Curtin Avenue-Port Beach Road proposal can pass a rational evaluation in its present form.

This is a scathing report of Main Roads' planning for that region, especially when we are looking at major changes to that very narrow peninsula in the Cottesloe to Fremantle section between the river and the ocean. We know that with the major developments that are proposed for that area, we will lose the capability to do proper multi-modal planning if proper studies are not done now and if proper planning processes are not put in place.

Another interesting aspect of this report showed that Main Roads was not seeking to deal adequately with some of the horrendous traffic problems that might arise in the future. It pointed out that -

Of the Distributor Roads in the Study Area, the Stirling Highway is likely to be the one to fail first. Heavy congestion will occur in the section between Loch Street and Parry Street, Claremont, during the period 2011-2021. Building the Stephenson Highway will not change this.

It pointed out also that the road planning was remiss in that the major amount of money being spent on the proposed Stephenson Highway would not reduce the amount of traffic in the central part of Claremont, and that would be a real problem. It pointed out also that there would be major problems with the approaches to both the Stirling and Fremantle Bridges and that if we continued with this model, major roadworks would need to take place right in the heart of East Fremantle and North Fremantle, which would be hugely disruptive to those communities. It pointed out also that if the planned widening of Curtin Avenue went ahead, the noise levels from that widening would necessitate the construction of a 10 metre sound bund along that road, which would significantly impair that area's scenic amenity and the ability of people to see the ocean, and it would also prevent people from crossing easily from one side of the rail to the other. A lot of major and expensive work would be required to overcome those difficulties, and it appears that in the end Main Roads' plan would fail to move the traffic in the way it had proposed. I hope the Government will have a good look at this report.

Question put and passed.

House adjourned at 10.32 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

FIREARMS ADVISORY COMMITTEE, RECOMMENDATIONS

7. Hon MARK NEVILL to the Attorney General representing the Minister for Police:
- (1) What recommendations have been made by the Firearms Advisory Committee (FAC) to the Minister for Police?
 - (2) What action has been taken by the Minister in response to recommendations by the FAC?
 - (3) What matters has the Minister referred to the FAC?
 - (4) Has the issue of accommodating the concern of people who collect antique firearms been discussed by the FAC?
 - (5) If so, what was the outcome?

Hon PETER FOSS replied:

- (1) The following recommendations have been made by the Firearms Advisory Committee:

Meeting of 15 October 19998

Paintball Sports: Recommendation: That Paintball sports be legalised by licensing operators under approved and controlled conditions to ensure the safety of the public.

Licensing of Antique Firearms: Recommendation: The existing legislation remain and that antique firearms should continue to be subject to licensing. The Western Australia Police Service and Firearms Branch review their administration of the processes involved in licensing and transference of antique firearms, with a view to ensuring consistency and equity.

Reciprocal Licensing Recognition Arrangements for Firearms and Recognition of International Temporary Visitor permits: Recommendation: The Firearms Advisory Committee supports amendments to the WA Firearms Act to allow the recognition of Licences and Permits issued in other Australian jurisdictions, for shooters attending competitions in WA. Progress the development of the International (Temporary) Visitor Permits.

Meeting of 15 December 1998

Status of Paintball Association: Recommended: Office of the Minister for Police prepare a Cabinet Submission advising recommendation of Firearms Advisory Committee. To be referred to Firearms Advisory Committee after submission to Cabinet for referral to Western Australia Police Service.

National Database "Crimtrac": Recommendation: That the Minister write to the Hon Amanda Vanstone, Minister for Justice and Customs, requesting, given the concern raised and the connotations, that a letter be written to the WA Shooters Association advising them of Crimtrac's purpose.

Category 'D' Firearms: Genuine Need: Recommendation: Minister refer to the Commissioner of Police for advice and the Minister advise applicants direct.

Exemption of IPSC for semi-automatic shotguns for target ranges - metal: Recommendation: The Firearms Advisory Committee makes observation that there is an issue in terms of equity. It is suggested that the Minister refer the matter, if he so desires, to the Commissioner of Police to review and ensure consistency with the legislation, mindful of the APMC. Such advice, when available, be forthcoming to the Firearms Advisory Committee for their information.

Meeting of 6 May 1999

Formation of Committee to examine better control for gun safety - Mr John Crook, President Guns Control Australia: Recommendation: The formation of a sub-committee is not appropriate at this time. National Uniform Firearm Laws have been in operation for only a short time and should be assessed before consideration is given to amending same. To be received in due course.

Firearms Storage Cabinets - Mr Ian Saggars: Recommendation: The Minister respond to Mr Saggars letter advising that his request was tabled at the Firearms Advisory Committee meeting of 6 May 1999 where members were satisfied the publicity campaign has ensured firearms owners are aware of their responsibilities. The Western Australia Police Service is conducting security reviews and revoking licences of those without security.

Meeting of 17 June 1999

Compulsory Firearms Training: Recommendation: That the draft proposal be put forward seeking expressions

of interest from those who may be interested in providing training and evaluation. This will allow these proposals to be evaluated by the working party, bearing in mind that some adjustments may be needed should the draft proposal be amended.

- (2)-(3) (i) Paintball: Minister has supported the implementation of the recommendation through development of legislation.
- (ii) Licensing: No action required.
- (iii) Reciprocal: Minister has supported the implementation of the recommendation through the Australasian Police Ministers' Council.
- (iv) Paintball: As above.
- (v) Crimtrac: Concern raised by the FAC were passed on to the Minister for Justice, Senator Hon. Amanda Vanstone.
- (vi) Category 'D' Firearms: Matter will be considered as part of reviewed Firearm Act 1973.
- (vii) Exemption: Minister did not concur with recommendation.
- (viii) Committee: Correspondence reflecting the Minister's decision was sent to the applicant.
- (ix) As per (viii).
- (x) Training: The recommendation is being progressed through the Western Australia Police Service.
- (4) Yes.
- (5) The Firearms Advisory Committee considered the matter and recommended that the existing legislation remain.

RAILWAYS, DERAILMENT AT MT BARKER

29. Hon BOB THOMAS to the Minister for Transport:

With regard to the derailment at Mt Barker in November 1998 -

- (1) What was the cause of the derailment at Mount Barker on November 11, 1998?
- (2) What steps have been taken to ensure it does not happen again?
- (3) What length of track was damaged on the road rail crossing?
- (4) What length of track was damaged on the Albany Highway road/rail crossing?
- (5) From which Westrail depot did the repair crew travel from?
- (6) Did the repair crew stay in Mount Barker while the repairs were carried out?
- (7) If so, what was the cost?

Hon M.J. CRIDDLE replied:

- (1) A seized axle bearing on a wagon caused a journal to shear off allowing the axle to run free from its side frame and this resulted in the wheel derailing.
- (2) A review of wagon bearing maintenance procedures resulted in the adoption of recommendations to treat the likely causes of bearing failure.
- (3)-(4) A total of 4 800 metres of rail track was damaged which included track at level crossings at Woogenilup Road and Albany Highway.
- (5) Picton, Albany and Lake Grace.
- (6) The repair crew from Lake Grace stayed at Mount Barker while repairs were carried out.
- (7) There was no additional cost to Westrail. The crews were employees of John Holland Construction and Engineering Pty Ltd which carried out the work as part of a contract awarded to that company in August 1996 to undertake maintenance work on the railway.

MIDLAND WORKSHOPS

30. Hon BOB THOMAS to the Minister for Transport:

- (1) What is entailed in the rationalisation of power supply in the Midland Workshops re-tender 23/99 advertised in *The West Australian* on April 10, 1999?
- (2) Has the tender been awarded?
- (3) If so, who was the successful tenderer?
- (4) What is the cost?

- (5) What organisations are occupying sections of the workshops?
- (6) Is any income derived from these organisations?

Hon M.J. CRIDDLE replied:

- (1) The rationalisation of the power supply at the Midland Workshops is being undertaken to improve safety by removing switchboards and power outlets no longer required and to replace redundant transformers to provide a more reliable power supply.
- (2) Yes.
- (3) O'Donnell Griffin.
- (4) \$103 079.
- (5)
 - (i) Midland College of TAFE.
 - (ii) Edith Cowan University.
 - (iii) The Machinery Preservation Society.
 - (iv) The Australian Railway Historical Society (WA Branch).
- (6) The Midland College of TAFE pays a commercial rent of \$38 000 per annum. Rent is not received from other tenants.

RAILWAYS, PERTH-BUNBURY

31. Hon BOB THOMAS to the Minister for Transport:

With regard to the Perth to Bunbury railway -

- (1) What type of work is being carried out on the Perth to Bunbury line between July 1999 and September 2000?
- (2) Will there be disruption to passenger trains?
- (3) If so, what are the alternative arrangements?
- (4) Will freight services be disrupted?
- (5) If so, what type of freight will be affected?
- (6) Is the work being carried out by Westrail employees?
- (7) If not, what is the name of the contractor(s)?
- (8) What is their level of expertise?
- (9) Was the work put out to tender?
- (10) What is the cost of the work?

Hon M.J. CRIDDLE replied:

- (1)
 - (i) Repair defective rail (short lengths).
 - (ii) Replace 60 kilometres of defective rail with new rail.
 - (iii) Resleepering work.
 - (iv) Replace three turnouts.
 - (v) General maintenance work.
- (2)-(3) Speed restrictions placed on the track during the work affects the ability of the Australind train service to maintain its normal timetable. Accordingly, in order for the train to arrive in Perth for the start of business hours, the early morning train from Bunbury each day now departs at 6.00 am instead of 6.15 am, arriving in Perth five minutes earlier than the normal timetable. This arrangement will apply until the re-railing work is completed.

Due to freight timetable commitments, it is not possible to alter departure and arrival times for the morning service returning to Bunbury or the afternoon return service between Bunbury and Perth, and some late running of these services does occur. However, this is expected to diminish as the work progresses.

In addition, to allow a greater window for re-railing work, the line is closed each Wednesday, precluding the operation of the 9.30 am Australind service from Perth and the 2.40 am Australind service from Bunbury. This arrangement is expected to continue until 3 November 1999. If possible, arrangements will be put in place to operate a full Australind service during the September/October school holiday and Royal Show period.

- (4) No.
- (5) Not applicable.
- (6) No.
- (7) John Holland Construction and Engineering Pty Ltd.

- (8) John Holland Construction and Engineering Pty Ltd has in excess of 30 years experience in railway maintenance and construction work. It is a multi disciplined Company which operates in every state of Australia and throughout south east Asia.
- (9) No. The work is being carried out by John Holland Construction and Engineering Pty Ltd as part of a five year contract awarded to that Company in August 1996 to carry out maintenance work on the railway network.
- (10) Approximately \$23.3 million.

WHEELSETS TENDER

32. Hon BOB THOMAS to the Minister for Transport:

- (1) Has tender number 52/98 as advertised in *The West Australian* on April 3, 1999 been awarded?
- (2) If so, what is the name of the successful tenderer?
- (3) What is the cost?
- (4) Will the wheelsets be serviced in Western Australia?
- (5) If not in Western Australia, then where?

Hon M.J. CRIDDLE replied:

- (1) Yes.
- (2) Gemco Rail Pty Ltd.
- (3) \$172 456.
- (4) Yes.
- (5) Not applicable.

WESTRAIL TENDERS

33. Hon BOB THOMAS to the Minister for Transport:

With regard to Westrail tenders -

- (1) Has tender number 26/99 as advertised in *The West Australian* on April 17, 1999 been awarded?
- (2) If so, what is the name of the successful tenderer?
- (3) What is the cost?

Hon M.J. CRIDDLE replied:

- (1) No. The tender was cancelled.
- (2)-(3) Not applicable.

WESTRAIL, SPECIAL CONSTABLES

34. Hon BOB THOMAS to the Minister for Transport:

With regard to Westrail special constables -

- (1) Is it correct that more than half of the complaints to the Ombudsman regarding Westrail in 1997/98 involved allegations of assault and excessive force by special constables?
- (2) Is it correct that this was more than three times the rate of similar allegations against the Western Australian Police Service?
- (3) What strategies have been put in place to ensure that the rate of such complaints diminish?
- (4) Is it correct that many of the complaints followed situations where inexperienced special constables were often left to work alone for a large part of their shift?
- (5) Have these inexperienced personnel now been paired with experienced constables for their full shift?

Hon M.J. CRIDDLE replied:

- (1) Page 11 of the Ombudsman's 1998 Annual Report shows that 35 complaints were received, with a total of 47 allegations, about Westrail during the year ended 30 June 1998. Page 87 of that report shows that, of the 47 allegations, there were 21 allegations of assault or excessive force. Investigations into 20 of the 21 allegations of assault or excessive force have been concluded with only two of the allegations being sustained. The remaining allegation has been referred by Westrail to the Director of Public Prosecutions for assessment.
- (2) Page 11 of the Ombudsman's 1998 Annual Report shows that there were 2 180 allegations received about the

Police Department during the year ended 30 June 1998. Page 18 of that report shows that there were 306 allegations of assault/undue force about police.

- (3) Given the low number of the allegations of assault or excessive force which were sustained, no strategies are required to be implemented in regard to the conduct of Westrail's special constables.
- (4) No.
- (5) Special constables are rostered to work in pairs while undertaking security patrolling duties and rostered to work alone at stations during peak periods while undertaking customer service duties.

WESTRAIL, SPECIAL CONSTABLES

35. Hon BOB THOMAS to the Minister for Transport:

- (1) Are all the special constables utilised by Westrail on suburban trains in the Perth Metropolitan area trained in first aid?
- (2) If not, why not?
- (3) Will they be required to undergo first aid training?

Hon M.J. CRIDDLE replied:

- (1) Yes.
- (2)-(3) Not applicable.

RAILWAYS, ACCESS REGIME

79. Hon NORM KELLY to the Minister for Transport:

In the second reading speech of the *Government Railways (Access) Bill 1998*, on June 10 last year, the former Minister for Transport stated the Government's policy for the sections of the rail network that were proposed to be included in the access regime -

- (1) Can the Minister explain the apparent change in policy whereby the narrow gauge grain network and the narrow gauge suburban passenger network, including the Perth to Currambine link, are now included in the most recent draft of the Access Code?
- (2) Will providing access to the Perth-Currambine link promote competition in at least one market, as required by s5 of the *Government Railways (Access) Act*?
- (3) If so, in which market is competition anticipated?

Hon M.J. CRIDDLE replied:

- (1) On further assessment, it was considered that it would be inappropriate to "second guess" the demand for access to the Westrail network and thus the entire network should be covered by the access regime. This decision will allow potential entrants to gain access to any routes where they believe the market is suitable for on-rail competition. If there is no competitive market opportunity, new entrants will not seek access. Specialist niche operators may well be able to take advantage of third party access to the railway to provide competitive services even in areas and for traffics which are not attractive to conventional rail operators. Full coverage of the network allows the market to decide where the competition is likely to thrive.

The honourable member should note that access is currently available to the entire Westrail network under Section 61 of the Government Railways Act. The rail access regime established by the Government Railways (Access) Act 1998, however, provides a right to negotiate access within a defined framework and addresses the asymmetry of market power and information that might otherwise disadvantage access seekers in negotiations with Westrail. It also provides a dispute resolution mechanism.

- (2) While the Perth-Currambine rail link is not foremost among the rail routes to which access is likely to be sought, there is benefit in treating the rail network consistently rather than imposing different access rules for different sections. Freight trains need to have access to part of the urban passenger network, and rather than specifying the specific line segments required by competing rail freight traffic (which may change over time), a consistent access regime has been applied. Access to the network as a whole, including the urban network, will promote competition.
- (3) Access to the urban network allows for tourist train operators to compete on those lines should they wish to do so, perhaps in conjunction with rail tours on other, non-metropolitan, lines. Access to the parts of the urban network that are also required for rail freight transport will promote competition in rail freight carriage. Such a consistent approach to access also ensures that should industrial areas in the metropolitan region, not currently served by rail, develop to the point where a rail freight link is viable, a fully accessible main rail link is available.

RENEWABLE ENERGY PROJECTS

80. Hon N.D. GRIFFITHS to the Minister for Finance:

- (1) Given the significance of resource development and downstream processing what consideration has the Minister given to the effect of the Kyoto agreement on the State's finances?
- (2) What has the Minister done to lobby the Federal Government for funding for greenhouse friendly, renewable energy projects?
- (3) In particular, what have you done with respect to the proposed West Kimberley Tidal Power project?

Hon MAX EVANS replied:

- (1) Some preliminary work has been done on the general economic effect of the agreement on the State but, at this stage, no consideration has been given to the specific financial impact.
- (2)-(3) Parts (2) and (3) of this Question should be referred to the Minister for Resources Development.

GOVERNMENT VEHICLES, NUMBER LEASED AND OWNED

104. Hon NORM KELLY to the Minister for Transport representing the Minister for Family and Children's Services:

As of June 30, 1999, for all agencies under the control of the Minister for Family and Children's Services -

- (1) How many vehicles are leased or owned by those agencies?
- (2) Of these, how many are -
 - (a) passenger vehicles; and
 - (b) commercial vehicles?
- (3) Of the total number of vehicles, how many are -
 - (a) petrol or diesel powered;
 - (b) LPG powered; or
 - (c) powered by other means?

Hon M.J. CRIDDLE replied:

(1)-(3)

AGENCY	VEHICLES LEASED OR OWNED	PASSENGER VEHICLES	COMMERCIAL VEHICLES	PETROL/ DIESEL POWERED	LPG POWERED	OTHER
Family and Children's Services	346	290	56	345	1	0
Women's Policy Development Office	5	5	0	5	0	0
Office of Seniors Interests	5	4	1	5	0	0
WA Drug Abuse Strategy Office	4	4	0	4	0	0
Family and Children's Policy Office	2	2	0	2	0	0
TOTAL	362	305	57	361	1	0

GOVERNMENT VEHICLES, NUMBER LEASED AND OWNED

105. Hon NORM KELLY to the Minister for Transport representing the Minister for Seniors:

As of June 30, 1999, for all agencies under the control of the Minister for Seniors -

- (1) How many vehicles are leased or owned by those agencies?

- (2) Of these, how many are -
- (a) passenger vehicles; and
 - (b) commercial vehicles?
- (3) Of the total number of vehicles, how many are -
- (a) petrol or diesel powered;
 - (b) LPG powered; or
 - (c) powered by other means?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to Question on Notice 104.

GOVERNMENT VEHICLES, NUMBER LEASED AND OWNED

106. Hon NORM KELLY to the Minister for Finance representing the Minister for Women's Interests:

As of June 30, 1999, for all agencies under the control of the Minister for Women's Interests -

- (1) How many vehicles are leased or owned by those agencies?
- (2) Of these, how many are -
- (a) passenger vehicles; and
 - (b) commercial vehicles?
- (3) Of the total number of vehicles, how many are -
- (a) petrol or diesel powered;
 - (b) LPG powered; or
 - (c) powered by other means?

Hon MAX EVANS replied:

Please refer to the answer given to Question on Notice 104.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

156. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Police:

I refer to the Year 2000 Industry Awareness Campaign coordinated by the Department of Commerce and Trade. For each department or agency in the Minister for Police's portfolio can the Minister provide the following information -

- (1) How many of their business systems are at risk to the Millennium Bug?
- (2) How many of their business systems have been recently converted, upgraded or replaced?
- (3) How many of their business systems have been certified and tested as Year 2000 compliant?
- (4) Is each department or agency in the Minister's portfolio treating the Year 2000 problem as an issue critical to their survival?
- (5) How many of their customers and suppliers are Year 2000 compliant?
- (6) How many of the companies awarded contracts by each department or agency in the Minister's portfolio are Year 2000 compliant?
- (7) Does each department or agency in the Minister's portfolio have a plan to manage their Year 2000 effort?
- (8) How much has been budgeted for the work to be done?

Hon PETER FOSS replied:

Please refer to the answer given to question on notice 152.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

157. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Emergency Services:

I refer to the Year 2000 Industry Awareness Campaign coordinated by the Department of Commerce and Trade. For each department or agency in the Minister for Emergency Services' portfolio can the Minister provide the following information -

- (1) How many of their business systems are at risk to the Millennium Bug?
- (2) How many of their business systems have been recently converted, upgraded or replaced?
- (3) How many of their business systems have been certified and tested as Year 2000 compliant?
- (4) Is each department or agency in the Minister's portfolio treating the Year 2000 problem as an issue critical to their survival?

- (5) How many of their customers and suppliers are Year 2000 compliant?
- (6) How many of the companies awarded contracts by each department or agency in the Minister's portfolio are Year 2000 compliant?
- (7) Does each department or agency in the Minister's portfolio have a plan to manage their Year 2000 effort?
- (8) How much has been budgeted for the work to be done?

Hon PETER FOSS replied:

Please refer to the answer given to question on notice 152.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

174. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Women's Interests:

I refer to the Year 2000 Industry Awareness Campaign coordinated by the Department of Commerce and Trade. For each department or agency in the Minister for Women's Interests' portfolio can the Minister provide the following information -

- (1) How many of their business systems are at risk to the Millennium Bug?
- (2) How many of their business systems have been recently converted, upgraded or replaced?
- (3) How many of their business systems have been certified and tested as Year 2000 compliant?
- (4) Is each department or agency in the Minister's portfolio treating the Year 2000 problem as an issue critical to their survival?
- (5) How many of their customers and suppliers are Year 2000 compliant?
- (6) How many of the companies awarded contracts by each department or agency in the Minister's portfolio are Year 2000 compliant?
- (7) Does each department or agency in the Minister's portfolio have a plan to manage their Year 2000 effort?
- (8) How much has been budgeted for the work to be done?

Hon MAX EVANS replied:

Please refer to the answer given to question on notice 152.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

184. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Family and Children's Services:

I refer to the Year 2000 Industry Awareness Campaign coordinated by the Department of Commerce and Trade. For each department or agency in the Minister for Family and Children's Services' portfolio can the Minister provide the following information -

- (1) How many of their business systems are at risk to the Millennium Bug?
- (2) How many of their business systems have been recently converted, upgraded or replaced?
- (3) How many of their business systems have been certified and tested as Year 2000 compliant?
- (4) Is each department or agency in the Minister's portfolio treating the Year 2000 problem as an issue critical to their survival?
- (5) How many of their customers and suppliers are Year 2000 compliant?
- (6) How many of the companies awarded contracts by each department or agency in the Minister's portfolio are Year 2000 compliant?
- (7) Does each department or agency in the Minister's portfolio have a plan to manage their Year 2000 effort?
- (8) How much has been budgeted for the work to be done?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 152.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

185. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Seniors:

I refer to the Year 2000 Industry Awareness Campaign coordinated by the Department of Commerce and Trade. For each department or agency in the Minister for Seniors' portfolio can the Minister provide the following information -

- (1) How many of their business systems are at risk to the Millennium Bug?

- (2) How many of their business systems have been recently converted, upgraded or replaced?
- (3) How many of their business systems have been certified and tested as Year 2000 compliant?
- (4) Is each department or agency in the Minister's portfolio treating the Year 2000 problem as an issue critical to their survival?
- (5) How many of their customers and suppliers are Year 2000 compliant?
- (6) How many of the companies awarded contracts by each department or agency in the Minister's portfolio are Year 2000 compliant?
- (7) Does each department or agency in the Minister's portfolio have a plan to manage their Year 2000 effort?
- (8) How much has been budgeted for the work to be done?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 152.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF
THE ACT

200. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Police:

- (1) Which departments or agencies in the Minister for Police's portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 196 of 18 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF
THE ACT

201. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Emergency Services:

- (1) Which departments or agencies in the Minister for Emergency Services' portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 196 of 18/8/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF
THE ACT

214. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Health:
- (1) Which departments or agencies in the Minister for Health's portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
 - (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon MAX EVANS replied:

- (1)-(2) Please refer to the answer given in response to question on notice 196 of 18/8/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF
THE ACT

218. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Women's Interests:
- (1) Which departments or agencies in the Minister for Women's Interests' portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
 - (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon MAX EVANS replied:

Please refer to the answer given in response to question on notice 196 of 18 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF
THE ACT

219. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Housing:
- (1) Which departments or agencies in the Minister for Housing's portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
 - (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from

the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon MAX EVANS replied:

Please refer to the answer given in response to question on notice 196 of 18/8/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF THE ACT

220. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Water Resources:

- (1) Which departments or agencies in the Minister for Water Resources' portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon MAX EVANS replied:

Please refer to the answer given in response to question on notice 196 of 18/8/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF THE ACT

225. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Primary Industry:

- (1) Which departments or agencies in the Minister for Primary Industry's portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon M.J. CRIDDLE replied:

Please refer to the answer given in response to question on notice 196 of 18/8/99. [See paper No 169.]

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF THE ACT

226. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Fisheries:

- (1) Which departments or agencies in the Minister for Fisheries' portfolio have been granted partial exemptions in -
 - (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;

- (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon M.J. CRIDDLE replied:

Please refer to the answer given in response to question on notice 196 of 18/8/99. [See paper No 169.]

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF THE ACT

228. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Family and Children's Services:
- (1) Which departments or agencies in the Minister for Family and Children's Services' portfolio have been granted partial exemptions in -
- (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon M.J. CRIDDLE replied:

Please refer to the answer given in response to question on notice 196 of 18 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF THE ACT

229. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Seniors:
- (1) Which departments or agencies in the Minister for Seniors' portfolio have been granted partial exemptions in -
- (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon M.J. CRIDDLE replied:

Please refer to the answer given in response to question on notice 196 of 18 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXEMPTIONS FROM PURCHASING PROVISIONS OF THE ACT

230. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Aboriginal Affairs:
- (1) Which departments or agencies in the Minister for Aboriginal Affairs' portfolio have been granted partial exemptions in -
- (a) Class 1 - Autonomous purchasing up to \$50 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (b) Class 2 - Autonomous purchasing up to \$250 000 per total contract value. Higher value purchasing to be arranged by a third party designated by the State Supply Commission;
 - (c) Class 3 - Autonomous purchasing up to \$1m per total contract (or to a value as agreed by the Commission). Higher value purchasing to be arranged by a third party designated by the State Supply Commission; and
 - (d) Class 4 - Autonomous purchasing with no upper limit?
- (2) For each department and agency in the Minister's portfolio which have been granted partial exemptions from the operation of section 19(1) of the *State Supply Commission Act 1991*, which departments or agencies have reviewed their supply activities and assessed its risk in accordance with the commission's accreditation process each 12 months or at intervals determined by the commission?

Hon M.J. CRIDDLE replied:

Please refer to the answer given in response to question on notice 196 of 18 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

240. Hon LJILJANNA RAVLICH to the Minister for Racing and Gaming:

For each department or agency in the Minister for Racing and Gaming's portfolio can the Minister provide the following information -

- (1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -
- (a) Chief Executive Officers;
 - (b) Senior Executive Service; and
 - (c) Level 1-8?
- (2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?
- (3) What are the names of the external agencies that were utilised?
- (4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon MAX EVANS replied:

Office of Racing, Gaming and Liquor

- (1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.
- (b) 1997/98 Nil
1998/99 Nil
- (c) 1997/98 13 Please note these figures include
1998/99 8 permanent and fixed-term employment
- (2) All recruited internally
- (3)-(4) Not applicable.

Burswood Park Board

- (1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.
- (b) 1997/98 Nil
1998/99 Nil
- (c) 1997/98 Nil
1998/99 1
- (2) Internally (1)
- (3)-(4) Not applicable.

W A Greyhound Racing Authority

- (1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.
- (b) Nil.
- (c) 1997/98 1
1998/99 7
- (2) All Internally.
- (3)-(4) Not applicable.

Totalisator Agency Board

- (1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.
- (b) 1997/98 1
1998/99 Nil
- (c) 1997/98 10
1998/99 12
- (2) Internally 1997/98 8
Internally 1998/99 5

Externally 1997/98 3
Externally 1998/99 7
- (3) 1997/98 Deloitte Touche Tohmatsu.
1998/99 Morgan & Banks, Integrated Workforce, Temps & Co.
- (4) 1997/98 \$15,000
1998/99 \$31,696

Lotteries Commission

- (1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.
- (b) 4 existing staff – positions reclassified from level 8 to level 9.
- (c) 1997/98 13
1998/99 5
- (2) 1997/98 All staff recruited internally.
1998/99 Internally 4
Externally 1
- (3) Gerard Daniels Australia Pty Ltd.
- (4) 1997/98 Nil
1998/99 \$7,500

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

269. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

For each department or agency in the Minister for Works' portfolio can the Minister provide the following information -

- (1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -
 - (a) Chief Executive Officers;
 - (b) Senior Executive Service; and
 - (c) Level 1-8?
- (2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?
- (3) What are the names of the external agencies that were utilised?
- (4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon MAX EVANS replied:

The following information on staffing numbers recruited in 1997/98 and 1998/99 refers to permanent staff and staff on fixed term contracts.

(1) Contract and Management Services (CAMS) recruited:

	1997/98	1998/99
(a) Chief Executive Officers	*	*
(b) Senior Executive Service	2	1
(c) Level 1-8	55	41

Office of Youth Affairs (OYA) recruited:

(a) Chief Executive Officers	*	*
(b) Senior Executive Service	1	1
(c) Level 1-8	13	14

Office of Citizenship and Multicultural Interests (OCMI) recruited

(a) Chief Executive Officers	*	*
(b) Senior Executive Service	0	0
(c) Level 1-8	4	8

State Supply Commission recruited:

(a) Chief Executive Officers	*	*
(b) Senior Executive Service	0	0
(c) Level 1-8	1	0

*"Recruitment of Executive Officers is managed by Public Sector Management – Please refer to the answer given in response to question on notice 52".

(2) These staff were recruited to CAMS as follows:

	1997/98	1998/99
Internally	42	26
External Recruitment Agency	2	0
With the aid of External Recruitment agency	13	16

These staff were recruited to OYA as follows:

	1997/98	1998/99
Internally	13	10
External Recruitment Agency	0	0
With the aid of External Recruitment agency	1	5

These staff were recruited to OCMI as follows:

	1997/98	1998/99
Internally	4	8
External Recruitment Agency	0	0
With the aid of External Recruitment agency	0	0

These staff were recruited to SSC as follows:

	1997/98	1998/99
Internally	1	0
External Recruitment Agency	0	0
With the aid of External Recruitment agency	0	0

(3) The names of the external agencies that were utilised are:

CAMS:
 Sagers and O'Dea Consulting
 Dillinger Group Development
 Human Resource Solutions WA
 Drake
 GMH Consulting Group
 CP Recruitment Management Services
 Clements Human Resource Consultants
 Sandra McKnight
 Workplace Agreements Development Services

OYA:
 Dillinger Group Development
 Human Resource Solutions WA

OCMI:
 No external recruitment agencies were utilised.

SSC:
 Dillinger Group Development

(4) The cost of using the external recruitment agencies was:

CAMS:
1997/98 \$25,563
1998/99 \$13,593

OYA:
1997/98 \$460
1998/99 \$3,040

OCMI:
Not applicable.

SSC:
1997/98 \$1,035

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

270. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Services:

For each department or agency in the Minister for Services' portfolio can the Minister provide the following information -

- (1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -
 - (a) Chief Executive Officers;
 - (b) Senior Executive Service; and
 - (c) Level 1-8?
- (2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?
- (3) What are the names of the external agencies that were utilised?
- (4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon MAX EVANS replied:

Please refer to the answer given to question on notice 269.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

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

For each department or agency in the Minister for Citizenship and Multicultural Interests' portfolio can the Minister provide the following information -

- (1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -
 - (a) Chief Executive Officers;
 - (b) Senior Executive Service; and
 - (c) Level 1-8?
- (2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?
- (3) What are the names of the external agencies that were utilised?
- (4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon MAX EVANS replied:

Please refer to the answer given to question on notice 269.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

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

For each department or agency in the Minister for Youth's portfolio can the Minister provide the following information -

- (1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -
 - (a) Chief Executive Officers;
 - (b) Senior Executive Service; and
 - (c) Level 1-8?
- (2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?
- (3) What are the names of the external agencies that were utilised?

(4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon MAX EVANS replied:

Please refer to the answer given to question on notice 269.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

283. Hon LJILJANNA RAVLICH to the Minister for Finance:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

- (1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Finance's portfolio as of June 30, 1999?
- (2) Does this represent a 10 per cent reduction from June 30, 1998?
- (3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?
- (4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?
- (5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?
- (6) How much of this will be paid out in money in lieu of leave?
- (7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon MAX EVANS replied:

(1)-(7) I refer the Hon Member to the answer given in response to question on notice 288 of 19 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

284. Hon LJILJANNA RAVLICH to the Minister for Racing and Gaming:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

- (1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Racing and Gaming's portfolio as of June 30, 1999?
- (2) Does this represent a 10 per cent reduction from June 30, 1998?
- (3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?
- (4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?
- (5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?
- (6) How much of this will be paid out in money in lieu of leave?
- (7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon MAX EVANS replied:

(1)-(7) I refer the Hon Member to the answer given in response to question on notice 288 of 19 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

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

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

- (1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Employment and Training's portfolio as of June 30, 1999?
- (2) Does this represent a 10 per cent reduction from June 30, 1998?

- (3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?
- (4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?
- (5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?
- (6) How much of this will be paid out in money in lieu of leave?
- (7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon N.F. MOORE replied:

- (1)-(7) Please refer to the answer given in response to question on notice 288 of 19 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

302. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Parliamentary and Electoral Affairs:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

- (1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Parliamentary and Electoral Affairs' portfolio as of June 30, 1999?
- (2) Does this represent a 10 per cent reduction from June 30, 1998?
- (3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?
- (4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?
- (5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?
- (6) How much of this will be paid out in money in lieu of leave?
- (7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon N.F. MOORE replied:

- (1)-(7) Please refer to the answer given in response to question on notice 288 of 19 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

307. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Lands:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

- (1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Lands' portfolio as of June 30, 1999?
- (2) Does this represent a 10 per cent reduction from June 30, 1998?
- (3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?
- (4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?
- (5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?
- (6) How much of this will be paid out in money in lieu of leave?
- (7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon MAX EVANS replied:

(1)-(7) Please refer to the answer given in response to question on notice 288 of 19 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

308. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Fair Trading:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

- (1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Fair Trading's portfolio as of June 30, 1999?
- (2) Does this represent a 10 per cent reduction from June 30, 1998?
- (3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?
- (4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?
- (5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?
- (6) How much of this will be paid out in money in lieu of leave?
- (7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon MAX EVANS replied:

(1)-(7) Please refer to the answer given in response to question on notice 288 of 19 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

312. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Water Resources:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

- (1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Water Resources' portfolio as of June 30, 1999?
- (2) Does this represent a 10 per cent reduction from June 30, 1998?
- (3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?
- (4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?
- (5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?
- (6) How much of this will be paid out in money in lieu of leave?
- (7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon MAX EVANS replied:

Please refer to the answer given in response to question on notice 288 of 19 August 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH SPEAKING BACKGROUNDS

370. Hon LJILJANNA RAVLICH to the Minister for Finance:

- (1) For all Government departments and agencies under the Minister for Finance's control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -
 - (a) 1994/95;
 - (b) 1995/96;
 - (c) 1996/97;
 - (d) 1997/98; and
 - (e) 1998/99?

- (2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?
- (3) If not, why not?
- (4) If yes to (3) above, how much was spent on -
 - (a) electronic media; and
 - (b) print media, in -
 - (i) 1994/95;
 - (ii) 1995/96;
 - (iii) 1996/97;
 - (iv) 1997/98; and
 - (v) 1998/99?

Hon MAX EVANS replied:

I refer the Hon Member to the answer given in response to question on notice 381 of 7 September 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH
SPEAKING BACKGROUNDS

371. Hon LJILJANNA RAVLICH to the Minister for Racing and Gaming:

- (1) For all Government departments and agencies under the Minister for Racing and Gaming's control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -
 - (a) 1994/95;
 - (b) 1995/96;
 - (c) 1996/97;
 - (d) 1997/98; and
 - (e) 1998/99?
- (2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?
- (3) If not, why not?
- (4) If yes to (3) above, how much was spent on -
 - (a) electronic media; and
 - (b) print media, in -
 - (i) 1994/95;
 - (ii) 1995/96;
 - (iii) 1996/97;
 - (iv) 1997/98; and
 - (v) 1998/99?

Hon MAX EVANS replied:

I refer the Hon Member to the answer given in response to question on notice 381 of 7 September 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH
SPEAKING BACKGROUNDS

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

- (1) For all Government departments and agencies under the Minister for Employment and Training's control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -
 - (a) 1994/95;
 - (b) 1995/96;
 - (c) 1996/97;
 - (d) 1997/98; and
 - (e) 1998/99?
- (2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?
- (3) If not, why not?
- (4) If yes to (3) above, how much was spent on -
 - (a) electronic media; and
 - (b) print media, in -

- (i) 1994/95;
- (ii) 1995/96;
- (iii) 1996/97;
- (iv) 1997/98; and
- (v) 1998/99?

Hon N.F. MOORE replied:

I refer the honourable member to the response to question on notice 381 of 7 September 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH
SPEAKING BACKGROUNDS

389. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Parliamentary and Electoral Affairs:

- (1) For all Government departments and agencies under the Minister for Parliamentary and Electoral Affairs' control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -
 - (a) 1994/95;
 - (b) 1995/96;
 - (c) 1996/97;
 - (d) 1997/98; and
 - (e) 1998/99?
- (2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?
- (3) If not, why not?
- (4) If yes to (3) above, how much was spent on -
 - (a) electronic media; and
 - (b) print media, in -
 - (i) 1994/95;
 - (ii) 1995/96;
 - (iii) 1996/97;
 - (iv) 1997/98; and
 - (v) 1998/99?

Hon N.F. MOORE replied:

(1)-(4) Please refer to the answer given in response to question on notice 381 of 7 September 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH
SPEAKING BACKGROUNDS

394. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Lands:

- (1) For all Government departments and agencies under the Minister for Lands' control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -
 - (a) 1994/95;
 - (b) 1995/96;
 - (c) 1996/97;
 - (d) 1997/98; and
 - (e) 1998/99?
- (2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?
- (3) If not, why not?
- (4) If yes to (3) above, how much was spent on -
 - (a) electronic media; and
 - (b) print media, in -
 - (i) 1994/95;
 - (ii) 1995/96;
 - (iii) 1996/97;
 - (iv) 1997/98; and
 - (v) 1998/99?

Hon MAX EVANS replied:

(1)-(4) Please refer to the answer given in response to question on notice 381 of 7 September 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH SPEAKING BACKGROUNDS

395. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Fair Trading:

- (1) For all Government departments and agencies under the Minister for Fair Trading's control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -
 - (a) 1994/95;
 - (b) 1995/96;
 - (c) 1996/97;
 - (d) 1997/98; and
 - (e) 1998/99?
- (2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?
- (3) If not, why not?
- (4) If yes to (3) above, how much was spent on -
 - (a) electronic media; and
 - (b) print media, in -
 - (i) 1994/95;
 - (ii) 1995/96;
 - (iii) 1996/97;
 - (iv) 1997/98; and
 - (v) 1998/99?

Hon MAX EVANS replied:

(1)-(4) Please refer to the answer given in response to question on notice 381 of 7 September 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH SPEAKING BACKGROUNDS

398. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Housing:

- (1) For all Government departments and agencies under the Minister for Housing's control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -
 - (a) 1994/95;
 - (b) 1995/96;
 - (c) 1996/97;
 - (d) 1997/98; and
 - (e) 1998/99?
- (2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?
- (3) If not, why not?
- (4) If yes to (3) above, how much was spent on -
 - (a) electronic media; and
 - (b) print media, in -
 - (i) 1994/95;
 - (ii) 1995/96;
 - (iii) 1996/97;
 - (iv) 1997/98; and
 - (v) 1998/99?

Hon MAX EVANS replied:

Please refer to the answer given in response to question on notice 381 of 7 September 1999.

DEPARTMENT OF COMMERCE AND TRADE, INTEREST FREE LOANS

428. Hon KEN TRAVERS to the Leader of the House representing the Minister for Commerce and Trade:

- (1) Can the Minister for Commerce and Trade list all companies that have an agreement to receive an interest-free loan, convertible to a grant, from the Department of Commerce and Trade, between January 1, 1993 and December 31, 1994?
- (2) For each company, can the Minister state -
 - (a) for what purpose the loan/grant was provided;
 - (b) when the agreement was signed;

- (c) what the total amount of the loan/grant was; and
- (d) over which periods and in what instalments the loans/grants were provided?

Hon N.F. MOORE replied:

(1)-(2) Austissue Pty Ltd

- (a) To facilitate the establishment of a tissue paper manufacturing plant in Western Australia.
- (b) Exact date is not known as this information dates back to 1988 but agreement would have been signed between May and August 1989.
- (c) \$200 000.
- (d) \$200 000 paid on 8 August 1989 (Capital Establishment Grant) – 5 year period.

Delta West Pty Ltd

- (a) To retain the Delta-Ject project in Western Australia via a \$8.5 million expansion program.
- (b) 30 November 1993.
- (c) \$750 000.
- (d) \$750 000 Paid 16 December 1993 – 5 year period.

Austal Ships

- (a) To assist in the development of a \$15 million shorefront facility at Jervoise Bay for the construction of high speed, lightweight passenger/vehicle ferries up to 100m in length.
- (b) 14 May 1994 (Mortgage signed 13 February 1995).
- (c) \$1 210 000.
- (d) \$1 210 000 drawn 29 June 1995 – 5 year period.

RAILWAYS, MONITORING AND MAINTENANCE

437. Hon J.A. SCOTT to the Minister for Transport:

Further to question on notice 1187 submitted on March 10, 1999 -

- (1) Given that there has been a 47 per cent drop in the number of people directly engaged in rail line monitoring and maintenance between 1993 and 1998, what measures have been put in place to ensure that the Western Australian rail system is safe for rail passengers and rail freight ?
- (2) Has this decline in rail maintenance and monitoring staff been the cause of the increasing number of rail freight accidents?

Hon M.J. CRIDDLE replied:

- (1) The introduction of rail joint elimination along with the use of one steel sleeper for every four timber sleepers to increase track stability has resulted in lower maintenance requirements and therefore less maintenance staff are required. While there has been a reduction in the number of maintenance staff, there has not been a reduction in the number of staff engaged in monitoring the railway.
- (2) Since 1993 there has not been an increase in track related rail freight accidents.

ROAD BUILDING, RECYCLED CONCRETE

451. Hon J.A. SCOTT to the Minister for Transport:

- (1) Has Main Roads WA (MRWA) conducted in-situ tests for the use of recycled concrete in road building "base material"?
- (2) Is the Minister aware that recycled concrete is used as road building "base material" in other Australian states?
- (3) Has Main Roads WA received the results from tests conducted in New South Wales on the use of crushed concrete as "base material" and will the Minister table a copy of that report?
- (4) What material does MRWA currently use as "sub base material" for road construction?
- (5) What material does MRWA currently use as "base material" for road construction?
- (6) Do MRWA specifications qualify recycled concrete as a suitable "base material" for road construction?

Hon M.J. CRIDDLE replied:

- (1) The recycling industry has not been able to produce suitable basecourse material to date. A private recycling company in Kwinana hopes to produce recycled concrete which conforms to Main Roads Western Australia

specifications within the next few months. As soon as conforming material has been produced, field trials will be constructed and monitored. This will be a joint project between Main Roads and the Town of Kwinana.

- (2) Yes. Main Roads also supports the use of recycled concrete as road building material in Western Australia. If the proposed field trials are successful and the price is competitive with other materials, the product will be able to be used as a basecourse on Main Roads projects.
- (3) Main Roads is aware of the work in NSW. The recycled pavement material developed in NSW is a blend of recycled concrete and reclaimed asphalt pavement. This material has quite different characteristics to basecourse manufactured from recycled concrete alone. Because pavements in Western Australia are only surfaced with thin asphalt, the opportunity to reclaim asphalt pavement is limited. The NSW results cannot therefore be applied to the situation in Western Australia.
- (4) In the Perth metropolitan area crushed limestone is generally used for sub-base. In other regions a wide variety of naturally occurring gravels are used as sub-base.
- (5) In the Perth metropolitan area crushed rock or bitumen stabilised limestone is generally used as basecourse material. In other regions lateritic gravels are commonly used, but a wide variety of other naturally occurring gravels have also been used as basecourse.
- (6) Main Roads has a specification for basecourse manufactured from recycled concrete. However, field trials are necessary to prove adequate performance of this material before general use of recycled concrete as basecourse can be accepted.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

476. Hon TOM STEPHENS to the Minister for Racing and Gaming:

- (1) Have any departments or agencies under the Minister for Racing and Gaming's portfolio awarded any contracts to -
 - (a) Australian Property Consultants; and
 - (b) Ross Hughes and Company,
 since January 1, 1999?
- (2) If yes, can the Minister state -
 - (a) the name of the contractor;
 - (b) the project the contract was awarded for;
 - (c) the date the contract was awarded;
 - (d) the value of the contract;
 - (e) whether the contract went to tender; and
 - (f) if the contract did not go to tender, why not?

Hon MAX EVANS replied:

- (1)-(2) No contracts have been awarded to Australian Property Consultants or Ross Hughes and Company by any departments or agencies under the portfolio of Racing and Gaming, since January 1 1997.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

477. Hon TOM STEPHENS to the Attorney General:

- (1) Have any departments or agencies under the Attorney General's portfolio awarded any contracts to -
 - (a) Australian Property Consultants; and
 - (b) Ross Hughes and Company,
 since January 1, 1999?
- (2) If yes, can the Attorney General state -
 - (a) the name of the contractor;
 - (b) the project the contract was awarded for;
 - (c) the date the contract was awarded;
 - (d) the value of the contract;
 - (e) whether the contract went to tender; and
 - (f) if the contract did not go to tender, why not?

Hon PETER FOSS replied:

- (1) (a)-(b) No.
- (2) (a)-(f) Not applicable.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

478. Hon TOM STEPHENS to the Minister for Justice:

- (1) Have any departments or agencies under the Minister for Justice's portfolio awarded any contracts to -

- (a) Australian Property Consultants; and
- (b) Ross Hughes and Company,

since January 1, 1999?

(2) If yes, can the Minister state -

- (a) the name of the contractor;
- (b) the project the contract was awarded for;
- (c) the date the contract was awarded;
- (d) the value of the contract;
- (e) whether the contract went to tender; and
- (f) if the contract did not go to tender, why not?

Hon PETER FOSS replied:

(1) (a)-(b) No.

(2) (a)-(f) Not applicable.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

502. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Women's Interests:

(1) Have any departments or agencies under the Minister for Women's Interests' portfolio awarded any contracts to -

- (a) Australian Property Consultants; and
- (b) Ross Hughes and Company,

since January 1, 1999?

(2) If yes, can the Minister state -

- (a) the name of the contractor;
- (b) the project the contract was awarded for;
- (c) the date the contract was awarded;
- (d) the value of the contract;
- (e) whether the contract went to tender; and
- (f) if the contract did not go to tender, why not?

Hon MAX EVANS replied:

(1) No.

(2) Not applicable.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

504. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Water Resources:

(1) Have any departments or agencies under the Minister for Water Resources' portfolio awarded any contracts to -

- (a) Australian Property Consultants; and
- (b) Ross Hughes and Company,

since January 1, 1999?

(2) If yes, can the Minister state -

- (a) the name of the contractor;
- (b) the project the contract was awarded for;
- (c) the date the contract was awarded;
- (d) the value of the contract;
- (e) whether the contract went to tender; and
- (f) if the contract did not go to tender, why not?

Hon MAX EVANS replied:

(1) (a) Yes, the Water Corporation.
(b) No.

(2) (a) Australian Property Consultants.
(b) Valuation Sewer Easement J7967.
(c) 20 August 1999.
(d) Commercial in Confidence.
(e) No.
(f) Contract under \$50,000.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

509. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Primary Industry:

(1) Have any departments or agencies under the Minister for Primary Industry's portfolio awarded any contracts to -

- (a) Australian Property Consultants; and
- (b) Ross Hughes and Company,

since January 1, 1999?

(2) If yes, can the Minister state -

- (a) the name of the contractor;
- (b) the project the contract was awarded for;
- (c) the date the contract was awarded;
- (d) the value of the contract;
- (e) whether the contract went to tender; and
- (f) if the contract did not go to tender, why not?

Hon M.J. CRIDDLE replied:

(1)-(2) There are no Departments/Agencies under my Primary Industry Portfolio who have had dealings with the above companies since 1 January 1999.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

510. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Fisheries:

(1) Have any departments or agencies under the Minister for Fisheries' portfolio awarded any contracts to -

- (a) Australian Property Consultants; and
- (b) Ross Hughes and Company,

since January 1, 1999?

(2) If yes, can the Minister state -

- (a) the name of the contractor;
- (b) the project the contract was awarded for;
- (c) the date the contract was awarded;
- (d) the value of the contract;
- (e) whether the contract went to tender; and
- (f) if the contract did not go to tender, why not?

Hon M.J. CRIDDLE replied:

(1)-(2) Fisheries Western Australia has not had any dealings with the above companies since 1 January 1999.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

513. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Seniors:

(1) Have any departments or agencies under the Minister for Seniors' portfolio awarded any contracts to -

- (a) Australian Property Consultants; and
- (b) Ross Hughes and Company,

since January 1, 1999?

(2) If yes, can the Minister state -

- (a) the name of the contractor;
- (b) the project the contract was awarded for;
- (c) the date the contract was awarded;
- (d) the value of the contract;
- (e) whether the contract went to tender; and
- (f) if the contract did not go to tender, why not?

Hon M.J. CRIDDLE replied:

(1) No.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, LAND SALES IN EXCESS OF \$500 000

520. Hon TOM STEPHENS to the Minister for Racing and Gaming:

Can the Minister for Racing and Gaming provide the following details of land sales in -

- (a) rural and metropolitan; and
- (b) commercial and residential,

undertaken by departments and agencies in the Minister's portfolio areas, since September 1, 1998, which had a sale value of \$500 000 or more -

- (i) name and location of the land sold;
- (ii) date sold;
- (iii) nature of sale and name of buyer;

- (iv) the names of any non-Government agents involved in the sale;
- (v) proceeds received from the sale;
- (vi) associated revenue from the sale, such as stamp duty; and
- (vii) any associated costs incurred in the sale process?

Hon MAX EVANS replied:

(a)-(b) Nil.

(i)-(vii) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, LAND SALES IN EXCESS OF \$500 000

546. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Women's Interests:

Can the Minister for Women's Interests provide the following details of land sales in -

- (a) rural and metropolitan; and
- (b) commercial and residential,

undertaken by departments and agencies in the Minister's portfolio areas, since September 1, 1998, which had a sale value of \$500 000 or more -

- (i) name and location of the land sold;
- (ii) date sold;
- (iii) nature of sale and name of buyer;
- (iv) the names of any non-Government agents involved in the sale;
- (v) proceeds received from the sale;
- (vi) associated revenue from the sale, such as stamp duty; and
- (vii) any associated costs incurred in the sale process?

Hon MAX EVANS replied:

(a)-(b) Nil.

(i)-(vii) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, LAND SALES IN EXCESS OF \$500 000

553. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Primary Industry:

Can the Minister for Primary Industry provide the following details of land sales in -

- (a) rural and metropolitan; and
- (b) commercial and residential,

undertaken by departments and agencies in the Minister's portfolio areas, since September 1, 1998, which had a sale value of \$500 000 or more -

- (i) name and location of the land sold;
- (ii) date sold;
- (iii) nature of sale and name of buyer;
- (iv) the names of any non-Government agents involved in the sale;
- (v) proceeds received from the sale;
- (vi) associated revenue from the sale, such as stamp duty; and
- (vii) any associated costs incurred in the sale process?

Hon M.J. CRIDDLE replied:

AGRICULTURE WESTERN AUSTRALIA

- | | | |
|-------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i) | Albany
South Perth
Wokalup | Depot Site, Cockburn Road, Reserve 5147, lots 534-541
Head Office, Baron Hay Court, Ptn Reserve 26916 Canning Loc 4308
Agricultural Research Station - Wellington Loes 5780 and 4472 |
| (ii) | Albany
South Perth
Wokalup | 28 September 1999 (settlement date)
29 June 1999
2 September 1999 (full payment by December 2001) |
| (iii) | Albany
South Perth
Wokalup | Public Auction - Dilate Pty Ltd
Negotiation - Department of Commerce and Trade
Negotiation - Education Department of WA |
| (iv) | Albany
South Perth
Wokalup | Elders Real Estate - Albany
Not applicable
Not applicable |
| (v) | Albany
South Perth
Wokalup | \$ 520,000
\$1,080,000
\$5,400,000 |
| (vi) | Albany
South Perth
Wokalup | Not known
Not applicable
Not applicable |

- (vii) Albany \$11,700
- South Perth Nil
- Wokalup Nil

GOVERNMENT DEPARTMENTS AND AGENCIES, LAND SALES IN EXCESS OF \$500 000

554. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Fisheries:

Can the Minister for Fisheries provide the following details of land sales in -

- (a) rural and metropolitan; and
- (b) commercial and residential,

undertaken by departments and agencies in the Minister's portfolio areas, since September 1, 1998, which had a sale value of \$500 000 or more -

- (i) name and location of the land sold;
- (ii) date sold;
- (iii) nature of sale and name of buyer;
- (iv) the names of any non-Government agents involved in the sale;
- (v) proceeds received from the sale;
- (vi) associated revenue from the sale, such as stamp duty; and
- (vii) any associated costs incurred in the sale process?

Hon M.J. CRIDDLE replied:

- (a)-(c) Fisheries Western Australia has not sold any land since 1 September 1998 with a value of \$500,000 or more.

GOVERNMENT DEPARTMENTS AND AGENCIES, LAND SALES IN EXCESS OF \$500 000

557. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Seniors:

Can the Minister for Seniors provide the following details of land sales in -

- (a) rural and metropolitan; and
- (b) commercial and residential,

undertaken by departments and agencies in the Minister's portfolio areas, since September 1, 1998, which had a sale value of \$500 000 or more -

- (i) name and location of the land sold;
- (ii) date sold;
- (iii) nature of sale and name of buyer;
- (iv) the names of any non-Government agents involved in the sale;
- (v) proceeds received from the sale;
- (vi) associated revenue from the sale, such as stamp duty; and
- (vii) any associated costs incurred in the sale process?

Hon M.J. CRIDDLE replied:

- (a) No.
- (b) Not applicable.

GOVERNMENT CONTRACTS, CHAMBER OF COMMERCE AND INDUSTRY

580. Hon KEN TRAVERS to the to the Minister for Finance:

- (1) Have any of the Government agencies for which the Minister for Finance is responsible had contracts with, or made payments to, the Chamber of Commerce and Industry in each of the following years -

- (a) 1996/97;
- (b) 1997/98; and
- (c) 1998/99?

- (2) If yes, what was the nature of each of the contracts and what was/were the payments made?

Hon MAX EVANS replied:

Insurance Commission of Western Australia

- (1) Yes.
- (2) The Insurance Commission has no contractual relationship with the Chamber of Commerce and Industry of WA, however, payments have been made over the past three financial years for Corporate Membership Fee, Conferences and Seminars and Reference Publications totalling:

1996/97 \$219.00
 1997/98 \$14,659.00
 1998/99 \$14,805.29

State Revenue Department
Valuer General's Office
Government Employees Superannuation Board

- (1) (a)-(c) No.
- (2) Not applicable.

QUESTIONS WITHOUT NOTICE

TERM MAINTENANCE CONTRACT SYSTEM, CONSULTANTS

368. Hon TOM STEPHENS to the Minister for Transport:

Some notice of this question has been given.

- (1) Which consultants were used by Main Roads WA in drawing up its term maintenance contract system?
- (2) When were each of these consultants engaged and what was the contract fee paid?

Hon M.J. CRIDDLE replied:

- (1) The term maintenance contracting strategy for road maintenance is outlined in the position paper produced and made public in August 1998. The position paper was prepared by Main Roads with the assistance of Booze Allen Hamilton (Australia) Limited.
- (2) \$11 500.

MINISTER FOR THE ARTS, PERICLES, MRS MOIRA

369. Hon TOM STEPHENS to the Minister for the Arts:

I refer to the minister's purchase of \$31 000-worth of art for his ministerial office from the business Pen and Paint owned by Leon and Moira Pericles.

- (1) Is or was Moira Pericles paid as an adviser to the minister or the Government; and, if so, will the minister table the details of those payments?
- (2) Did or does Moira Pericles get paid any commission or fee separately from any art deal she brokers for the Government; and, if so, will the minister table the details of those payments?
- (3) Was Moira Pericles paid a commission for the purchases from Pen and Paint; and, if so, what?
- (4) Has Moira Pericles been retained for the minister in any capacity; and, if so, what are the details of that retainer?

Hon PETER FOSS replied:

The question has a certain amount of repetitiveness and ambiguity. I will answer as best I can given that repetitiveness and ambiguity.

- (1), (4) No, she was not. She arranged purchases, and it was those which were paid for.
- (2) Not my purchases. This is a matter for her, the artists concerned and any galleries involved. I am not privy to those commission arrangements.
- (3) Not by government.

MATRIX FINANCE GROUP, ARRANGEMENTS WITH GOVERNMENT

370. Hon N.D. GRIFFITHS to the Minister for Finance:

- (1) What role has the Minister for Finance played in the Government's arrangement with the Matrix Finance Group?
- (2) In particular, has the minister advised the Government on whether the arrangements are to do with finance leasing or operating leasing?
- (3) Has the minister made sure that the Australian Taxation Office is fully aware of the arrangements, current and proposed?
- (4) Has the minister ascertained whether there is a contingent liability for the Government; and, if so, what?
- (5) Has the minister provided or sought advice on what depreciation, sales tax and GST issues are involved?
- (6) Has the minister ascertained whether the Government has indemnified any credit provider against the results of any Australian Taxation Office rulings?

Hon MAX EVANS replied:

- (1) I had no role in arranging finance. I understand that it was arranged in the Department of Contract and Management Services in the days when Hon Kevin Minson was the minister responsible. Treasury did that deal. I was a member of Cabinet when it was resolved, and I looked at and discussed the question to understand what was going on.
- (2) Regarding finance and operating leasing, I do not always agree with the way the Auditor General has handled this matter in a few separate accounts in recent times. He has had his views on that aspect. From memory, it is a two-year lease as finance leasing, not operating leasing. I may be wrong.
- (3) It was not our responsibility to make the Australian Taxation Office aware of the situation. I have not seen the ruling. I understand that Matrix had to get a ruling from the ATO to accept the deal. I assume that other finance companies around Australia have done similar things. Matrix had a ruling from the ATO that the deal was okay. As the Minister for Transport said yesterday, the same applies if the company wants to do other deals. It depends on the vehicle types, the length of the lease and so on, and the ATO may decide to do that. Sometimes it gives a ruling, and sometimes it does not. It gave a ruling on this matter because of the sheer amount of money involved.
- (4) I have not checked whether the accounts include contingent liability. They may have. Fortunately or unfortunately, I am not right up on accounting standards these days. I know the Auditor General looks closely at those aspects and the Treasury and Treasurer are responsible for the accounts. It is an interesting question.
- (5) Again, Matrix had to negotiate with the ATO on depreciation. The previous Government did across-border leasing with Sweden on the electrified railway. Someone complained that the Government was doing business with a Sydney company, yet the previous Government got \$270m from a Swedish company because the depreciation rates there were better than those found in other places. As I said last week, people came to us wanting across-border leasing to have the arrangement taken away from the Swedish financiers and given to American financiers which had a better depreciation rate. Matrix had to worry about that aspect as part of the financing deal. Depreciation would depend on the rate charged for finance.

The sales tax situation has changed. All cars with a nominated driver or user must pay sales tax since the 1993 Premiers Conference, from memory. We have been stuck with that arrangement on about 2 800 cars, which increased the cost. It has nothing to do with Matrix. That is the cost of the deal, and one is financing that amount of the debt.

As for GST issues, the trading price of cars is being influenced by the expected change in the value and price of cars from 1 July next year with the implementation of the GST. It has an effect on the sale price of cars, and has nothing to do with the Matrix deal. One adjusts the sale price. We said last week that the cost was about a \$30m loss between the purchase and sale price of cars, upon which we made profits in the old days.

- (6) The Government would not need to indemnify the company. It is Matrix's risk as it took on the deal. It is not for the Government to indemnify the company on any deal with sales tax rolled over. It is its risk. Matrix does it that way. The credit provider is Matrix in this case. We have credit banks and other finance companies, and we have across-border leasing on electrified railways. I do not think that an indemnity applies with that arrangement, but it is not within my jurisdiction.

DIOXIN**371. Hon J.A. SCOTT to the minister representing the Minister for Health:**

- (1) Does the minister recognise that dioxin represents a "high risk" environmental health contaminant?
- (2)
 - (a) Does Western Australia currently have regulations prescribing acceptable levels of dioxin in soil, air and water?
 - (b) If yes, what department/authority enforces these regulations?
 - (c) If none, why not?
- (3) Are there any accredited laboratories in Western Australia or Australia for the testing and analysing of dioxins; and, if yes, which ones are they?
- (4)
 - (a) Are there any industrial processes or operations in Western Australia that represent possible sources of dioxin formation?
 - (b) Have any of these operations ever been monitoring for dioxin emissions?

Hon MAX EVANS replied:

- (1) Dioxins may be considered to represent a "high risk" environmental contaminant because they can affect a number of biological systems at relatively low doses. Being fat solubles, dioxins also tend to be persistent in the fatty tissues of animals. However, dioxins are ubiquitous in the environment. Environment levels are much lower than those which may have an effect on humans.

- (2) (a) No. There are no regulations prescribing acceptable levels of dioxins in soil, air or water. However, the minister understands that under the Environmental Protection Act, conditions on licences may be imposed to control emissions into the environment from industrial processes.
- (b) Not applicable.
- (c) If standards were set, environmental monitoring would be required to assess compliance with the standards. Dioxin levels in the environment are very low, and there is no laboratory in Western Australia that can measure dioxins at those levels. Whenever measurements have been undertaken, they have been sent overseas for analysis.
- (3) No.
- (4) Dioxins are produced by a number of processes including the production of some herbicides and any thermal process, such as incineration or burning of fuel.
- (a) Possible sources of dioxin in Western Australia would be incinerators, burning of wood, including wood fires, and automobile exhaust. Industrial processes are controlled under the Environmental Protection Act.
- (b) Monitoring of emissions from industrial processes is under the Environmental Protection Act.

COUNSELLING SERVICES, SOUTH WEST

372. **Hon NORM KELLY to the minister representing the Minister for Family and Children's Services:**

In the minister's media statement of 14 October 1999 regarding counselling support for the south west, the minister stated that services will also be provided in Pemberton, Bridgetown, Greenbushes and Nannup. Will the minister detail the services to be provided in each of these four towns?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

Family and Children's Services has commenced an outreach service at Bridgetown utilising office space and providing a presence in the town for information, counselling and referrals to other support agencies in the area. Family and Children's Services information has also been provided to the Greenbushes community information service, offering family support, financial assistance and counselling to interested persons, as well as visiting the local community as requested. Contact has also been made with retrenchment coordinators in the Warren-Blackwood region in order to promote departmental services, either directly or via other departmentally funded agencies, in the area of financial counselling and family support. Similarly, community groups concerned with the human services sector in Pemberton and Nannup that have raised issues as a result of the restructuring of the forest industry have been contacted so that relevant information from government and non-government services can be provided. Information kits on support services for distribution to retrenched people have also been prepared. In addition, Family and Children's Services staff in Manjimup will launch, in coordination with other government services, a resource and referral package for all affected communities in the Warren-Blackwood area.

This package, at an estimated cost of \$55 000 for six months, is in addition to the existing services provided by Family and Children's Services, which include family and individual support, financial assistance, crisis intervention, and coordination with other agencies and services. Additional personal counselling services funded by the department were provided to South West Counselling Inc at a cost of a further \$10 000 in August this year.

ABANDONED MINES, USE FOR AQUACULTURE

373. **Hon MURIEL PATTERSON to the Minister for Mines:**

What approvals would be required from the Department of Minerals and Energy by interested parties wishing to utilise abandoned mines for non-mining purposes, such as aquaculture?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. An aquaculture operation would require an appropriate title to be issued under the Land Administration Act 1997. Clearance by the Minister for Mines before that title is issued may be needed under section 16 of the Mining Act 1978. This section provides that no crown land that is in a mineral field shall be leased, transferred in fee simple, or otherwise disposed of under the provisions of the Land Administration Act 1997 without the approval of the Minister for Mines. Prior to the abandonment of a mine, the Department of Minerals and Energy would allow the mining lessee to conduct activities such as aquaculture trials as a potential beneficial post-mining land use, provided any safety issues were properly addressed.

"SOUTH WEST METROPOLITAN RAILWAY" BROCHURES

374. **Hon J.A. COWDELL to the Minister for Transport:**

- (1) How many "South West Metropolitan Railway" brochures were distributed in the Mandurah area?
- (2) Did all these brochures have a colour photo of, and message from, Hon Roger Nicholls?

- (3) What was the cost of -
- (a) production; and
 - (b) distribution?
- (4) Were brochures distributed in any other localities affected by the new line?
- (5) If yes, in what areas and at what cost?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Approximately 20 000 "South West Metropolitan Railway" brochures were distributed.
- (2) Yes.
- (3) The costs were -
- (a) production \$5 456.00
 - (b) distribution \$ 632.00.
- (4) The brochures were distributed in Mandurah and Secret Harbour. A similar brochure addressing the railway route options at Rockingham was circulated throughout the Rockingham area.
- (5) The costs were -
- (a) Mandurah \$607.00
 - (b) Secret Harbour \$ 25.00.

Having answered the above question, I now ask the member to advise the House which route he considers should be adopted for the railway at Rockingham.

AIR NAVIGATION, CONTROL

375. Hon KIM CHANCE to the minister representing the Minister for Fisheries:

Is the minister now able to answer the four-part question which I asked with some notice on Tuesday last week and which sought advice from the Minister for Fisheries about the statutory authority for his claim that he has control of air navigation in the Abrolhos Islands? My question also sought advice on the purpose of the introduction of regulation 105A, given that the minister now claims he has the requisite authority to control air navigation without that regulation being in place. Further, the question asked if the Minister for Fisheries was aware that his attempt to restrict trade in this manner was causing financial loss to local businesses and might be in conflict with national competition policy. As a matter of clarification, will the minister advise the House whether the proper authority for the control of air navigation is the Civil Aviation Authority or the Western Australian Minister for Fisheries?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

The Minister for Fisheries has replied that as a result of the Legislative Council's decision, he does not intend to regulate the number of air service providers to the Abrolhos Islands.

MINISTERIAL AIR TRAVEL

376. Hon LJILJANNA RAVLICH to the Minister for the Arts:

I refer to the minister's claim to Liam Bartlett last Friday that he travels economy class on planes in Australia, that not too many ministers do that, and that he does that because he actually finds that more comfortable. I ask -

- (1) Is it not the case that between March 1996 and March 1998 the minister travelled business class on at least 10 occasions, as stated in the travel reports tabled in Parliament?
- (2) Why did the minister mislead Liam Bartlett's listeners by not clarifying that it was only a relatively recent decision to fly economy class?
- (3) Has the minister tried to persuade his ministerial colleagues of the cost and comfort advantages of travelling economy class?

Hon PETER FOSS replied:

- (1)-(3) I am amazed at the suggestion that when talking to Liam Bartlett - or, for that matter, any members of the media - one is able to go into great detail to say that when I said I travel economy class, I have not always travelled economy class.

Hon Ljiljanna Ravlich: That is what you said. You implied that you travel economy, but you do not.

Hon PETER FOSS: I know that the member always prefers the answers she would like to be given. I said that I travel economy, and I do travel economy. In fact, I think I have been travelling economy for about a year, because I happen to find it -

Hon Ljiljanna Ravlich: A year?

Hon PETER FOSS: I think it is about a year. The funny thing about it is that this Opposition seems to regard the fact that I travel economy class as something about which I should be questioned and criticised.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich should let the minister answer the question. If we get through the list I have, she can ask a second question, but one at a time.

Hon PETER FOSS: I did not say that I have always travelled economy; I said that I travel economy, and I do travel economy. Rather than that being a matter for criticism by Opposition members, I thought they would say that was good. Even if I had been doing it for only a month, I thought the Opposition would say that was well done.

Hon Bob Thomas: It is what you implied.

Hon PETER FOSS: If I had said I had always travelled economy, I might agree with the member. However, if I said that I travel economy, I think that means I travel economy, and that happens to be the truth. However, this funny little lot on the other side is not content with that. Perhaps we should deal with what the Labor Party used to do. We should look at the minister for 83 days.

Hon Kim Chance: He used very small aircraft.

Hon PETER FOSS: Yes, he did. The minister for 83 days somehow managed to spend -

Hon Tom Stephens: When under attack, always attack others and never address the issue in front of you. You are trying to mislead the media, and now you are on the attack.

The PRESIDENT: Order! I am waiting for the minister to resume his seat. When I call the Leader of the Opposition to order, he should come to order.

Hon Tom Stephens: I could not hear you, Mr President.

The PRESIDENT: I know the Leader of the Opposition could not hear me because he was yelling so loudly that no-one could hear what was going on.

Hon PETER FOSS: If anyone can show me the inaccuracy in the statement that I travel economy, when I have been travelling economy for probably at least a year, or close to a year, I would be interested to know where it is. I would also be very interested to know how many people manage to say anything they want to say when talking to the media given that, generally speaking, members of the media try to dominate with their questions. I am pleased I managed to get that in because I am proud of the fact that I travel economy - unlike the minister for 83 days who managed to spend \$90 000 in those 83 days. I draw members' attention to a rather interesting set of events which occurred during the 1993 election. Members will remember that the then Premier gave an order that members were not to travel using government charters. North west members were affected; I think Hon Norman Moore was affected by this. He could not even travel with the now Premier. It is interesting that on election day -

Hon Tom Stephens: It is not correct. You know this has previously been raised and denied. It is wrong.

Hon PETER FOSS: Has it? I am sorry, it is wrong. I understood Hon Tom Stephens was called upon to explain how it was -

Hon Tom Stephens interjected.

The PRESIDENT: Order!

Points of Order

Hon BOB THOMAS: Can I ask the minister to identify the document he is quoting from?

The PRESIDENT: Hon Bob Thomas can ask the minister to identify it, but whether it is to be tabled is to be decided.

Hon PETER FOSS: I am reading from a question without notice asked by Hon Philip Lockyer, but some of the other documents I have here are confidential.

The PRESIDENT: Does the minister claim confidentiality?

Hon PETER FOSS: I do for some of the documents, but not others.

Hon Ljiljanna Ravlich: Table the lot.

Hon PETER FOSS: I would love to. If the Opposition will table its stuff -

The PRESIDENT: Order! Hon Ljiljanna Ravlich, the reason I asked the question becomes evident if members read Standing Order No 47. Members should let me worry about whether the document will be tabled. I was making good progress, but all of a sudden we have slipped right back.

Questions Without Notice Resumed

Hon PETER FOSS: My understanding - and I am open to correction by the Leader of the Opposition - is that on Saturday -

Hon Tom Stephens: The House has been advised already about this inaccurate claim that you are making.

Hon PETER FOSS: I am sorry, but I have been advised that it is correct.

Hon Tom Stephens: By whom? Table the paper.

Hon PETER FOSS: My understanding is that on Saturday, 6 February 1993 Hon Tom Stephens chartered a Kingair aircraft from Perth to Newman and Carnarvon involving 5.5 hours flying time at a cost to his office of \$2 090. I understand that that was contrary to what had been agreed by the then Premier about what members were allowed to do and that Hon Tom Stephens did this on election day. However, the important thing is I am proud of my decision to travel economy. I would have expected that rather than being criticised -

The PRESIDENT: I ask the minister to conclude his answer.

Hon PETER FOSS: I am happy to provide this question without notice.

Hon Tom Stephens: That he has now separated.

Hon PETER FOSS: I will read members some of the rest.

Points of Order

Hon BOB THOMAS: I again ask the minister to identify that document; all of it, including the front page.

Hon PETER FOSS: The front page is -

Several members interjected.

The PRESIDENT: Order! I want to be able to hear the answer. Minister for the Arts, what document is it? The minister might have said it three times, but I have not heard him once.

Hon PETER FOSS: The rest of it does not deal with Hon Tom Stephens.

The PRESIDENT: Minister, would you identify the document.

Hon PETER FOSS: I have a series of ministerial entertainment expenses for the Labor Party while it was in government. An interesting thing that tells us is that when the Labor Government left, it did not leave any accounts behind; they all mysteriously disappeared. Perhaps we should table that one. I then have the relocations by the member for Mining and Pastoral, then the question without notice and the expenditure by the then Premier's office from 1989 to 1992, the local purchase orders. Of course, most of the information had disappeared.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: The Opposition wants this stuff.

The PRESIDENT: Order! Minister for the Arts, I will sit you down if you do not complete the identification of that document.

Hon PETER FOSS: I do not know what that page is. Then there are some printouts of meals from the Department of Premier and Cabinet.

Hon N.F. Moore: M. Anderson I think the name is.

Hon PETER FOSS: Yes, M. Anderson; that is an interesting one.

The PRESIDENT: Minister, will you identify the documents? You must be able to identify them as a group of documents.

Hon PETER FOSS: They are all quite different documents. There is a series of documents on meals incurred by M. Anderson. I do not know what this document is. There are some other documents on food expenses incurred by the Department of Premier and Cabinet, a question without notice relating to Hon Tom Stephens, the relocation expenses of Hon Tom Stephens and a general comment relating to ministerial entertainment expenses and a cover sheet.

The PRESIDENT: Minister, you have claimed confidentiality; if you want to table any of those documents at the end of question time, work out which ones and we will worry about it then.

Questions Without Notice Resumed

MINISTER FOR THE ARTS, NEW DESK

377. Hon TOM STEPHENS to the Minister for the Arts:

I refer to the minister's claim on commercial television that he had to replace his office desk because it gave him a headache and ask -

- (1) When was the desk the minister replaced sold or disposed of?

- (2) If the desk was sold, what was the return received for it?
- (3) If it was otherwise disposed of or reallocated, to whom was it reallocated or disposed?

Hon PETER FOSS replied:

Mr President -

The PRESIDENT: Order! Minister, I am not ready yet; I want everyone to come to order.

Hon PETER FOSS: The answer is -

- (1) The desk was reallocated.
- (2) Not applicable.
- (3) The desk has always been utilised within my ministerial office.

PILCHARD DEATHS, WEST COAST PURSE SEINE FISHERY

378. Hon GIZ WATSON to the minister representing the Minister for Fisheries:

With regard to the two major mortality events involving pilchards in Western Australian coastal waters -

- (1) What was the reduction of pilchard stocks in the west coast purse seine fishery as a result of -
 - (a) the first mortality event;
 - (b) the second mortality event?
- (2) What was the estimated stock prior to the first mortality event?
- (3) What is the current estimated stock?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1)(a), (2) The impact of the first mortality event was estimated to be 10 to 15 per cent of the pilchard stocks. The best estimate of stock size in early 1995, prior to the first kill, was 20 000 tonnes.
- (1)(b), (2) The second mortality event is estimated to have had a far greater impact than the first.

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY, FEDERAL FUNDS

379. Hon HELEN HODGSON to the Minister for Justice:

- (1) Has the State Government received funds from the Federal Government to be used to implement recommendations from the Royal Commission into Aboriginal Deaths in Custody for the 1997-98 financial year and the 1998-99 financial year? If so, what amounts were received?
- (2) On what specific projects were the funds spent in the 1997-98 and the 1998-99 financial years?
- (3) Which recommendations of the royal commission do each of these projects address?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(3) The Ministry of Justice has not received federal funds directly from the Commonwealth Government to be used to implement recommendations from the Royal Commission into Aboriginal Deaths in Custody.

ATTORNEY GENERAL, ECONOMY CLASS TRAVEL

380. Hon MARK NEVILL to the Attorney General:

Does the Attorney General travel economy class because the hard seats are better for his back?

Hon PETER FOSS replied:

It is strange the member should ask - that is one of the reasons. I do find the hard seats better for my back. I also do not drink alcohol on aeroplanes and, generally speaking, there does not seem to be much point in my travelling first class.

MINISTER FOR THE ARTS, RELATIONSHIP WITH PERICLES FAMILY

381. Hon TOM STEPHENS to the Minister for the Arts:

The minister is reported on the front page of today's *The West Australian* as giving the answer "none" in response to a question about his relationship with the Pericles.

- (1) Is it not a fact that the minister has a longstanding relationship with Leon and Moira Pericles and that they are his friends and neighbours?

- (2) Is it not the case that the minister and the Pericles have had, and perhaps still have, joint ownership of a bus which over many years the minister and the Pericles have regularly used; and is it not also a fact that the minister and the Pericles have regularly, if not annually, holidayed together in Walpole?
- (3) Is it not also the case that it is largely on the basis of the minister's friendship with Moira Pericles that she has been commissioned by the minister at taxpayers' expense to embark upon a lavish art acquisition program for his ministerial office and that this program has led to the acquisition of pieces of art from Leon Pericles; and why did the minister choose to be so tricky in his answer to *The West Australian* as to try to deny his relationship across all of those levels with the Pericles with whom he has used taxpayers' funds to obtain art for his office?

The PRESIDENT: Order! I have to call the Minister for the Arts, so that someone downstairs can put the camera on him.

Hon PETER FOSS replied:

- (1) I am pleased to have this opportunity to answer, because it was suggested that I have a relationship with Mrs Pericles. I do not have a relationship with Mrs Pericles. Leon and Moira Pericles are friends of mine. In some ways they are neighbours. They do have a house in the next street and they are sometimes there.

Hon Tom Stephens: You told Liam Bartlett you engaged Mrs Pericles to do some work.

The PRESIDENT: Order! The Leader of the Opposition will come to order.

Hon PETER FOSS: The Leader of the Opposition should stop answering my questions.

- (2) No. We do not and never have had the joint ownership of a bus. I owned the bus, which I have since sold. The Pericles have never had any ownership of that bus. They have travelled in my bus. I am the only one who uses the bus. I can assure the Leader of the Opposition that my family and I are the only people who slept in it. I find, as I am sure the Pericles do, that the suggestion of a relationship is offensive. We have holidayed together for years, and I have never tried to conceal that fact, but we do not have a relationship. They are friends and neighbours. I do not have a relationship with them. It is fairly important for people to understand that I do not have relationships with any of my neighbours.

Hon Derrick Tomlinson: You don't even covet your neighbour.

Hon PETER FOSS: No, I do not covet my neighbour or even my neighbour's wife. Years ago I had druggies living next door, and I had no relationship with them either. The fact that people are one's friends or neighbours does not mean a relationship.

- (3) That was not the reason I commissioned them.

Several members interjected.

The PRESIDENT: Members, order! I cannot hear the answer. If members are not interested in the answer, I will ask the minister to sit down so that I can get on with the 10 or so members who still indicate they want to ask a question.

Hon PETER FOSS: That is not the reason at all.

Hon Bob Thomas: Did you dob in those druggies to the cops?

Hon PETER FOSS: It was some years ago and in those days I used to wonder why they were wandering around looking like that.

The PRESIDENT: Order! Minister, we are wasting time; no-one is really interested.

Hon PETER FOSS: Initially, I hired somebody else to find art.

Hon Tom Stephens: Who was that?

Hon PETER FOSS: I do not intend to give that person's name, because that person incurred the wrath of David Forrest, and I explained this to the Leader of the Opposition earlier. That person was slow at filling my office; the works were too expensive and I did not particularly like them. I went to the office of Hon Richard Lewis, which looked absolutely fantastic and which is now the office of the Police Minister, and he told me that it had been fitted out on the recommendations of Moira Pericles. I thought, "What is good enough for you is good enough for me." I asked Mrs Pericles to do the same thing for me.

There is the business about taxpayers and lavishness. I could not believe it when *The West Australian* told me that Hon Tom Stephens had suggested that as mine was a private office I should sell the artwork. That was extraordinary. The Leader of the Opposition would have to be the biggest redneck arts spokesperson I have ever come across. If Hon Tom Stephens thinks that \$30 000 is lavish, I can tell him that it is easy to spend 10 times that amount on one painting.

Hon Kim Chance: Ask the people on the hospital waiting list whether that is lavish.

Hon Tom Stephens: Use your own bloody money; don't use the taxpayers' money.

Withdrawal of Remark

The PRESIDENT: Order! The Leader of the Opposition will withdraw that word.

Hon TOM STEPHENS: I withdraw the word.

Questions Without Notice Resumed

Hon PETER FOSS: It is most extraordinary that a Minister for the Arts, rather than being commended for buying art, rather than being criticised for not having art in his office, rather than being commended for following a government policy which said ministers should buy Western Australian art - which was received by the arts world with considerable pleasure - is being criticised for buying art.

Hon Tom Stephens: That is what the Art Gallery does.

Hon PETER FOSS: If the Leader of the Opposition thinks that art is to be found only in art galleries, he should lose his job as arts spokesperson immediately. Every person should be encouraged to buy art, because art is affordable and all people should have it in their homes and offices. The fact that the Leader of the Opposition says that shows he is totally and utterly incapable of understanding the portfolio that he is supposed to be shadowing.

To finish the answer: The arrangement I had with Mrs Pericles was that she find and purchase art. That does not involve any extra cost to the taxpayer. If I bought the art through the galleries, the usual gallery commission would be around about 40 per cent. That is the price charged by the galleries on paintings.

Hon Ljiljanna Ravlich: What is the percentage?

Hon PETER FOSS: If Hon Ljiljanna Ravlich wants to ask questions, she should get in line. I do not mind that commission being paid. That is an arrangement between the artists and galleries. If I purchase directly from the artist and he gives me a cheaper price because I do not have to pay that 40 per cent, that is good for the taxpayer. If that artist gives Mrs Pericles a commission which is either the same or smaller, that is even better.

Hon Tom Stephens: Did that happen?

Hon PETER FOSS: The Leader of the Opposition must ask Mrs Pericles. All I know is that I paid the same price I would have had to pay if I had not engaged Mrs Pericles. The big difference was that instead of my having to visit every gallery and find the artwork, I had somebody who was able to do this effectively and efficiently. I would be surprised if the Leader of the Opposition did not think that was a good use of taxpayers' funds. I do not think it cost the taxpayers one extra cent; it may have even saved them a considerable amount, but I do not know. All I know is that I paid a reasonable price for that art, and I have a showcase of Western Australian art. It is not a private art collection.

I do not know what happened to the gifts given to the former Labor Government, but not a single piece of art was left behind except that which was on lease from Curtin University of Technology. I have received gifts of art, and I included them in this list. They are on the register, and they will held in perpetuity for the people of Western Australia. The art that was given to the former Labor Government has somehow vanished. It may be that nobody gave the former Government art; it may be people thought members opposite were Philistines and they should not have any, but none was left around for the coalition Government. This Government will leave art behind. The important point is that many people come to my office and they see my art.

Hon Tom Stephens: It is not your art; it is the taxpayers' art.

Hon PETER FOSS: Okay, they come to see the taxpayers' art.

The PRESIDENT: Minister, will you conclude your answer.

Hon PETER FOSS: Certainly, Mr President. I would be interested to make a comparison between the amount we spend per year on the Art Gallery and the number of people who visit it, and the amount I spend of taxpayers' money and how many people see that. I hope that every government office, minister and private business does the same thing, because this State Government is about selling Australia, not selling Australia down, which is what the Opposition does all the time.

I have always come in under budget, and do everything the right way. If the Leader of the Opposition had done that when he was minister and had not been the minister for big expenses, he might have some basis on which to criticise me. However, I know what I do is done for the benefit of taxpayers. The purchases are on the register and I am accountable. My accounts will not disappear when I cease to be minister. My paintings will not disappear when I cease to be minister, unlike the former Labor Government which did not even leave behind its purchase vouchers after members opposite had gone and the shredders had been operating.
