

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

CANNABIS CONTROL BILL 2003

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 5: CIN for offence under *Misuse of Drugs Act 1981* s. 5(1)(d)(i) -

Debate was interrupted after the clause had been partly considered.

Dr J.M. WOOLLARD: My question is about the part of this clause which mentions a police officer, other than a police officer who is authorised for various purposes. I have looked at section 35A of the Police Act, which talks about special constables. Does this part mean, then, that this police officer, other than a police officer authorised for various purposes, could, as the minister said earlier, not only receive payment, but also, under section 35A(2) of the Police Act, have all the same powers and privileges provided under that Act? Section 34 provides for someone just off the street to be made a special constable when there is a problem with law and order. I would like some clarification of where this police officer will come from, the officer's background and the responsibilities the officer might be given under this Act.

Mr R.C. KUCERA: I will go back to what I said about clause 4. The authorised person is a police officer authorised by the Commissioner of Police. Under the definition of police officer in the *Misuse of Drugs Act*, even though I do not see a situation arising in which a special constable would be used in cases of extension of time or withdrawal of a notice, a situation may arise in which a special constable may be used for the receipt of moneys. Again, that would depend on the authorisation given by the Commissioner of Police. I am not quite sure where the member for Alfred Cove's confusion is.

Dr J.M. Woollard: Section 35A(2) of the Police Act.

Mr R.C. KUCERA: The definition under the *Misuse of Drugs Act* at page 3 is quite specific about what is meant by a police officer. The authorised person, as I explained earlier, has three functions: the receipt of moneys, extension of time and withdrawal of an infringement notice. The latter two would be handled by a police officer. There may be situations, as I explained earlier today, in which the receipt of moneys may be carried out simply by a person who is authorised by the Commissioner of Police, but who is not necessarily a police officer.

Dr J.M. WOOLLARD: I thought the reference to "police officer" in the Bill would relate to the Police Act 1892, and specifically section 35A. My understanding is that clause 5 could relate to someone who is brought on board as an undercover agent. I refer to sections 35A(2) and 34 of the Police Act. I thought the two sections of the Police Act were relevant. I look forward to being advised accordingly by the minister.

Clause put and a division taken with the following result -

Ayes (27)

Mr P.W. Andrews	Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mrs C.A. Martin	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mr M.P. Murray	Mr P.B. Watson
Mr A.J. Dean	Mr F.M. Logan	Mr A.P. O'Gorman	Mr M.P. Whitely
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr J.R. Quigley	Ms M.M. Quirk (<i>Teller</i>)
Mrs D.J. Guise	Mr J.A. McGinty	Ms J.A. Radisich	

Noes (20)

Mr D.F. Barron-Sullivan	Mrs C.L. Edwardes	Mr A.D. Marshall	Mr M.W. Trenorden
Mr M.J. Birney	Mr J.P.D. Edwards	Mr B.K. Masters	Mr T.K. Waldron
Mr M.F. Board	Mr B.J. Grylls	Mr P.D. Omodei	Ms S.E. Walker
Dr E. Constable	Ms K. Hodson-Thomas	Mr P.G. Pandal	Dr J.M. Woollard
Mr J.H.D. Day	Mr M.G. House	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)

Clause thus passed.

Clause 6: CIN for offence under *Misuse of Drugs Act 1981* s. 6(2) -

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr M.J. BIRNEY: This clause states that a police officer who has reason to believe that a person who has reached 18 years of age and has committed an offence under section 6(2) of the Misuse of Drugs Act may, within 21 days after the alleged offence that is believed to have been committed, give a cannabis infringement notice to the alleged offender. The word “may” concerns me. It follows that a police officer may not issue a CIN to somebody who has been caught with fewer than 30 grams of cannabis. I am interested to hear the view of the Minister for Police -

Point of Order

Ms S.E. WALKER: There are many conversations going on in this place. I would like to hear what the member for Kalgoorlie has to say.

The ACTING SPEAKER (Mr A.P. O’Gorman): The member for Kalgoorlie has the call. I ask members to keep their conversations to a minimum. It would be appreciated if they were kept a little below a dull roar.

Debate Resumed

Mr M.J. BIRNEY: I am pleased that members are somewhat quieter. I was talking about the word “may” in clause 6(1), which allows a police officer to use his or her discretion as to whether he or she issues a CIN to an alleged offender. This puts the Police Service and individual officers in an untenable position because the officer may or may not issue a CIN. Some guidelines are needed to indicate situations in which a police officer may or may not issue a CIN. It is not good enough to say that each police officer, based on his or her own prejudice, may or may not issue a CIN. If the word “may” is to be left in the Bill, we need some guidance from the Minister for Health about situations in which a CIN would or would not be issued. I wonder whether the Minister for Health will put that on the record tonight. In subsequent months and years police will read his speech to get an understanding about the situations in which they would or would not issue a CIN.

Mr R.C. KUCERA: Clauses 5, 6 and 7 are almost identical. I have already given answers to the questions raised about police discretion. The position of clause 6 is exactly the same as clause 5.

Ms S.E. WALKER: This clause relates to section 6(2) of the Misuse of Drugs Act. Section 5 of that Act referred to utensils and section 6 refers to the possession of drugs. Section 6(2) of the Act states -

Subject to subsection (3) and to section 36A of the *Poisons Act 1964*, a person who has in his possession or uses a prohibited drug commits a simple offence, except when, in the case of a person who has the prohibited drug in his possession . . .

The Act lists the exceptions. Is there something in one of the schedules to the Misuse of Drugs Act that tells us how much cannabis a person must have in his possession for it to be a simple offence?

Mr R.C. Kucera: By way of interjection: it is in the schedule.

Ms S.E. WALKER: Which one; and how much is it currently for a simple offence?

Mr R.C. Kucera: The schedules deal with the deeming provisions. There is no specific section dealing with possession other than the deeming provisions, and they are in schedule 5. Schedule 5 deals with the intent to sell or supply.

Ms S.E. WALKER: Under the Misuse of Drugs Act, according to schedule 5, they must have less than 100 grams for it to be a simple offence.

Mr R.C. Kucera: The 100 grams deals with a presumption of dealing. Under 100 grams, it falls back to a matter of circumstance.

Ms S.E. WALKER: An amount less than 100 grams would constitute a simple offence under section 6(2).

Mr R.C. Kucera: Depending on the circumstances.

Ms S.E. WALKER: The penalty for a simple offence against section 6(2) of the Misuse of Drugs Act would be covered by section 34.

Mr R.C. Kucera: If it was dealt with as a simple offence, the penalty would be \$2 000 or two years or both.

Ms S.E. WALKER: At the moment, if a person has 30 grams and he has the intention to sell or supply, notwithstanding the presumption, it would be an indictable offence.

Mr R.C. Kucera: Yes, that is correct.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ms S.E. WALKER: If it is an indictable offence for a person to have 30 grams with intent to sell or supply, what would be the penalty under section 34 of the Misuse of Drugs Act?

Mr R.C. Kucera: Subsection (2)(ii) would then come into play, and it would be 10 years or \$20 000 or both. It would depend on what jurisdiction that person was in if sentenced by the District Court.

Ms S.E. WALKER: Currently, a person who has 30 grams with intent to sell or supply faces an indictable offence with a penalty of \$20 000 or 10 years or both.

Mr R.C. Kucera: It depends on the circumstances. Ordinarily, it would be a summary offence.

Mr B.K. MASTERS: I would like to hear the member for Nedlands further on this issue.

Ms S.E. WALKER: Is it the case that under clause 6, whether or not the person has an intention, the police officer can issue an infringement notice? He does not have to inquire. If he finds someone with 30 grams, is the policy the same under this clause as it is under clause 5, whereby the police officer can exercise discretion in favour of the infringement notice?

Mr R.C. KUCERA: Nothing has changed. If the intent is to sell or supply, the infringement notice does not apply. It is as simple as that. The same would apply to the stunt we saw in the House the other day; it would be dealing.

Dr J.M. WOOLLARD: This clause refers to a police officer, other than a police officer who is authorised. I asked about the police officer referred to in clause 5 and the minister refused to answer me. I have read the relevant part of the Misuse of Drugs Act. Under section 3, interpretation -

Mr R.C. Kucera: I answered that. The same applies to clause 6.

Dr J.M. WOOLLARD: I will carry on Madam Deputy Speaker.

Points of Order

Mr J.C. KOBELKE: Madam Deputy Speaker, I draw your attention to Standing Order No 97 and to what the Minister for Health has already said. We spent in the order of an hour on the preceding clause during which time the minister responded to general issues. If members wish to ask the same questions on clauses 6 and 7, which contain similar provisions, they are very likely to contravene Standing Order No 97.

Ms S.E. WALKER: In fairness to the member for Alfred Cove, it is often the case when we consider clauses in detail that issues arise and we rummage through our thoughts. It is unfair not to allow the member for Alfred Cove to finish her question.

The DEPUTY SPEAKER: Standing Order No 97 is quite clear. I ask the member for Alfred Cove to address her questions on clause 6 to any new information she requires rather than to repeat a question that may have been answered during debate on an earlier clause.

Debate Resumed

Dr J.M. WOOLLARD: Subclause (1) refers to the Misuse of Drugs Act, which refers to section 35A of the Police Act. The definition of a police officer is not just someone who collects money, which is my understanding of what the Minister for Health said. It is covered in section 35A. Subsection (1) provides that the Commissioner of Police may appoint constables. Subsection (2) provides that any person appointed as a special constable shall have all of the same powers and be in charge and enjoy all the same privileges and be subject to the same duties and obligations as any constable duly appointed under this Act. Is it not the case, therefore, that clause 6, which refers to the Misuse of Drugs Act, which refers to the Police Act, is stating that the police officer's role is not just to collect funds, but also to carry out any other duty that any other police officer can carry out?

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division called for.

Several members interjected.

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

The DEPUTY SPEAKER: Order!

Several members interjected.

The DEPUTY SPEAKER: Order! Member for Vasse!

Several members interjected.

The DEPUTY SPEAKER: Order, members! I have reminded members once before in this place that I think the behaviour of my children is far better than that of all members. Members' behaviour is disgraceful. I remind members that there are standing orders in place. I ask members -

Several members interjected.

The DEPUTY SPEAKER: I am leaving the Chair.

Sitting suspended from 8.26 to 8.28 pm

The DEPUTY SPEAKER: I remind all members that there are standing orders in place for the way in which business is conducted in this House and for the way in which members behave in this House. I will not tolerate that sort of behaviour. I ask that members respect this House and the way in which it operates. The next member who tends to act in any manner of the sort I have just witnessed will be named.

Mr P.D. OMODEI: Madam Deputy Speaker -

The DEPUTY SPEAKER: There is a division in progress, member for Warren-Blackwood, which I intend to proceed with.

Question put and a division taken with the following result -

Ayes (27)

Mr P.W. Andrews	Mr J.N. Hyde	Ms S.M. McHale	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr R.C. Kucera	Mrs C.A. Martin	Mr D.A. Templeman
Mr A.J. Carpenter	Mr F.M. Logan	Mr M.P. Murray	Mr P.B. Watson
Mr A.J. Dean	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr J.A. McGinty	Mr J.R. Quigley	Ms M.M. Quirk (<i>Teller</i>)
Mr S.R. Hill	Mr M. McGowan	Ms J.A. Radisich	

Noes (21)

Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr M.G. House	Mr R.N. Sweetman	
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	
Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron	

Question thus passed.

The DEPUTY SPEAKER: One member left the Chamber during that division. I advise that that is not within standing orders. Therefore, that member was recorded as a vote for the noes.

Mr D.F. Barron-Sullivan: May we ask who that was?

The DEPUTY SPEAKER: It was the member for South Perth.

Clause put and a division taken with the following result -

Extract from Hansard
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p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (28)

Mr P.W. Andrews	Mr S.R. Hill	Mr M. McGowan	Ms J.A. Radisich
Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Mr E.S. Ripper
Mr C.M. Brown	Mr J.C. Kobelke	Mr A.D. McRae	Mrs M.H. Roberts
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr D.A. Templeman
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Mr P.B. Watson
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Mr M.P. Whitely
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	Ms M.M. Quirk (<i>Teller</i>)

Noes (21)

Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr P.G. Pendal	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr M.G. House	Mr R.N. Sweetman	
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	
Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron	

Clause thus passed.

Clause7: CIN for offence under *Misuse of Drugs Act 1981* s. 7(2) -

Mr J.C. KOBELKE: Clause 7 states -

A police officer, other than a police officer who is an authorised person for the purposes of section 8(4)(b)(i), 10(1) or 11(1), who has reason to believe that a person who has reached 18 years of age has committed an offence under section 7(2) of the *Misuse of Drugs Act 1981* may, subject to subsection (2), within 21 days after the alleged offence is believed to have been committed, give a cannabis infringement notice to the alleged offender.

I draw the attention of the House to the fact -

Points of Order

Mr D.F. BARRON-SULLIVAN: I seek guidance from the Chair. Is it not a requirement during consideration in detail that the minister be seated at the Table?

Ms S.E. WALKER: The Leader of the House referred to Clause 7 but spoke only about subsection (1). I hope he will not suggest, as I believe he might, that the clause is similar to clauses 5 and 6.

The DEPUTY SPEAKER: There are no points of order.

Debate Resumed

Mr J.C. KOBELKE: It is great when members opposite try to foretell what one's speech will be.

Point of Order

Mr P.G. PENDAL: In the division just held, I understand I was recorded as a vote for the noes in my absence. I have no difficulty with that, but Madam Deputy Speaker left the Chair. My understanding is that when the Presiding Officer leaves the Chair he or she does so until the ringing of the bells. The bells were not rung. With all due respect, Madam Deputy Speaker disappeared from the Chamber during a lot of acrimony during a division. I can understand that, but she left nonetheless. Madam Deputy Speaker was therefore obliged to leave not just in those circumstances but to leave the Chair until the ringing of the bells, which did not occur. I have no idea of the consequences of that. Frankly, I did not care very much until I heard the Clerk ask what they were going to do about "him". I did not know who "him" was at that stage. Someone told me that they were referring to me. "Him" came to the door and attempted to raise my voice and say that it was not a division; that it was invalid. Madam Deputy Speaker should not have left the Chair without advising that she would do so until the ringing of the bells. With all due respect, one shambles followed another. I suggest that the clause should be recommitted and we should start again.

The DEPUTY SPEAKER: There is no point of order because the bells were rung. As a Presiding Officer I have the ability to leave the Chair. Because the bells were rung the division is valid and the member's vote was recorded accordingly.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr P.G. PENDAL: With respect, they were not rung. They were apparently rung for the division and a number of members entered this Chamber. It was during that time that Madam Deputy Speaker left the Chamber. I submit that she cannot leave the Chamber until she says-

Mrs M.H. Roberts: You left the Chamber.

Mr P.G. PENDAL: It is of no embarrassment to me because I ended up being recorded on the side of the division I wanted to appear on. Can the minister not see that?

Several members interjected.

Mr P.G. PENDAL: I do not need members to my left to give me advice. I am trying to get advice from the Deputy Speaker. I am saying to Madam Deputy Speaker with the greatest of respect - as someone who does handle the House well - that she had no right to leave without saying that she would ring the bells again. It is a separate issue whether the bells were rung in the first place for a division. I submit that the division was invalid.

The DEPUTY SPEAKER: I repeat that the bells were rung, the division was called and the doors were locked. As the chairperson in this place, I have the ability to leave the Chair at any time of my choosing, as announced, to restore order. The bells were rung, and I heard them on recall. If the member wishes to disagree with that, he knows the formal process.

Debate Resumed

Mr J.C. KOBELKE: I was speaking to clause 7, and I had quoted the words in subclause (1), leaving out two relevant parts relating to other clauses of this Bill and the Misuse of Drugs Act. I did that to draw members' attention to the fact that clauses 5 and 6 are identical to clause 7 in that respect. Members have gone over and over matters that have been covered numerous times in preceding clauses. These clauses, particularly clause 7, contain very important matters. We certainly hope there is the opportunity, and that members avail themselves of it, to debate the clauses in a proper way. The fact is that if people are simply setting out to waste the time of the House -

Points of Order

Mr D.F. BARRON-SULLIVAN: I shall indulge in the ability to take a point of order as the Leader of the House seems to be speaking to a point of order during debate on clause 7.

Mr J.C. Kobelke: I am speaking to the clause.

Mr D.F. BARRON-SULLIVAN: He seems to have diverged from the nature of the clause. Standing Order No 179 is very specific. For the benefit of members of the House, it states -

Debate will be confined to the clause or amendment before the Assembly and no general debate will take place on any clause.

I take that to mean that, for example, when we are dealing with clause 5, we cannot deal with any clause other than clause 5, and that when we are dealing with clause 6, we cannot deal with any clause other than clause 6. We are now on clause 7. We are asking questions about clause 7. It is impossible to say that our questions have been dealt with previously. If we were to do that, we would contravene Standing Order No 179. It may be a little precious of the minister to try to say that we should curtail discussion on this clause. I can assure you, Madam Deputy Speaker, that some new matters will be raised about the application of the word "may". One of those matters concerns police corruption. I would have thought that that is the sort of new material we should be discussing during debate on this clause.

Mr J.C. KOBELKE: I ask you, Madam Deputy Speaker, to consider the point at which people start to abuse the opportunity to take points of order.

Several members interjected.

Mr J.C. KOBELKE: I was addressing and quoting straight from the clause before the Chamber. During that process half a dozen points of order have been taken. I have taken less than two of the five minutes I am allocated.

The DEPUTY SPEAKER: At the time the member for Mitchell raised the point of order, the Leader of the House was addressing clause 7; however, I would have reminded him to come back to the clause and not maintain a general discussion. The member for Mitchell is quite right about the clause at hand. The Leader of the House referred to a different standing order, Standing Order No 97, when he responded to the member for

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pental; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mitchell's point of order. Standing Order No 179 is quite clear about members dealing with the clause at hand, and any new material pertinent to clause 7 is what should be discussed. However, members must be mindful that if they refer to a discussion that has taken place ad nauseam, they may well be in breach of Standing Order No 97. I ask all members to be mindful of that, as well as the requirement under Standing Order No 179 to address the clause at hand.

Debate Resumed

Mr J.C. KOBELKE: As I indicated, I was quoting directly from clause 7, which is currently before the House, and I simply pointed out that the words I had quoted were identical to those in clauses 5 and 6. I am not going back to debate those or other matters, and I was not wishing to refer directly to any standing order. I am simply making the point that if the debate is to progress productively, the very important matters contained in clause 7 should be addressed, rather than parts of the clause that have already been addressed ad nauseam through a range of other clauses. Otherwise, there will be nothing left for me to do, as Leader of the House, other than move that the question be put so that we can move productively through the Bill. I am certainly of the view that the vast majority of contributions so far have been extremely repetitious or have not dealt with the matter before the House. We are now dealing with clause 7, and I had hoped that we would have addressed the very important matters contained in that clause.

The DEPUTY SPEAKER: The Leader of the House has made the point. I remind members that we are dealing with clause 7. I want members on both sides of the Chamber to address themselves to that exact point.

Mr D.F. BARRON-SULLIVAN: I will deal with the context in which the word "may" appears in clause 7. I will deal with it in a manner that perhaps has not been discussed previously, even under clauses 5 or 6. I reiterate that Standing Order No 97, which relates to repetitious or irrelevant debate, requires that a matter be treated in a repetitious way before that standing order can apply. I note that when we were dealing with clause 6, one matter that the minister effectively refused to talk about had not been dealt with at all; yet we are now told that it is a repetitious matter. The point I raise about clause 7, and particularly about the discretion provided to police officers by the word "may", which appears twice in that clause, is as follows. I take members back to 7 October 1997, when the then Assistant Commissioner of the Western Australia Police Service, the now Minister for Health, made the following comments -

Suffice to say Perth is a sophisticated city and has the same organised crime problems as any other major city . . .

I remind members that the now Minister for Health was giving evidence to a parliamentary committee dealing with the illicit drugs crisis in this State. I provide the House with another quote -

Drug law enforcement is a difficult area; it is prone to corruption . . . I make no bones about that. That has been the key problem for administrators in all policing jurisdictions in the past 10 years.

I repeat: the now minister said that drug law enforcement is prone to corruption. I say that because obviously a royal commission is being conducted at the moment that is examining aspects of potential and actual police corruption in the Police Service in this State. It is widely recognised that when there are discretionary powers, it leaves open the opportunity for dubious decision making by law-enforcement officers. To what extent was it considered that by leaving this element of discretion in clause 7 - I could easily have raised this about clauses 5 or 6 - we were providing an opportunity for police officers to use that discretion in a corrupt manner, whether it be petty corruption or part of a major crime ring?

Mr R.C. KUCERA: It was a very strong recommendation of the committee and was part of the discussion at the Drug Summit. The reason is that including the word "will" in the South Australian legislation created the problem with organised crime.

Mr D.F. BARRON-SULLIVAN: I would be grateful if the minister could elaborate on what he is saying about South Australia. It is our understanding from the advice of the people involved in law enforcement in that State that it was the very softening of the legislation dealing with so-called cannabis control that to a large extent has facilitated the growth of crime rings in that State. I would be grateful if the minister could elaborate on his answers to this question and others. I make the point - the minister may wish to comment on this as well - that it is quite clear that one of the approaches taken by the Labor Government towards this whole aspect of law enforcement in relation to the use of cannabis revolves around the notion that somehow or other the criminal conviction penalties that apply to the use of cannabis have not worked, and that in some way having rigid law

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enforcement has not prevented the growth of the drug trade. However, as the minister is well aware and as he has indicated before, we have not had total prohibition arrangements in this State, and certainly not since 1991 when policies for cautions and so on were introduced. We have not had anything like zero tolerance. When there has been zero tolerance in specific antidrug campaigns, we have seen very significant results. The point I am trying to make, and which the minister might address, is that we have not had a totally prohibitive arrangement or policy in this State. We certainly have not had a policy of zero tolerance. As there is still a discretion provision in the Bill, is there the potential for corruption? It is either yes or no. It is either no, we will not have corruption under this legislation, or yes, the corruption potential is there.

Mr B.J. GRILLS: Clause 7(2) refers to hydroponic cultivation. If a person has a direct fertiliser injection into a plant in the backyard, will that be described as hydroponic, or does the plant have to be inside under lights etc? How will hydroponic be defined? How will the police be able to determine whether a person has 30 grams unless they carry scales?

Mr R.C. KUCERA: The 30-gram issue has already been dealt with under clause 6. It is intended that the definition of hydroponic cultivation will have its ordinary meaning; that is, cultivation by placing the roots of a plant in a liquid nutrient solution rather than in soil.

Mr M.J. BIRNEY: Clause 7(2) refers to the requirement for a police officer to issue a cannabis infringement notice to an individual who is caught with no more than two plants of cannabis growing in his backyard. If, for whatever reason, those two plants happened to die and there were two dead plants in that individual's backyard, would a cannabis infringement notice still be issued or would the individual be charged as a dealer?

Mr R.C. KUCERA: The plants must be under cultivation. If there had been any other treatment of the plants, obviously possession charges would result.

Mr M.J. BIRNEY: The minister has just admitted that an absolutely absurd situation is developing. If, for instance, I were to grow two marijuana plants in my backyard and I was caught with those two plants, I would be issued with a cannabis infringement notice and would probably pay a \$200 fine or, more than likely, attend an education session. If I happen to go away for a month or a month and a half and get back only to find that my two plants - my pride and joy - are lying dead in my backyard, I will be charged as a drug dealer. On the one hand, the Government is encouraging people to grow two plants in their backyard, but the minute those two plants keel over, the Government will charge them as drug dealers. What an absurd situation! I could go away on holidays and come back to find my plants dead and a police officer with a set of handcuffs ready to charge me as a drug dealer, when I probably should have copped only a \$200 fine or an education session. I submit that this is a pathetically drafted piece of legislation. It is an ill thought out policy that is designed simply to appease those members of the Labor Party who might be this way inclined.

Mr R.C. KUCERA: The situation will be the same as it is now. I credit the police officers and the lawyers in this Chamber with a little more commonsense than that shown by the member for Kalgoorlie.

Mr P.D. OMODEI: The minister cannot help himself. When a person becomes a minister in this place he is obliged to carry the legislation through. That does not mean engaging in the party-political nonsense that the minister has been exhibiting throughout the whole debate on this legislation. My advice to the minister is that he should take notice of the bureaucrats around him and deal with the legislation rather than be a smart-arse, because that is what he is trying to be.

I will read into *Hansard* a letter to the Leader of the Opposition from a major hydroponics operator. The letter states -

I thought that I would send this to you. It is currently doing the rounds in the hydroponic industry and is about to be released to the press.

My name is -

He mentions his name.

Currently I work in the hydroponics industry. Prior to this I worked in government for approximately 2½ years . . . in the alcohol and drug sector (ADA).

To briefly state my case, I find section 7a of The Cannabis Control Bill both legally and professionally offensive. My attitude reflects the opinion of much of this industry. For this reason, we are currently beginning the process of lobbying against this bill.

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I thought it worth putting forth our concerns to relevant parties in order to firstly, raise these concerns and secondly, to establish communication with parties who can assist us in this process.

Included in this communication is copy that outlines the problems that we have with section 7a of the bill.

It goes on to -

Mr R.C. Kucera: Clause 28 of the Bill actually refers to that -

Mr P.D. OMODEI: No, this person is referring to section 7(2)(a) and is a person who reasonably ought to know -

Mr R.C. Kucera: By way of advice, clause 28 deals with proposed section 7A and the selling and supplying of hydroponic paraphernalia. The member might be better served were he to address his comments to that clause.

Mr P.D. OMODEI: Which section was that, minister?

Mr R.C. Kucera: Clause 28, which is headed section 7A inserted.

Mr P.D. OMODEI: I take that on board. I thank the minister for outlining that to me. I foreshadow that I will be raising this matter on behalf of the hydroponics industry, as I raised it also during the second reading debate. This legislation will turn the law-abiding citizens of Western Australia into criminals. I will be taking up this matter with some vigour, because what this Government is doing to the hydroponics industry is a disgrace.

Ms S.E. WALKER: I refer to a point made by the member for Alfred Cove about an authorised person. The member for Nollamara has had a bit of a go at the member for Alfred Cove and other members on this point. I refer to the words "A police officer, other than a police officer who is an authorised person" in clause 7, which are also repeated in clauses 5 and 6. Clause 7(1) refers to the Misuse of Drugs Act 1981 and clause 3(1) states that the Bill is to be read as one with the Act. A police officer under the Misuse of Drugs Act is defined as a member of the Police Force appointed under part I of the Police Act 1892 or as a special constable under section 35A(2). Therefore, an authorised officer under the Cannabis Control Bill can be either a police officer or a special constable. Section 35A(2) of the Police Act states -

Any person appointed a special constable shall have all the same powers and be entitled to and enjoy all the same privileges and be subject to the same duties and obligations as any constable duly appointed under this Act.

The member for Alfred Cove made the point that a special constable could be appointed as an authorised officer under the Bill because it must be read as one with the Misuse of Drugs Act. Is it correct that not only a police officer but also a special constable can withdraw or issue a cannabis infringement notice for any offence under clauses 5, 6 or 7 of the Bill?

Mr R.C. KUCERA: I return to what I said previously. It is unlikely that the Commissioner of Police would use a special constable to carry out those duties. A special constable has the same powers as a police officer and can exercise the power to issue or withdraw an infringement notice. I can foresee instances when that could happen but it is unlikely, as I said, that the Commissioner of Police would use a special constable in that role. However, the member is correct when she said that the term "special constable" in section 3 of the Misuse of Drugs Act has the same meaning as "police officer".

Ms S.E. WALKER: Given that the Bill is to be read as one with the Misuse of Drugs Act, why do we need another authorised person?

Mr R.C. Kucera: It is the nature of the role. As I have explained on numerous occasions, an authorised person will carry out three specific roles under the Bill: receipt of moneys, extensions of time to be granted and withdrawals of cannabis infringement notices. It is standard practice in fine enforcement to have a centralised fine enforcement agency that is normally staffed by people who are authorised by the Commissioner of Police to use those powers.

Mr P.D. Omodei interjected.

The SPEAKER: The member for Nedlands is on her feet.

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ms S.E. WALKER: I accept the first two points made by the minister. Under what circumstances would an authorised person withdraw a cannabis infringement notice?

Mr R.C. KUCERA: Various circumstances could apply, for a whole raft of reasons. It is the same with a traffic matter. For instance, the situation was raised yesterday of a CIN being issued for possession of a bong, which is later tested and found not to contain cannabis. That CIN would need to be withdrawn and another course of action taken.

[Quorum formed.]

Mr B.J. GRYLLS: My question about clause 7 refers to Aboriginal liaison officers. Obviously, we are very concerned about the effects of marijuana in regional Western Australia. One of the issues we have with the small number of police officers in country towns is that often the Aboriginal liaison officer is the only officer left in town. Will Aboriginal liaison officers have the ability to issue a CIN if they see it as necessary?

Mr R.C. KUCERA: I am not sure whether, in the definition of the role of the Aboriginal liaison officers, they are appointed as special constables or police officers. I am not sure whether I can take the question on notice and advise the member later. If there was any difficulty, the role could be taken up by appointment as a special constable. Ordinarily, however, the liaison officers are just that, and there has been some debate about what their powers are. I can take the issue up if the member wishes and clarify it for him. I do not have the information to hand.

Adjournment of the House

Mr P.D. OMODEI: I move -

That the House do now adjourn.

Question put and a division taken with the following result -

Ayes (21)

Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr M.G. House	Mr R.N. Sweetman	
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	
Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron	

Noes (29)

Mr P.W. Andrews	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mrs C.A. Martin	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mr M.P. Murray	Mr M.P. Whitely
Mr A.J. Dean	Mr F.M. Logan	Mr A.P. O’Gorman	Ms M.M. Quirk (<i>Teller</i>)
Mr J.B. D’Orazio	Ms A.J. MacTiernan	Mr J.R. Quigley	
Dr J.M. Edwards	Mr J.A. McGinty	Ms J.A. Radisich	
Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper	

Question thus negatived.

Consideration in Detail Resumed

The SPEAKER: Order, members. It is difficult at the end of divisions to recognise who is standing and seeking the call.

Ms S.E. WALKER: In relation to clause 7(2), the minister issued a press statement on 19 March containing a graph outlining the current and new systems. This chart, under “cultivation”, indicates that under the current system, a person with 25 plants will be charged with possession or dealing. The minister stated the current law, but he did not outline the relevant penalties. On the other side of the graph, he outlined that no cautions will apply under the new system. I am not sure why that was said, and he missed out the reference to lectures. The

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minister stated that one to two plants a household will be permitted. The press release was incorrect. Clause 7(1) reads -

A police officer . . . who has reason to believe that a person who has reached 18 years of age has committed an offence under section 7(2) of the *Misuse of Drugs Act 1981* may, subject to subsection (2) . . . -

That is the provision allowing a person to cultivate one or two plants. The police officer can then issue a cannabis infringement notice under clause 7(2), provided the plants are all located on the same premises and do not number more than two. That refers to an individual person. Four people who shared a house in which eight cannabis plants were grown might say that they grew two plants each. This clause would entitle each person to be considered for a cannabis infringement notice. I can see the minister's adviser nodding. This clause does not mean that the officer who found the eight plants could say that only two plants a household could be grown and, therefore, all the household members would be sent to the sin-bin. This is a very important issue. For the first time in this State cannabis cultivation will be allowed. It is being decriminalised. Offenders will just be given a lecture and will have no criminal conviction record against them. Is my understanding right?

Mr R.C. Kucera: No.

Ms S.E. WALKER: If four people in a household grow two plants each, is each person entitled to the exercise of the discretion of the police officer under this clause?

Mr R.C. KUCERA: The simple answer is that the member is wrong; it will depend on the circumstances. Anyone who grows more than two plants at a premise puts himself at jeopardy. It does not matter whether one or four people live in the same household.

Mr P.D. Omodei: You said any one. Is it any one, two or three?

The SPEAKER: The member for Warren-Blackwood.

Mr R.C. KUCERA: I must correct the member for Nedlands. Nobody is allowed to grow marijuana plants; it is illegal. Anyone who grows a plant puts himself in jeopardy. People who grow more than two plants put themselves in greater jeopardy.

Mr R.F. JOHNSON: This is the first time I have spoken on this clause. I have a similar concern to that of the member for Nedlands; however, I will go further. A police officer might find two cannabis plants being grown in the back garden of a house in which a husband and wife are the occupiers and owners of the property. Would the husband or the wife be charged for cultivation? Who would the police officer charge if the husband said they were not his plants and if the wife said they were not her plants? The police officer cannot assume that because there were two plants they must have one each. That is supposition and is not evidence. It may be technically illegal to grow the cannabis plants, but the Government is allowing two plants to be grown on a property. Let us be honest about that. Who would a police officer charge if he found two cannabis plants on a property that was jointly owned by a husband and wife? This is a very important issue because this is the clause that deals with issuing a cannabis infringement notice. Who would be charged with growing cannabis if four plants were found on a property on which lived a family, composed of a father, a mother and two grown-up children over the age of 18? Who would the parking ticket fine be given to? Would it be given to the father or the mother, who are joint owners of the house? One of the grown-up children might have grown the plants. All four family members might say that they had grown one plant each. Would they fall foul of the law in that case? This clause is very ambiguous. It will be very difficult for police officers to carry out their duty.

Ms M.M. Quirk interjected.

Mr R.F. JOHNSON: I would be very concerned if the member for Girrawheen drafted this Bill. I have a genuine concern.

Ms M.M. Quirk interjected.

The SPEAKER: Order, members!

Mr R.F. JOHNSON: Unquestionably, there is ambiguity. It refers to two plants. Does that mean two plants a person or two plants a property? I understand it to mean a person who is growing two plants. It does not refer to a property with two plants on it but to a person who is a resident on that property. The minister is an ex-copper, so he should have some idea what the procedure should be. The husband could be growing the two plants and

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the wife could be completely innocent and not even know what the plants are. They might have been put in as seedlings.

Ms A.J. MacTiernan: They could be tomato plants.

Mr R.F. JOHNSON: That is right. I do not know what cannabis plants look like. I have never smoked marijuana. Has the minister? No answer. I do not have a clue what cannabis plants look like; I have only seen them at a distance on the television. If my wife grew two cannabis plants, I would not have a clue what they were unless somebody told me. If a police officer came to my property, would I get the parking ticket fine and a caution because of those two plants about which I know nothing? If my wife denies planting them, what is the answer? How do the police work out to whom those plants belong? I hope the minister, with his many years of police service, can give a logical answer that will stand up in court about whose plants they are - the husband, the wife or one of the adult children. It could be one of the younger children under 18 years of age. Who gets charged if a child plants two cannabis plants on the property in which he is resident? Is it mum, is it dad or is it both jointly? We know the kids will not get charged. Who will have to pay the fine?

Mr R.C. KUCERA: I trust the term “jointly” was not a pun. The situation has not changed. This enactment does not alter the current situation in which police officers charge people based on the evidence they gather. If the evidence is there to implicate two or four people, the police will lay charges or issue an infringement notice accordingly.

I again caution the member for Hillarys, as I did the member for Nedlands: if he says that people are allowed to grow cannabis, he is putting people in a great deal of jeopardy, because the situation has not changed. Growing cannabis is illegal and it will remain illegal, and people will receive a penalty for growing it; they will either receive an infringement notice or be put before a court of law. The member for Hillarys is putting people in jeopardy if he is saying they are allowed to grow cannabis.

Mr R.F. JOHNSON: That answer is not good enough. The minister has not answered my queries on this specific part of the clause. I suspect he does not have a clue what the outcome will be. He said that the police officers will take the normal course of considering the evidence. The only evidence is two cannabis plants. There may be two or four people living in the house. How on earth can anyone say which person is growing the cannabis plants?

Mrs M.H. Roberts: The police make inquiries.

Mr R.F. JOHNSON: With whom do they make inquiries - the occupants? Will someone put his hand up and say, “Actually it’s me; I’m the one. Don’t blame my wife or my children; it’s me.” Will the youngster say, “It was me”? This is not virtual reality; this is reality. It is all very well to say that the police will gather evidence or they will work on the basis of the evidence that is gathered. The only evidence available is two cannabis plants, and there are two or four people in the house. Unless somebody owns up, there is no way it can be proved that those two cannabis plants belong to one of those persons. I ask the minister to take some advice, because I would like an answer. I do not want the glib answer that he normally gives that is not an answer, which is all we ever get in this place. This is a very serious issue. I want to know the answer for the people who live in my electorate. One of the children could have been growing the cannabis plants. Mum would say, “I don’t know what it is; I thought it was a weed. I don’t know how it grew there”. Dad would say, “I don’t know what it is. You say that it’s cannabis, Mr Plod, but I haven’t got a clue what it is; I’ve never seen cannabis in my life”. Fifteen-year-old Johnny will keep very stum. He will not come forward and say, “Actually, Mr Plod, it’s mine; I grew it there.”

Mrs M.H. Roberts: You have no respect for the police. You should withdraw your reference to Mr Plod. You should have more respect for police officers.

Mr R.F. JOHNSON: The Minister for Police should not be so stupid. She is getting tired. If she is getting too tired, she should go home.

Mrs M.H. Roberts: Show a little respect for our law enforcement officers.

Mr R.F. JOHNSON: I have plenty of respect for the law enforcement officers. It is the minister who has carriage of this Bill for whom I have no respect.

Mrs M.H. Roberts interjected.

The SPEAKER: Members!

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Mr R.F. JOHNSON: The minister should not be so stupid. She is very sensitive.

Mrs M.H. Roberts: I am sure there are police officers who will be sensitive to your remarks.

The SPEAKER: Minister! Perhaps the member for Hillarys should direct his remarks to me.

Mr R.F. JOHNSON: I was trying to direct my comments to you, Mr Speaker.

I deserve an answer. This House deserves an answer to my question on this clause and the minister has not given it. I ask the minister to talk to his advisers. It is obvious that they know more about it than he does. I have more faith in them than I have in the minister. He should get the information now and give me the answer. I want to know how it can be proved that one person among three or four people has grown two plants. If they all deny it, how can the police prove which one planted the plant and which one has been watering it?

Mr R.C. KUCERA: This dilemma is faced by police officers every day of the week. If there is sufficient evidence to charge the cultivators of the plants, they will be charged. If there is not sufficient evidence, the plants will be confiscated and destroyed.

Ms S.E. WALKER: I refer again to my question, which was not answered by the minister. It is pivotal to this Bill. The minister released a press statement in which he marketed this Bill as permitting the cultivation of only two plants a household. Under this clause that is incorrect. I will ask him again. If four people who live on a 30-acre farm are growing two cannabis plants each, would a police officer be able to exercise his discretion to issue an infringement notice to each, notwithstanding that there are eight plants on the premises? The minister said that if people have more than two plants, they will be charged. I am not asking that. I am asking: if they have one plant each, or not more than two plants each, would they come within the provisions of clause 7?

Mr R.C. KUCERA: No. The clause applies to premises not people.

Mrs C.L. EDWARDES: With all due respect to the advice the minister is receiving, I do not think that it is correct. Subclause 7(1) provides that a police officer “who has reason to believe that a person . . .” can serve an infringement notice on a person. Subclause (2) states further -

- (b) the cannabis plants are all located on the same premises; and
- (c) the plants number no more than -
 - (i) 2;

Reference is made to a person with no more than two plants on one premise. If two people or three people have no more than two plants on the same premise, how will a court’s interpretation of this clause be different from our interpretation? I suggest to the minister that the interpretation of this clause is that however many people live in a household, two plants a person are allowed to be grown on the same premises.

Mr R.C. Kucera: The member for Kingsley has said it again. She is putting people in jeopardy by using the word “allowed”.

Mrs C.L. EDWARDES: Under this clause people are allowed to receive a cannabis infringement notice.

Mr R.C. Kucera: They are not.

Mrs C.L. EDWARDES: Yes they are. I will take the minister slowly through subclause (1) again.

Withdrawal of Remark

Mr A.D. McRAE: I would not normally bother about a bit of healthy backchat, but the member for Warren-Blackwood had said something that I think is totally unparliamentary. He said, “You are a complete dickhead.”

Mr R.F. Johnson: Was he referring to you?

Mr A.D. McRAE: He was directing the comment to me, Mr Speaker.

The SPEAKER: I did not hear what was said. However, it is unparliamentary. I am sure that the member for Warren-Blackwood, who knows the standing orders probably better than most, will withdraw the remark if that is what he said.

Mr P.D. OMODEI: Mr Speaker, the member for Riverton is not a dickhead.

Mrs M.H. Roberts: I thought you were talking about yourself.

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The SPEAKER: The member for Warren-Blackwood must either withdraw it or say that he did not say it.

Mr P.D. OMODEI: Mr Speaker, I withdraw.

Debate Resumed

Mrs C.L. EDWARDES: Under subclause (1) a police officer who believes that a person is 18 years of age and has committed an offence can issue a cannabis infringement notice to the alleged offender. The wording is “a person”. Subclause (2) states that a CIN may be issued under subclause (1) if, and only if, the alleged offence involves cannabis, the cannabis plants are all located on the same premises, and the plants number no more than two. Therefore, if two cannabis plants are found on the same premises, a CIN may be issued to a person. In that case it makes sense that if more than one person lives in a household, a CIN may be issued under subclause (2). It does not matter if another person is growing two plants on the same premises. That is not mentioned in the clause. There is no restriction or limitation. There is a discretion for the police officer, as there is for a police officer in other circumstances, but there is no restriction or limitation on the number of persons in a household who can be issued with a CIN if no more than two plants are found on the same premises. A CIN can be issued to every single person who lives in that household if no more than two plants are found on the same premises. Is that correct?

Mr R.C. KUCERA: The intent of the Bill is two plants per premises, which has been clearly stated, and it is stated in the subclause as two plants per person. The instructions and the intent of the Bill that will be reflected in the standard operating procedures of the Police Service will be that if people grow more than two plants on any one premises, they will put themselves in jeopardy. They will not be issued with a cannabis infringement notice; they will be charged.

Mrs C.L. EDWARDES: I suggest that the minister seek advice. Perhaps between now and the completion of the consideration in detail stage or when the Bill gets to the other place, the minister might make an amendment to make it very clear that this clause dealing with cultivation provides for two plants per premises. Under subclause (1) an offence can be committed by a person, and any number of persons can commit that offence on the same premises. I suggest that if the intent of the minister’s legislation is two plants per premises, this legislation does not get him there and he needs to make an amendment to it to achieve his intent.

Mr R.C. KUCERA: I thank the member for Kingsley for her advice. I reflect on the member for Kingsley’s training as a lawyer, and I will certainly take her advice. I am more than happy to take advice from the Crown Solicitor in that regard, to make sure that the member’s view is reflected as well as my own. My view is that the intent of the legislation is that it will be two plants per premises. If that is not the member’s view, as a practised lawyer, which I am not, I am more than happy to take her advice. I will seek the advice of the Crown Solicitor. If the Crown Solicitor’s advice agrees with that of the member for Kingsley, I will seek an amendment. I thank the member for Kingsley for her advice.

Mr P.D. Omodei interjected.

The SPEAKER: Member for Warren-Blackwood!

Dr J.M. WOOLLARD: Following on from the member for Kingsley’s question, is the minister able to tell me what would happen if a police officer - we have discovered during debate on this Bill that it could be an undercover police officer - found several cannabis plants growing in the common area of a strata titled property? Who would be issued with a cannabis infringement notice if the property on which the cannabis was found was strata titled, as there could be 50 or 60 joint owners of that property?

Mr R.C. KUCERA: I have already explained that point. It is no different from the situation that currently exists. It will depend on the evidence that is obtained of who is involved in the cultivation of the plants.

Mr B.K. MASTERS: I move -

Page 4, line 12 - To add after “s. 7(2)” the following -
and s. 6(2)

I have moved this amendment because the debate on clause 6 was gagged. I hope to have five minutes, and hopefully no more than five minutes, in which to raise an issue, because I felt quite offended that I was not given the opportunity to speak on this issue during debate on clause 6. I also propose to move a further amendment to clause 7 to insert the following words at page 4, line 31-

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and

(d) involves an amount of cannabis that is not more than -

(i) 25 grams; or

(ii) if an amount less than 25 grams is prescribed by the regulations - that amount;

and

(e) does not involve -

(i) cannabis resin or any other cannabis derivative; or

(ii) a cannabis plant under cultivation.

All I want to do is to read into *Hansard* part of an article that appeared in the *Guardian Weekly* of 3 to 9 January 2002 and then seek a response from the minister. The article is headed "Pilot scheme on cannabis to be extended" and was written by Nick Hopkins. The article states -

Scotland Yard has extended a controversial pilot scheme that relaxes the force's attitude towards cannabis possession,

The middle of the article states -

The latest figures show that police issued 381 warnings to people caught with cannabis between July 2 and November 30. The average amount seized was 5g, with an approximate street value of £15.

The point I am trying to emphasise is that in a trial in Lambeth, England - that place has previously been mentioned - the average amount seized from 381 users or people in possession of cannabis was five grams. I envisage that trial to have been similar to what has happened in two trial areas in Western Australia and to what is now sought to be applied statewide under the Cannabis Control Bill 2003, yet clause 6 of the Bill prescribes an amount of 30 grams of cannabis. I foreshadow the amendment that I will move to reduce that amount to 25 grams. I seek a fairly simple answer to a fairly simple question: why has the Government chosen 30 grams as the amount of cannabis that a person may have in his possession to be issued with a caution when the experience of another English-speaking country with many similarities to Australia has shown that the average amount of cannabis seized is five grams? Why pick 30 grams? Why not drop to 10 grams? That would allow people to carry, on average, five grams. As I understand it, five grams can equate to 10, 15 or 20 joints. That is more than enough for personal use. Why not reduce it to 10 grams in the knowledge that the average amount is likely to be closer to five grams, as shown by the 381 warnings issued in Lambeth in the period I have mentioned? Members on this side of the House share my thoughts that 30 grams is not an amount of cannabis that is used for personal use; it is an amount that traffickers use. An amount of 30 grams, with a proposed reduction to 25 grams, of which I have given notice, is far too high; five grams is the actual amount and 10 grams would be a reasonable compromise.

Mrs C.L. EDWARDES: I would like the minister to respond to subparagraph (ii); namely -

if an amount less than 30 grams is prescribed by the regulations - that amount;

Will this create a second stage of 30 grams and less and therefore attract a different penalty by way of regulations? What is intended by subparagraph (ii)?

Mr R.C. KUCERA: The normal street deal for cannabis is about 30 grams; in fact, it is a 28-gram bag, which is equivalent to one ounce. That reflects the view of the Police Service. It is very difficult for someone in possession of more than 30 grams to defend a charge of dealing. It is very easy for a person to defend a charge of dealing if limits are set much lower than that. It is a very specific amount that has been recognised almost worldwide in respect of amounts of cannabis trafficked on the streets. As much as 80 per cent of seizures involve less than 15 grams of cannabis because people are aware of that. As I said, it is very difficult for anyone to defend a charge of dealing for amounts over 30 grams. There is a defence for 30 grams and under because that represents the normal amount sold on the streets. The member for Vasse keeps referring to Lambeth. Reports from England show that cannabis leaf material, which is the normal form found in this country, is very unusual. What is usually found in England is a cannabis derivative, and that is why the amounts are less, because the amounts of hashish and hashish oil from cannabis derivatives are much less. That is the reasoning behind the 30-gram limit. As a Government, we are more interested in targeting and attacking dealers, from a

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criminal perspective, than we are small-time users. We are interested in dealing with small-time users through penalties linked with education and treatment.

Mrs C.L. EDWARDES: I would like to pick up one point made by the minister; namely, it is far easier to establish a defence for dealing if the amount is less than 30 grams.

Mr R.C. Kucera: No, the member has got it around the wrong way.

Mrs C.L. EDWARDES: Will the minister repeat what he said before?

Mr R.C. Kucera: The normal saleable quantity is what is normally known as a three-fingered bag, which is about 28 grams or one ounce. Two grams above that is a variation that would occur in a normal transaction. The Police Service advises that any amount above that becomes indefensible if claimed for personal use. A person cannot argue that it is normal practice to purchase more than that for personal use.

Mrs C.L. EDWARDES: It would be available to a dealer to have a 30-gram bag on him that is not for personal use.

Mr R.C. Kucera: The Leader of the Opposition came into this place the other day and purported to have cannabis. He could have been charged with dealing because someone would not put those amounts of cannabis into the small bags unless he intended to be a dealer.

Mrs C.L. EDWARDES: If the legislation were drafted so that the specified amount was less than 30 grams, we could be sure that it was for personal use because the person would have started to use the cannabis in the packet. Therefore, he would be less likely to be a dealer.

Mr R.C. Kucera: You are implying that an amount of 30 grams and less is for personal use; in other words, it is defensible. If the 30 grams were treated in any way other than for personal use, the person would be charged with dealing. A charge becomes very difficult to defend if someone has more than 30 grams. That is the normal practice of sale on the streets, and that is the way we will deal with it. We took advice from the police so that we could deal with the practicality of what happens on the street. The member's Government arbitrarily set an amount of 50 grams for the cautioning system. People very quickly learnt to make that amount defensible. That is why I understand the previous Minister for Police intended to reduce the amount to 25 grams. However, that had implications for a number of people who were going through the normal trafficking arrangements and buying a three-fingered deal, which, unfortunately for them, came out at 30 grams. That created a mismatch between the practice and the legislation. The member has said many times that good legislation reflects reality. I think this reflects reality. That is why I am opposed to any amendment of amounts in this regard.

Mrs C.L. EDWARDES: The minister mentioned the specified amount of 50 grams. The Australian Labor Party's direction statement on drugs and crime states -

We propose a decriminalised regime which would apply to possession of 50 grams of cannabis or less and cultivation . . .

I suspect - although I am prepared to be corrected - that that was written after the previous Government changed its policy to 25 grams. A media statement of 7 December 1999 by the then Minister for Police, Kevin Prince, states that 50 grams represented half the indictable quantity specified in the Misuse of Drugs Act. That is the reason the previous Government referred to 50 grams in the first instance, and it is probably the reason the ALP specified the amount of 50 grams when it wrote its policy. At the beginning of the trial the amount was set at 50 grams. The media statement states -

“Having conducted the trial, we found that only three out of 95 offenders cautioned were in possession of more than 25 grams of cannabis, with the largest amount being 29.5 grams.

“In 78 per cent of cautions issued for possession of cannabis, the amount involved was less than two grams.

“In light of this we have decided that 25 grams is a more appropriate quantity as the eligibility criterion for a caution.

Can the police advising the minister identify why only three of 95 offenders cautioned possessed more than 25 grams of cannabis when the minister is saying that the street packet size - the three fingers - is 30 grams?

Mr R.C. KUCERA: We took advice from a range of experts. The current so-called street market was discussed at length during the Drug Summit. The experts and the expert committee that was set up as a result of the Drug

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Summit recommended this amount. It takes into account the reality. I have no idea how the previous Government arrived at the figure of 25 grams. It might have been an arbitrary figure that it settled on. The amount of 50 grams that the member's Government agreed to -

Mrs C.L. Edwardes: It was ALP policy.

Mr R.C. KUCERA: Exactly. That is why, rather than simply listening to ALP policy, I listened to the experts and, more importantly, the Drug Summit. The Drug Summit stated quite clearly that a 30-gram deal was the prevalent practice on the streets. It was defensible. We also spoke to practising criminal lawyers; those who raise people's defences when they appear before the Court of Petty Sessions. That is why it was set at this amount. We could argue over arbitrary amounts until the cows come home, but, at the end of the day, this reflects reality. The amount of 30 grams is a reflection of street practice. It is a reflection of the reality in Western Australia at this time. The reason the top level was set at 30 grams - it is set under regulation - is to allow for a change in the cannabis market or a change in the way things are addressed on the street. This is not locked in concrete. The regulations give this issue a ceiling. If we set the ceiling lower than that, and the street dealing starts to move upwards and people start to be convicted by the courts of simple possession at a higher level, it is much more difficult to change the regulations in that regard.

Ms S.E. WALKER: The minister's comment that any amount over 30 grams becomes indefensible is entirely incorrect. Schedule 5 of the Misuse of Drugs Act states that the amount of 100 grams gives rise to the presumption of intention to sell or supply. Therefore, anything below 100 grams is defensible. Anything above 100 grams also is defensible but the onus shifts. If the minister were serious about making anything above 30 grams indefensible, why did he not change the amount of 100 grams to 30 grams? He has reduced the number of plants from 25 to 10, but he has not touched any of the other schedules, one of which refers to 100 grams; that is, schedule 5. The minister is trying to suggest that the presumption of intention to sell or supply may arise with a person who is caught with more than 30 grams, when that is not the case. The minister may have spoken to criminal defence lawyers, but in my days as a crown prosecutor, there were always people who came before the courts with more cannabis than this for simple offences. Can the minister tell us why he reduced the number of plants from 25 to 10 but did not reduce the amount of cannabis that a person can cart around with the intention to sell or supply?

The SPEAKER: The member for Vasse indicated that this would be a quick debate and that he wished to make a quick point on the issue. In essence, the member has moved the first part of his amendment and we are now debating, and have been for some time unfortunately, the second part of the amendment, which relates to section 6(2)(a) of the Misuse of Drugs Act. The amendment before the House is to clause 7 at line 12 on page 4. That is the item we are debating. It does not give members the capacity to redebate whether 30 grams is an appropriate amount. I indicate that members should speak to the amendment. If the amendment is successful, we will have another debate.

Question to be Put

On motion by Mr J.C. Kobelke (Leader of the House), resolved -

That the question be now put.

Amendment put and negatived.

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division taken with the following result -

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (30)

Mr P.W. Andrews	Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	

Noes (21)

Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr P.G. Pendal	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr M.G. House	Mr R.N. Sweetman	
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	
Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron	

Question thus passed.

Clause put and a division taken with the following result -

Ayes (30)

Mr P.W. Andrews	Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
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Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	

Noes (22)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr P.G. Pendal	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr M.G. House	Mr R.N. Sweetman	
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	

Clause thus passed.

Standing Orders Suspension

Ms K. HODSON-THOMAS: I move, without notice -

That so much of the standing orders be suspended as is necessary to enable the following motion to be moved forthwith -

That this House condemns the Minister for Police and Emergency Services with responsibility for road safety for her reckless disregard for staff and members of this place, particularly in light of her media statement today that driver fatigue is a contributing factor in about 30 per cent of road crashes in Western Australia and her lack of leadership and her preparedness to sacrifice the safety and wellbeing of staff and members of this place.

I do not move the suspension of standing orders lightly. In fact, I go on record as stating that I have never moved a motion to suspend standing orders in this place. I have a personal regard and respect for the minister responsible for road safety but I find it difficult to come to grips with her disregard for staff and members of this

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place, given that in the past two days members, Chamber staff, Hansard reporters, ancillary staff, security staff and catering staff have spent an enormous amount of time in this place.

Several members interjected.

Ms K. HODSON-THOMAS: I was saying that I have a personal respect and regard for the minister responsible for police and road safety and I, therefore, do not move the motion lightly. However, I am very concerned about the wellbeing and safety of both staff and members in this place. We are coming up to the Easter break. It should be a season of goodwill. I understand that I am dealing with the suspension of standing orders and not the substantive motion, although I would like to be given a copy of my motion.

This is an urgent matter, because I have major concerns about the wellbeing and safety of people in this place, not just specifically members of Parliament but also members of staff. I ask all members to at least give me the opportunity to have my say in this place. I do not do this lightly. It is an important opportunity for members to consider what we are doing here. The Leader of the House is also the Minister for Consumer and Employment Protection and is someone whom I also hold in high regard. He is someone who advocates on behalf of people in the community for better conditions in the workplace. However, in this House yesterday and today, members of Parliament, Hansard staff, catering staff and attendants have had to work long hours. I am seeking to suspend standing orders to debate this issue. It is a critical issue and is of major importance, particularly in light of what the Minister for Police and Emergency Services has stated today; namely, that 30 per cent of all road crashes are the result of fatigue. We sat in this place until 3.40 am today. I understand that some Hansard staff worked here until at least 4.30 am and returned to work at 11.30 am. People in the dining room worked through to the early hours of the morning and returned here at midday. The likelihood is that we will be here until the early hours of the morning to finish this debate. I do not believe that we are being productive in working like that. We are also putting at risk both staff and members of Parliament. I am a metropolitan member. It takes me about 20 minutes to get home. I am well aware that I am probably leading into the substantive motion, but it is critical that members understand that we are dealing with an issue that impacts on the wellbeing and safety of people in this place. In response to a question I asked in this place today the minister tried to disregard that. I can understand that. We did sit long hours in previous Parliaments. However, the minister has been doing research and has the evidence. We have learnt that more and more accidents on our roads are a direct result of fatigue.

The ACTING SPEAKER (Mr P.W. Andrews): As the member rightly pointed out, she must address the suspension of standing orders. She will have plenty of opportunity.

Ms K. HODSON-THOMAS: It is urgent because I am very concerned that we may see a fatality. That statistic may be one of our staff members of this place or a country member. Frankly, regardless of which side of this House the member sits, it would be an absolute travesty if that were to happen. It could be the member for Albany, who will be driving four and a half hours to his home tomorrow. It is the Easter weekend. I remind members that the Easter weekend means country members will deal with extra traffic.

The ACTING SPEAKER: The member for Carine needs to address the reasons for the suspension of standing orders. I am sure she will do that now.

Ms K. HODSON-THOMAS: I am. I am concerned that the wellbeing of the member for Albany could be at risk.

Mr P.D. Omodei: What about the member for Warren-Blackwood?

Ms K. HODSON-THOMAS: I am coming to other members. I am concerned about the wellbeing of the members for Warren-Blackwood, Merredin and Avon, and all other members in this place, including those who may take only 10 or 15 minutes to drive home. The member for Mandurah must drive for an hour to get home.

Mr M.P. Whitely interjected.

The ACTING SPEAKER: Order, member for Roleystone!

Ms K. HODSON-THOMAS: I cannot speak to the substantive motion.

Several members interjected.

The ACTING SPEAKER: We will reach the point at which we will all get narky tonight. Why not sit back and enjoy listening to the suspension of standing orders speech, to which the member for Carine will return directly? As the member for Carine indicated, she can speak further on other matters when speaking to the motion itself, but she will return to the suspension of standing orders motion. The members for Roleystone and Warren-Blackwood will sit and listen.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr R.F. Johnson: You need to get to why we need to suspend standing orders.

Ms K. HODSON-THOMAS: I am doing so. I am concerned about my colleagues and the staff in this place. We are here in this place to set standards. The minister stated today that we should all be aware of driver fatigue. Well, walk the talk, minister! Lead by example. No example is being set in this place. Frankly, that is a disgrace. The Minister for Police has evidence outlining why we need to seriously consider what we do in this place. I have been an Acting Speaker for some time and I know I need to talk to the motion outlining the reason for the urgency. The matter is urgent because I do not want to see a colleague or a staff member from Hansard, the library, catering or the dining room become a statistic. Frankly, it disturbs me that we continue down this path, and the Leader of the House shows no leadership. Okay; he wants to deal with the legislation and get it through as quickly as he can; however, the problem is that this process becomes unproductive. We end up becoming irritable. I am a perfect example of that at present! The "Dying for Sleep" headline is me - I am dying for sleep! I am not looking forward to getting behind the wheel of my car tonight and driving home. I realise that I put at risk not only myself, but others also when I get behind the wheel of my car at such times. This matter is urgent.

Mr C.J. Barnett: The Minister for Police probably has a chauffeur waiting outside with the engine running.

The ACTING SPEAKER: Leader of the Opposition!

Ms K. HODSON-THOMAS: It is urgent. It is time for us to show some leadership on this issue.

Mr B.J. Grylls: It is time for the Government to practise what it preaches.

Ms K. HODSON-THOMAS: It is time for the Minister for Police and Emergency Services to practise what she preaches. She should walk the walk and lead by example.

Points of Order

Mr J.C. KOBELKE: The member for Carine has been speaking for just over 10 minutes and she has spent 95 per cent of that time addressing the motion that would be debated if standing orders were suspended. Mr Acting Speaker, you have drawn her attention to the fact that she must address her motion. It is getting to the point at which she has nothing to say about the motion with which we are dealing.

Mr R.F. JOHNSON: When interpreting standing orders, one sometimes has to have some tolerance. The member for Carine is trying to give the reasons that this House must suspend the standing orders. Every 60 seconds she could say that is why standing orders must be suspended, in which case I suggest she would be covered. However, the member is a very decent person and she is trying to give good, genuine reasons that this House must suspend standing orders. Mr Acting Speaker, as you know, the member for Carine has been touching on the substantive motion. However, that is why she is asking to suspend those standing orders. I ask that some tolerance be given because obviously the member is exhausted. She is doing her utmost to keep within the parameters of the standing orders and to give the reasons that this motion is urgent.

The ACTING SPEAKER (Mr P.W. Andrews): Unless other members have something to say on a different point, I have made up my mind. The standing orders in relation to the suspension of standing orders are clear. The member for Carine had been reminded of that twice and she had well and truly strayed at the end. I ask her for the final time to come back to that point.

Mr P.D. OMODEI: This is a very important matter. I want to hear the member for Carine explain the reasons for suspending the standing orders. I remind members of the House, particularly the Leader of the House, that yesterday I spent 22.5 of my waking hours at Parliament. By the time we end this debate, it will have been between 36 and 40 hours. I want to spend the Easter weekend with my grandchildren, who are all going to Pemberton for the long weekend. It is a very important point.

The ACTING SPEAKER: There is no point of order. The member for Carine has the opportunity to address the suspension of standing orders.

Debate Resumed

Ms K. HODSON-THOMAS: I heed your advice, Mr Acting Speaker. I state on record that it is urgent that we deal with the suspension of standing orders. This matter requires the exploration of much information. I could illustrate many examples of circumstances in which people's lives will be put at risk, not only our own but also those of the staff and other people in the community. That is a critical matter. This is a perfect opportunity for

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us to practise what the Government preaches, especially during a period in which we have been working for very extended hours.

I do not want to deal with just the substantive motion; I appeal to members' commonsense. It is time for all of us to look at what we are doing in this place and consider whether we are doing the right thing by our communities. I believe that we are not. I understand that the Government would like to deal with legislation and wants it facilitated quickly; however, this is an important issue. Many things could be said this evening about how that impacts on our communities. I am certainly not trying to test you, Mr Acting Speaker; I am trying to explain to you that this motion is critical for the wellbeing and safety of us all in this place. We should be leading by example.

Mr P.D. Omodei: We should suspend the standing orders.

Ms K. HODSON-THOMAS: We should suspend the standing orders to at least allow me the opportunity to explore my substantive motion. Not only members of Parliament but also staff members in this place are very interested in our having that debate.

Mr J.C. Kobelke: You are not speaking to the motion.

Ms K. HODSON-THOMAS: I am explaining why we should suspend standing orders. I am appealing to members opposite to understand that this is a critical issue. What are we waiting for? Are we waiting for a fatality on our roads before we suddenly acknowledge that we have made a fatal error of judgment about how we manage the order of business in this place?

I will not waste the time of the House this evening. I appeal to the Leader of the House and the Minister for Police and Emergency Services, the minister responsible for road safety, to recognise that they are the leaders in this place. They set the standards, so they should practise what they preach. They should walk the talk.

The ACTING SPEAKER: The member is well and truly moving away from the suspension of standing orders motion.

Ms K. HODSON-THOMAS: All I can say is, I commend my motion to the House.

Point of Order

Dr J.M. WOOLLARD: I agree with what the member for Carine is saying.

The ACTING SPEAKER: What is the point of order?

Dr J.M. WOOLLARD: The Leader of the House is sitting there almost frothing at the mouth. He cannot gag this debate. I think this debate is very important.

The ACTING SPEAKER: There is no point of order. The member for Alfred Cove will get an opportunity to make a speech later.

As to Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Point of Order

Mr C.J. BARNETT: The Leader of the House did not have the call. He was not in a position to move to put the question. The member for Carine still has the call.

The ACTING SPEAKER: The member for Carine has the call at this moment.

Debate Resumed

Ms K. HODSON-THOMAS: I will not take up very much more of the time of the House. I think I have made my point. I believe that other members feel very much the same as I do. The substantive motion is something that we must seriously consider. It is a matter about which I feel very strongly. I appreciate and acknowledge the fact that the Opposition will not win the vote this evening on the motion to suspend standing orders. I am not planning on wasting the time of this House.

A government member interjected.

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ms K. HODSON-THOMAS: I hope members opposite make it home safely. I happen to like all the backbenchers opposite, regardless of what they think. This is an important matter. It is not just about my wellbeing and that of every member in this House; it is also about the wellbeing of the staff in this place, in the dining room and in the bar, and of members of the media.

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (29)

Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	
Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper	

Noes (21)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.J. Birney	Mr B.J. Grylls	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Question thus passed.

Question (suspension of standing orders) put and a division taken with the following result -

Ayes (21)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.J. Birney	Mr B.J. Grylls	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
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Noes (29)

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Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	
Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper	

Question thus negated.

Consideration in Detail Resumed

Clause 8: Content of CIN -

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ms S.E. WALKER: This clause shows how the cultivation and possession of cannabis and the possession of utensils containing cannabis resin will be decriminalised. It will be done through this clause. The purpose of the cannabis infringement notice under subclause (3) is to -

... advise that the alleged offender may, -

This is a bit of a joke -

in writing, elect to have a complaint of the alleged offence heard and determined by a court,

Will an offender sit down and write to a court that he does not want to go to a lecture or pay a \$100 fine, but wants to go to court and be exposed to a \$3 000 penalty or three years imprisonment? No offender will do that. I do not know who drafted this legislation. I read somewhere that a couple of lawyers on the other side may have drafted it. That may explain the nonsense it contains. Will someone sit down and write to a court and say, "Please give me a complaint, call me into court, convict me, give me a criminal record and put me in the clink"? Really! What dribble! Subclause (4)(a)(i) states that the purpose of an infringement notice is also to advise that if the offender does not want to write a letter to the court to ask it to deal with the offence, he can opt for an amount of money as the penalty. Subclause (4) states -

A CIN is to -

- (a) advise that if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court -
 - (i) the amount of money specified in the CIN as being the modified penalty for the offence may be paid to an authorised person within a period of 28 days after the giving of the CIN; or

We know from later clauses that a period of 28 days means nothing. It continues -

- (ii) the alleged offender may, within a period of 28 days after the giving of the CIN, complete a CES;

This provision clearly decriminalises the cultivation of cannabis. If a person elects to pay the fine he will not have a conviction recorded against him. No complaint will be made out. For members who do not know, when a person commits an offence under an Act the police officer in question writes out what is known as a complaint. The complaint states the police officer's name, the offender's name, a short description of the offence and the penalty. That is what is used in court. If it is considered that the matter should go to a higher court, the complaint and the brief go to the Director of Public Prosecutions and become an indictment. A person is then prosecuted. If he is prosecuted successfully, he is convicted and receives a criminal record. My point is that a person will not write a letter to request that that happen. That is what is totally ridiculous about this. A person will not cough up the money. Why should he give the police \$100 or up to a maximum of \$400? He could use that money to buy more dope if he is not growing it himself. He will elect to go to a lecture. With the penalty and the lecture no complaint is made out, there is no conviction, and there is no criminalisation of the offence. The minister never refers to the lecture option in his press releases. He keeps saying in this House that there is no decriminalisation of cannabis. This decriminalises it. Why does the minister continue to say that the cultivation of cannabis is not being decriminalised when it is?

Mr R.C. KUCERA: Police officers still have the option to lay a criminal charge. The clause gives people - quite rightly if they do not agree with the system of infringement notices - the right to go before a court. It is as simple as that. Everyone in this country is entitled to that right. I am concerned that the member for Nedlands pooh-poohs people going to an education program when the previous Minister for Police, Hon Kevin Prince, and the drug strategy minister, Hon Rhonda Parker, made statements to the House about it. They said that before an education session, only 47 per cent of participants believed cannabis to be a harmful drug. That figure increased to 71 per cent after the session. As part of a follow-up evaluation of participants, 68 per cent recorded less cannabis use after their caution. In that instance, the caution could be read as part of the education system because it was mandatory. A figure of 42 per cent reported an intention to stop using the drug or use less of it in the future. If the member for Nedlands is seriously suggesting that we should not try to engage people in an education process and seriously attempt to get them out of their drug habit, I would be deeply concerned.

Dr J.M. WOOLLARD: I was gagged when speaking to clause 6. Clause 8 provides that a cannabis infringement notice is to be in a form prescribed by regulations. Will the minister describe what would happen if

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an undercover police officer found 140 grams of cannabis in premises in which five people were living, and those five people said that it was theirs?

Question to be Put

Mr J.C. KOBELKE: I move -

The question be now put.

Dr J.M. Woollard interjected.

Mr J.C. Kobelke: You should speak to the clause.

Mr M.J. Birney interjected.

Withdrawal of Remark

Mr R.C. KUCERA: I take extreme exception to the member for Kalgoorlie calling the Leader of the House a scumbag. That is most unparliamentary, and I ask that you, Mr Acting Speaker, take note of that.

The ACTING SPEAKER (Mr P.W. Andrews): The member for Kalgoorlie is reflecting negatively on the Leader of the House, and he should withdraw that comment.

Mr M.J. BIRNEY: I withdraw.

Point of Order

Mrs C.L. EDWARDES: It would be an absolute disgrace if the Leader of the House continued to operate in this manner and not allow debate to occur on a particularly important issue that needs to be debated.

Debate Resumed

The ACTING SPEAKER: The question is that the question be now put.

Question put and a division taken with the following result -

Ayes (29)

Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	
Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper	

Noes (21)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
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Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Question thus passed.

Clause put and a division taken with the following result -

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Ayes (29)

Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
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Noes (21)

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Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Clause thus passed.

Clause 9: Modified penalties -

Mrs C.L. EDWARDES: Clause 9 deals with modified penalties. Subclause (1) states that the amount specified in a cannabis infringement notice, which is referred to in clause 8, as being the modified penalty for the offence referred to in the CIN is to be the amount prescribed by the regulations to be the modified penalty - I presume that is the modified penalty as outlined in the respective sections of the Misuse of Drugs Act - at the time the alleged offence is believed to have been committed. Subclause (2) states that the modified penalty that may be prescribed by the regulations for an offence under sections 5, 6 and 7 of that Act is not to exceed \$400. At the moment the penalty for an offence under section 5 of the Misuse of Drugs Act is \$3 000 or three years, and the penalty for an offence under sections 6 or 7 of that Act is \$2 000 or two years. The modified penalty will be a financial penalty that does not exceed the sum of \$400. Subclause (3) states that in relation to an offence under section 6(2) of the Misuse of Drugs Act, which relates to possession, the regulations may prescribe different modified penalties for different amounts of cannabis. That was the clause that we asked the minister about earlier when the member for Vasse sought to move an amendment, which would have provided that a CIN may be issued for an amount of not more than 25 grams of cannabis or an amount of less than 25 grams that is prescribed by way of regulation. I understood from the minister's response with regard to this provision that it would be 30 grams or any other amount as prescribed. However, subclause (3) suggests that the regulations may prescribe different, modified penalties for different amounts of cannabis. That is not what the minister indicated in his previous response. He said that it would be one or the other depending upon the practice of the court. I asked him specifically if there would be different levels and he indicated that there would not be. However, subclause (3) clearly permits that to be the case. Will the minister advise the House of the expected regulations and modified penalties as referred to under subclauses (1), (2) and (3)?

Mr R.C. KUCERA: In the previous questions asked by the member for Vasse he specifically referred to 25 grams, which is not in the provision. I took the top amount of 30 grams and referred to that -

Mrs C.L. Edwardes: I asked you the question.

Mr R.C. KUCERA: My apologies. However, I was still referring to the 30 grams. Clause 9 enables modified penalties to be prescribed by regulation up to a maximum of \$400. As for the penalty coming down, we have replaced the cautioning system. That system prescribed no penalty and there was no regulation or legislation relating to that. This provision replaces the cautioning process with an expiation process to a maximum penalty of \$400. The penalties that are prescribed under the Misuse of Drugs Act have not changed and are still in force. How anyone can say that they have come down is beyond me. That is a different method of operation. The explanatory memorandum states that -

The modified penalties that are proposed to apply on commencement of the CIN scheme are:

- (a) \$100 for possessing an implement used in the smoking of cannabis.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

(b) \$100 for possessing not more than 15 grams of cannabis.

This item reflects the study done as a result of the previous Government's cautioning process, under which most amounts were about 15 grams or less. The explanatory note continues -

(c) \$150 for possessing between 15 grams and not more than 30 grams of cannabis.

This deals with the issue I talked about when we debated the previous clause of normal street deals -

(d) \$200 for possessing up to 2 cannabis plants.

Depending on the circumstances, a person could be charged or he could receive an infringement notice for three of those items at the same time. It continues -

The modified penalties at (b) to (d) were recommended by the Drug Law Reform Working Party having regard to penalty levels in comparable infringement schemes in other States and Territories.

As I have previously said to the member for Kingsley, this reflects the reality of what is happening in the courts today. My understanding is that the average fine is between \$25 and \$100 for these types of offences dealt with in a Magistrate's Court. Of course, that depends on the view of the magistrate, but this provision simply reflects the reality.

Mr P.D. OMODEI: Under subclause (3) the regulations may prescribe different modified penalties for different amounts of cannabis. Can the minister advise what those amounts will be? Are they different in volumes, and what are the penalties for each of those volumes of cannabis?

Mr R.C. KUCERA: I have just answered that question. However, the provision also allows the maximum penalty to be reduced, if necessary, by regulation in the future -

Mr P.D. Omodei: Minister, can you respond to my question please?

Mr R.C. KUCERA: I have already fully answered the member's question. To add to that, the variation would allow for the maximum penalty to be reduced in future, as I said earlier.

Mr P.D. Omodei interjected.

Mr R.C. KUCERA: I just went to great lengths to answer the same question from the member for Kingsley. In addition to that, the change enables modified penalties to be prescribed. It allows the maximum amount of 30 grams to be reduced by regulation in future, should that be necessary.

Clause put and a division taken with the following result -

Ayes (29)

Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
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Noes (21)

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Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.J. Birney	Mr B.J. Grylls	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Clause thus passed.

Clause 10: Extension of time -

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Mr Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mrs C.L. EDWARDES: This clause deals with an extension of the 28 days that an authorised person may grant under clause 8 for a person to pay a fine or complete a cannabis education session after being issued with a cannabis infringement notice. An authorised person therefore can extend the period within which the modified penalty may be paid or within which the alleged offender may complete a CES. The extension may be allowed whether or not the period of 28 days has elapsed. A police officer therefore has a discretion to extend the period of 28 days in which to issue a CIN. The person then has a further 28 days in which to pay, notify or complete a CES. That period can be extended. Therefore an extension of nearly three months from the time of the alleged offence is possible, at a minimum. In fact, there is no time frame in which the authorised person is required to give the extension. Unlike other pieces of legislation that are supposed to be prescriptive - the minister has said on many occasions that this legislation is very prescriptive, and that the Government will be tough on cannabis use - there is no requirement for the authorised person to extend the period only once, and for only 28 days. It can be extended ad infinitum; there is no restriction on the extension of time.

Unlike what the minister said in an earlier response about the coalition approach, and the figures he used when discussing that approach, cautioning was applied to first time offenders only. It did not apply to cultivation and it required a mandatory education session, which had to be completed within two weeks. It is quite a different system to the proposition put forward in this Bill. Under this Bill the person gets the opportunity of choosing to go to court, to pay a fine of a maximum of \$400 - whether it be for possession of an implement or cannabis, or the cultivation of it - or to attend an education seminar. The offender has plenty of time to do that, and if it is not satisfactory to the person - leaving aside the system - he has an opportunity of extending the time, and there is no mandatory requirement whatsoever for him to have completed the session. Later on in discussion of this Bill we will find that within six months the offender can deal with all the CESs together at the one time.

Mr R.C. KUCERA: I correct the member for Kingsley on her last statement. That cannot be done, although she may find some provision in the Bill that may suggest it. The idea of the extension sums up what the member for Wagin said yesterday. In the wheatbelt, it may take longer than 28 days on occasions to bring together an educational program for people to attend. That is really the exception rather than the rule. The point the member for Kingsley misses is the authorised person and the centralised nature of the infringement notices. This is standard procedure in infringement practice, such as under the Road Traffic Act, the Local Government Act and the Environmental Protection Act. It is a normal practice. If people want to try to test the system - as no doubt people will - the centralised process will ensure that those who attempt to flout the law, or to act on some of the misinformation that has been put out recently, will place themselves in jeopardy. If that happens, they simply will be dealt with under the normal fines and infringement processes. Indeed, if it were to involve a cannabis education session process, and were deemed not to have been completed, it would be dealt with accordingly.

Mr C.J. BARNETT: This clause, like others, demonstrates the sloppiness of the legislation. It shows the Government to be sloppy and soft on drugs. An authorised person can give an extension of the 28-day period. No indication is given of how many times or for what reason an extension can be given, or for how long an extension can be. The minister says it is normal practice and cited the Road Traffic Act. He refers to normal practice for a parking infringement. The minister cites conservation and environmental legislation. He refers to normal procedure with a littering fine. The Government equates cannabis use and abuse with parking and littering infringements. It is incredibly sloppy legislation by an incredibly sloppy and lazy minister.

Mr R.C. KUCERA: I will answer that point, as it reflects very much on the ministers of the previous Government, the parliamentary draftspersons of this Bill, and legislation introduced by the previous Government. This is standard procedure that applies to people who drive under the influence with a .05 blood alcohol level and are issued with an infringement notice. I am sure the ministers in the previous Government were not sloppy - neither is this minister nor the parliamentary draftspersons. It is a perception again generated by the Leader of the Opposition. Again, it concerns me greatly that members opposite are putting questions that may raise doubts in people's minds about complying with the legislation. The Opposition will sink to any depth to convince people that cannabis is not illegal.

Dr J.M. WOOLLARD: I give notice to the Leader of the House that if I am gagged when I ask another question, my only opportunity will be to seek a suspension of standing orders to raise issues in this House. I have been gagged four times in this debate.

Mr J.C. Kobelke: Will you take an interjection?

Dr J.M. WOOLLARD: I will.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr J.C. Kobelke: The debate has been going for over 20 hours. I do not seek to restrict debate when people speak to the matters before the Chamber. On numerous occasions - in my view this applies to you - members have asked questions and spoken to matters that were not related to the clause before us at the time. If that happens, I simply close debate on the clause.

Dr J.M. WOOLLARD: If the Leader of the House looks through *Hansard*, he will see that the questions I asked were very relevant to the clauses. The Leader of the House has gagged debate. People who come to see me have a right to answers. The Leader of the House has not allowed me to ask questions in the House to take answers back to those people.

Point of Order

Ms S.E. WALKER: The Leader of the House is bullying the member for Alfred Cove. As a member of Parliament, she is entitled to speak in this House and seek answers on behalf of her community. The Leader of the House is preventing her from doing her job.

The ACTING SPEAKER (Mr A.J. Dean): There is no point of order.

Debate Resumed

Dr J.M. WOOLLARD: My question through the Chair to the minister relates to the cannabis education session. Clause 4 reads -

“CES” means a cannabis education session -

(a) with a content approved under section 16(2)(a);

Clause 16(2)(a) does not tell one much about the session. It will be provided by a person under clause 16(2)(b), but one cannot determine by reading the provisions whether the cannabis education session will last 10 to 15 minutes, two hours or six hours. The Bill refers to cannabis education sessions, yet it is recorded in *Hansard* that just a short while ago the Minister for Health referred to community education programs. Earlier in the evening the minister referred to not only education but also education and treatment. People have a right to know just what is meant by a “cannabis education session”. Will it mean that an offender spends half an hour with someone from a public health background or a drug background? What constitutes the session that people might not need to attend for six months?

Mr C.J. Barnett: It is probably just a matter of reading a pamphlet.

Dr J.M. WOOLLARD: It might well be. An offender might attend an education session and be told to read a pamphlet, complete a questionnaire and see the educator when he has finished filling it out. What will the cannabis education session involve?

The ACTING SPEAKER (Mr A.J. Dean): The cannabis education session is covered under clause 16. I do not see the relevance of the member’s question.

Ms S.E. WALKER: I presume we are discussing clause 10, which refers to cannabis education sessions. When we discussed previous clauses, I asked about the education sessions offenders would attend. It seemed then that the minister knew what those sessions would entail. However, when I pinned him down on a particular issue, he could even not tell us where the current sessions that are supposed to be on foot are being held. Today in *The West Australian* I read an article by Dr George O’Neil. The article is relevant to this debate and to the lecture that most offenders will obviously choose to attend. He said that over a five-year period, there had been 5 000 cases of people requesting help for serious physiological diseases that started harmlessly enough with cannabis use. This is important to the question of cannabis education sessions. He says that it is of critical importance that people under 19 be targeted with marijuana use education, counselling and rehabilitation resources. Since I have been in this Parliament, I have heard up-front motherhood statements from the Government but I have not seen it provide any resources to back them up. That has happened at every level in every portfolio. It is important for young people to be provided with those resources. I feel responsible for young people, which is why I will not support this Bill. A significant amount of information about the damage marijuana causes is readily available. I would like to know why offenders will be given an extension of time in which the modified penalty may be paid or the alleged offender may complete a CES. If the minister were serious about educating young people, why is he giving them an easy way out to get an extension of time? We know that people who use cannabis have disorganised lifestyles. They are out of it most of the time. What is the minister’s rationale for making it easier for them to get an extension of time?

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr R.C. KUCERA: I have already answered the question.

Dr J.M. WOOLLARD: Clause 10(1) states -

An authorised person may, in a particular case, extend the period of 28 days within which -

- (a) the modified penalty may be paid; or
- (b) the alleged offender may complete a CES.

Clause 4 provides an interpretation of CES and states -

“CES” means a cannabis education session -

- (a) with a content approved under section 16(2)(a); and
- (b) provided by a person approved under section 16(2)(b);

Does the minister have any idea of what the content of this program will be? Will it be just a half-hour session in which the approved person and the offender simply have a chat? Will it be a two-hour program, a two-hour session or a one-week session? Will offenders have to come along for that community education session within a specified time? What minimum and maximum periods will they be required to attend? What will that community education session involve?

Mr R.C. KUCERA: I answered this at length last night. However, I will go through it again for the benefit of the member for Alfred Cove. When I was asked the question by the member for Nedlands I gave a very clear explanation, contrary to what she has said. I was asked by the member for Kingsley to table a paper, which explains where the teams operate. The education will be provided by drug treatment services. Education can be a broad-ranging term. In addition, the CES will seek to engage people in issues of treatment if required. It will engage people to ensure that they are well aware of the harm that cannabis causes through continuous use, as was explained yesterday. The time frame is 28 days. The reason for the extension was clearly indicated yesterday by the member for Wagin.

Mr C.J. Barnett interjected.

Dr J.M. Woollard: Will it be possible for people to apply ad infinitum to the Government for the extension?

Mr R.C. KUCERA: That is a matter for the authorised person. It will be an issue -

Dr J.M. Woollard: Is it open-ended then?

Mr R.C. KUCERA: Mr Acting Speaker (Mr Dean), I am attempting to answer the question.

The ACTING SPEAKER: Order, members.

Mr R.C. KUCERA: As I said, it will be the exception rather than the rule. It will be the same as other processes operating through this kind of system. I have attempted continuously to answer the member for Alfred Cove's question, but she keeps returning to clause 4, which has been dealt with. I have answered questions on clause 4 and the current clause. I will not answer them again.

Ms S.E. WALKER: I refer to the extension of time for the cannabis education session. It is important if the Government is serious about educating our youth. In today's *The West Australian* Dr George O'Neil is reported to have said -

Like the United States and many other Western countries, we are seeing an increasing number of hospital admissions of young (and sometimes older) Australians living a disorganised lifestyle associated with marijuana use. The National Institution of Drug Abuse in the US confirms that 92 per cent of hospital admissions of marijuana users are patients who began their habit before the age of 19.

During the second reading debate I referred to the use of marijuana by secondary school students. I also spoke about how this Bill will not affect people under 18 years of age. They will receive only a caution.

Point of Order

Mr J.C. KOBELKE: I fail to see how the contribution being made by the member has any relevance to clause 10, which relates to the extension of time.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

The ACTING SPEAKER (Mr A.J. Dean): There is some merit in the point of order. Will the member for Nedlands please restrict her comments to clause 10.

Debate Resumed

Ms S.E. WALKER: I am developing my point. Every time I raise this point about youth, the member for Nollamara tries to keep me quiet. I will not be quiet on that which affects our youth.

Point of Order

Mr R.C. KUCERA: This is becoming repetitive.

Ms S.E. Walker: It is not. It is new material.

Mr R.C. KUCERA: The member for Nedlands, as I said yesterday, as a practising lawyer, which she professes to be, is well aware that this is adult legislation. It does not refer -

Ms S.E. Walker interjected.

The ACTING SPEAKER (Mr A.J. Dean): Member for Nedlands, I call you to order for the second time today.

Mr R.C. KUCERA: The Young Offenders Act that was developed by the previous Government deals very well with juveniles. This legislation does not impact on the operation of the Young Offenders Act in any way whatsoever. I do not know how many times I must repeat that for the member for Nedlands. This Bill does not impact on that piece of legislation; it is a piece of adult legislation. I will answer any question on this Bill but not on the Young Offenders Act.

The ACTING SPEAKER: The point of order is tenuous but I take the point on relevancy. I ask the member for Nedlands for the second time to draw her comments back to clause 10.

Debate Resumed

Ms S.E. WALKER: Dr George O'Neil is asking this Government, as I do, if this Bill does not apply to people under the age of 18 years, why has this Government, knowing that only a caution would be given to children under Acts other than the Misuse of Drugs Act and the proposed Cannabis Control Act, not done something about it? Dr George O'Neil says that it is critical that this young group is targeted. He says that these facts should be of immediate concern to our community and the Government. The minister can answer, because I have a lot of time for Dr George O'Neil. Are the proposed legislative changes aimed at encouraging a reduction in marijuana use among those aged 18 years and under? Is there a commitment by the Government and the community to reduce the exposure of those aged 18 years and under to marijuana? Is there a commitment to treating those people who are younger and older than 18 years and severely addicted to marijuana? The questions remain completely unaddressed and unanswered.

Points of Order

Mr R.C. KUCERA: This has no relevance to this Bill or this clause and is becoming repetitive.

Mr C.J. BARNETT: The minister might be frustrated and annoyed. If it is repetitive, it might be that people have had two or three hours sleep in the past 40 hours. If the minister is suggesting that it does not relate to juveniles, of course it does. Young adults will be growing vast amounts of cannabis, the supply will increase and more juveniles will be caught in the system.

The ACTING SPEAKER (Mr A.J. Dean): Is this a point of order?

Mr C.J. BARNETT: It is a point of order, because in the Parliament we can ask whatever question we choose. This is the Parliament and the minister must answer the question. It is not for you, Mr Acting Speaker, or anyone else to limit our ability to debate this legislation.

The ACTING SPEAKER: My job is to restrict the debate to within standing orders. I take on board once again the point of order about relevancy. Will the member for Nedlands restrict her comments to what is outlined in clause 10(1) and (2)?

Ms S.E. WALKER: I can.

Debate Resumed

[Quorum formed.]

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pental; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr C.J. Barnett: Hooray, the Premier of Western Australia! Well done!

The ACTING SPEAKER: Leader of the Opposition, I call you to order.

Mr C.J. Barnett: Forty hours into the debate and the missing Premier wanders into the Chamber!

The ACTING SPEAKER: Leader of the Opposition!

Mr C.J. Barnett: He is an absolute disgrace.

The ACTING SPEAKER: Leader of the Opposition, I have called you to order. Thank you. The Leader of the Opposition will not ignore me like that.

Ms S.E. WALKER: I record that the member for Girrawheen, the member for Roleystone or some such place, and the “member for Swanbourne” were doing star jumps on the left-hand side of the Chamber.

What I am saying is relevant to clause 10 because this Government will educate our youth to grow as much pot as they like in their gardens, for which they will be given an infringement notice which will direct them to go to a lecture. This clause states that some authorised person will be able to extend the period in which they are to attend that lecture, at whim, to whatever date he or she likes. It provides an unlimited time.

I am glad that the Premier is here for the first time in this debate. I had forgotten what he looked like. He is leaving! The Premier needs to listen to what George O’Neil has to say about him and his Bill. George O’Neil is an expert. He deals with people. He is very compassionate towards people who have drug addictions. He puts a lot of his own time, effort and money into his program. Many volunteers from my electorate and from the electorate of the member for Cottesloe help people with drug addictions. Dr O’Neil has said that marijuana is a gateway drug. He has said that we desperately need education, counselling and resources. Yet, under clause 10 of the Bill, a lecture of some sort will be given to people. This legislation sanctions the growth of pot in people’s gardens. That is what the Government is saying. Nothing in this legislation, and particularly in clause 10, convinces me or any other observer that this Government is truly serious about looking after our young people who have serious problems. That is why what I am saying is relevant to clause 10. The Government will seek to educate people through these lectures, but it is actually discounting this provision, because no time limit is set in which to take the lecture. No resources will be put into these sessions. This provision will once again let the Government off the hook. It is window-dressing and cunning legislation. Do members know why there will be no resources for the cannabis education sessions? Both the member for Alfred Cove and I have asked what will be done at these lectures. The Government could just print a pamphlet and give it to these people. Nothing is outlined in the Bill. It is all window-dressing.

Dr J.M. WOOLLARD: I thank the minister for providing me with a list of the groups that will provide cannabis education sessions in metropolitan and regional areas. It will be a statewide network of community drug service teams. Many of those community drug service teams probably come from a background of harm minimisation techniques. I will pass the list around, because I know that other members are interested to see whether there will be a centre in their area. This piece of paper does not answer the question that I put to the minister. Clause 4 states that a CES is a cannabis education session. Clause 10 states that the alleged offender may complete a cannabis education session. Will this cannabis education session involve the offender reading a booklet and a counsellor being in the next office if he has any questions?

Mr B.J. Grylls: In the wheatbelt it will be a case of, “We will send you this booklet.”

Dr J.M. WOOLLARD: Exactly. What will it be? Will people be given a booklet to read, and then have to send off for some advice or call a number if they have a question? Will it be a booklet that can be read in 15 minutes, or will it be a half-hour session with someone who has an alcohol and drug background, or a two-hour, two-day or two-week program? What is meant by cannabis education session? If I were to pick up and read, for example, the Police Act 1892, that could be seen by some to be an education session, because I will have picked it up, had a look at it and found out what it is about; I will be educated. What does this Bill mean by cannabis education session?

The ACTING SPEAKER (Mr A.J. Dean): Once again, in my opinion, the member is referring to clause 16. The explanation is there.

Mrs C.L. EDWARDES: The issue raised by the member for Alfred Cove is very important. Although cannabis education sessions are mentioned throughout the Bill and clause 16 refers to them in more detail than elsewhere, it is very important when dealing with penalties - a CES is a penalty - that we get answers about the cannabis education sessions. I would like a response from the minister to the questions raised.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Mr Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr T.K. WALDRON: Although it could be discussed when we reach clause 16, it is important to determine where cannabis education sessions can be undertaken. Will they be conducted by mail or will people have to travel to centres?

Mr C.J. Barnett: By mail? Maybe people will receive a cassette tape!

Mr T.K. WALDRON: It could be. We need to know. As I said during the second reading debate, the centres in my electorate are Bunbury, Albany and Northam. If a person lives at Newdegate, what does he do? There are drug problems in the wheatbelt; people need access. Access is the key to this if the Government is serious about it.

Mr R.C. KUCERA: Many existing teams were set up under the previous Government by Hon Rhonda Parker and Hon Kevin Prince. The cannabis education sessions are an extension of those teams. It distresses me greatly that for the sake of political rhetoric the Leader of the Opposition denigrates the very things he has helped to set up.

As I explained yesterday, these are a gateway to other services within the Alcohol and Drug Authority. The Government is spending \$59 million each year on these types of services. If a person attends an education session and it becomes apparent that he has a mental health problem, he will be referred to a mental health program. In other words, it will open up a vista of treatment processes available through drug and alcohol authorities and the health services of Western Australia. This is the point we have made from day one, which arose from the Drug Summit. On many occasions when there is only a punitive program or a slap on the wrist, the people most vulnerable and who need these services the most are not able to access them. Alternatively, they do not recognise there is an underlying health problem that needs to be dealt with. We can sit here all night and denigrate these services and let the Leader of the Opposition run down his former colleagues for the good work they did. That is fine, but at the end of the day this is a good system. It is balanced and allows us to engage people in treatment and seek out further services and support.

Mr B.J. GRYLLS: Further to the statement just made by the minister that \$59 million is spent on these programs annually, will he outline what increase in budget the programs will receive? Country members are stating clearly that the programs are not reaching the people whom they are supposed to be reaching. I am talking about the existing drug problem; I am not including the results of the legalisation we are about to experience because of this Bill. I need to understand exactly how people in my electorate of Merredin can access services. The member for Alfred Cove's list states that there is an outreach program. From what we have experienced it is better called an out of reach program! None of the people running the programs ever get to Merredin; they get stuck in Northam. They do a great job but they are under-resourced. We can see that the changes this legislation will bring about will mean that the requirement for their time and effort will only increase. The minister must outline how the education programs will be funded.

Mr R.C. KUCERA: I again point out to the member for Merredin that nothing is being legalised. Nobody will be allowed to grow, use or smoke cannabis. A legal penalty applies. A regime is in place, and that will not change. An additional system is being implemented. Furthermore, I have already explained the CES process and program.

Mr R.F. JOHNSON: The minister earlier said that the cannabis education session program is a gateway to other services. Is that correct?

Mr R.C. Kucera: Yes.

Mr R.F. JOHNSON: Some of those services are for mental health treatment. The minister said also that if a person who attends the CES program is seen to be in need of mental health facilities -

Mr R.C. Kucera: I said services.

Mr R.F. JOHNSON: Okay. Are we to take it from the minister's response that the people conducting the CES program will be medical practitioners and have medical qualifications? Will those people be able to accurately assess whether a person attending the program is in need of mental health services? The people running the program should have some sort of medical qualification. I dispute that an ordinary individual could perform that role. It may well be a volunteer. I understand that many of these people are volunteers. How on earth can they be judged to have the ability, experience and qualifications to say that a person attending the CES program is in need of mental health services? I would be concerned if the minister left that role to an ordinary individual. I do not mean that in a denigrating way. I understand that some of the people who run this program are volunteers. That is extremely good. However, they must have some experience in lecturing to be able to get through to the

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pental; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Mr Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

people attending the CES program. Unless those people have some expertise in lecturing and getting a message across, they could do more harm than good. The crux of my concern relates to the minister's statement that the program is a gateway to mental health services. I would be greatly concerned if those people were not medically qualified to assess participants. Will the minister rely on unqualified people rather than medical practitioners, psychologists or sociologists - people with the qualifications needed to be able to assess whether somebody is in need of psychiatric help?

Mr R.C. KUCERA: The member for Hillarys tries to extend what I am saying. These people are trained health professionals. They are not volunteers. They work in service teams. They are trained in counselling and drug education, and they are trained to refer people should there be, in their view, a need for referral. They are not trained to diagnose. That is not what they are about. They are trained for referral.

Mr M.W. TRENORDEN: I have been in my office watching the debate on TV, and I am appalled by the minister's attitude to the resourcing of the wheatbelt. I point out that in answer to a question only a few days ago, the minister said that he had removed drug education services from schools throughout the central wheatbelt. We want to know how the minister will apply some equity to these programs. Clause 10 sets up a regime. How will the minister resource activity in the central wheatbelt? He has done his usual and ripped all the health services out of country areas. He obviously has an intense dislike for country people. How will the minister resource this program in the wheatbelt areas?

Dr J.M. WOOLLARD: Clause 10(1)(b) states that the alleged offender may complete a cannabis education session. I thank the member for Hillarys, because I have asked the minister whether he can give me some indication of whether it would be in the form of a booklet for people to read or an audio cassette that is sent to people in rural areas, about whom I am now concerned. The minister has stated that the community drug service team will do that. However, as the member for Merredin said, where will the money come from for this program? What money has been put into the cannabis education session, given that the Government is crying poor all the time? We know that cannabis causes mental illness. The people who will participate in these education sessions are likely to be schizophrenic, psychotic people or people with manic depression or depression. What will the cannabis education session do for the increased number of people who will be required to attend? Once people start growing cannabis in their gardens, it will not be just a few people who start using cannabis in their first years of high school; there will be a lot of people. There will be a lot more mental health problems in the future. What is the Government doing about mental health services at the moment? Has the minister not just given the okay to close down one of the mental health services in the city? How honest is the minister about mental health services, because he will cause more mental health problems with this Bill? I want to know what this cannabis education session is about and who will be responsible for it. It will not be someone like the minister or me who needs this program; it will be someone who is a schizophrenic, who is a depressive or who has psychosis. What will be in the program that the Government is creating under this Bill for people with a mental illness?

Ms S.E. WALKER: While the member for Alfred Cove was stating that the people who will need this program will probably have psychosis or depression, the minister was clearly looking smugly at the people at the Table as if to say that the member was talking a load of nonsense. That is the sort of contempt the minister feels. I want the minister to read what Dr O'Neil said today. I doubt whether the member for Alfred Cove has read it, but he has said exactly the same thing.

Dr J.M. Woollard: I have not read that, but I have read the research reports on what cannabis does to people.

Ms S.E. WALKER: I will not read out what Dr George O'Neil has said, but it is in today's newspaper. People use cannabis because they are depressed, and that is why he said that the program needs to be resourced.

Dr J.M. Woollard: It causes depression.

Ms S.E. WALKER: Absolutely; and, as Dr O'Neil said, it causes psychosis. He also states -

Long-term cannabis dependence increases the risk of psychosis three times, according to recent studies in the Netherlands, where the drug is freely available.

That is why extending ad infinitum the time for an education session under clause 10 is dangerous. It indicates to me that this Government is very serious about its strong commitment to the decriminalisation of cannabis. In today's newspaper Dr George O'Neil states -

The Government's working party on cannabis has a strong commitment to decriminalisation - and a seemingly conflicting resolve to, at the same time, decrease the exposure of teenagers to marijuana use.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Unless the Government shows resolve to decrease acceptance of cannabis by those aged under 20, the proposed legislative changes will add to the problems that our teenagers are already experiencing.

That is a problem with this legislation, and it is encapsulated in clause 10. At the end of the day, all the people who are issued an infringement notice will opt for the lecture. Of course they will opt for the lecture, but they will not have to attend the lecture. No resources are being put into this education program. It has not been thought through. The minister cannot tell us anything about any program that will help our young people who are suiciding and who are marginalised. He is encouraging it, and that is why I will not vote for this Bill. I refuse to vote for a Bill that encourages drug use like this and does all this damage to the children in our society. I am considering cannabis on its own. There may be other issues with other drugs but I will not endorse the growing of cannabis plants and its encouragement. This legislation will provide encouragement. An older brother who lives with his siblings might grow cannabis plants in the house. This immediately sends a message to those younger siblings that it is okay to grow cannabis. The older brother might come home with 30 grams of cannabis in his pocket, and he might leave it lying around the house or he might smoke the joints, which says to his siblings that it is okay to do that. Members should read Dr O'Neil's argument. He has been on the drug scene for years. That is the problem with this legislation. The minister can sit there as smugly as he likes because that is the way he gets out of the some of the rubbish that he brings into this House.

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (30)

Mr P.W. Andrews	Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
Dr G.I. Gallop	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	

Noes (18)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr P.D. Omodei	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr P.G. Pendal	Dr J.M. Woollard
Mr M.J. Birney	Mr R.F. Johnson	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.F. Board	Mr A.D. Marshall	Mr M.W. Trenorden	
Dr E. Constable	Mr B.K. Masters	Mr T.K. Waldron	

Question thus passed.

Clause put and a division taken with the following result -

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Mr Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (30)

Mr P.W. Andrews	Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
Dr G.I. Gallop	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	

Noes (19)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr P.D. Omodei	Ms S.E. Walker
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.G. Pandal	Dr J.M. Woollard
Mr M.F. Board	Mr R.F. Johnson	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr A.D. Marshall	Mr M.W. Trenorden	

Clause thus passed.

Clause 11: Withdrawal of CIN -

Mrs C.L. EDWARDES: Clause 11 states -

- (1) An authorised person may withdraw a CIN by sending to the alleged offender a notice in a form prescribed by the regulations stating that the CIN has been withdrawn.
- (2) A CIN may be withdrawn whether or not the modified penalty has been paid.
- (3) If a CIN is withdrawn after the modified penalty has been paid, the amount paid is to be refunded.
- (4) A CIN cannot be withdrawn if the alleged offender has completed a CES in relation to the CIN.

Will the minister explain the policy on this clause? A CIN can be withdrawn before or after an offender has paid the fine, but a CES cannot be withdrawn if the offender has completed it. Upon what basis would a CIN be withdrawn?

Mr R.C. KUCERA: Clause 11 enables a person authorised for this purpose by the Commissioner of Police to withdraw a CIN relating to payment by sending a prescribed withdrawal notice to the alleged offender. Somebody's participation in a CES cannot be withdrawn.

Mrs C.L. EDWARDES: I thank the minister for repeating basically what I said. Would he now mind answering my question? What is the public policy for the withdrawal of a CIN? What is the basis upon which a withdrawal would be made when someone has chosen to pay a penalty as opposed to attending a CES? There are some inequities for someone who opted for and completed a CES because it could not then be withdrawn. That is another good reason nobody would want to choose to go to court or pay the fine. They might as well go to a CES, because once it has been completed, it can never be withdrawn.

Ms S.E. WALKER: If a person completes the CES, for cultivation of cannabis, does he get a conviction or a criminal record?

Mr R.C. Kucera: The simple answer is no.

Mrs C.L. EDWARDES: If the minister does not know the answers to my questions, would he be kind enough to indicate that he will attempt to find the information and come back to this House when he speaks on the third reading? He might also like to advise how long after a modified penalty has been paid can a CIN be withdrawn. I would have thought there were some issues on that, but no period has been inserted.

Mr R.C. KUCERA: The public policy is that if it is inappropriate for the continuation of the CIN process - for instance if it is found that the person is actually a juvenile, or that the substance dealt with in the CIN as cannabis turns out not to be cannabis - then the process would be withdrawn. It is not possible to withdraw the participation of a person who has gone through an education session; it is as simple as that. The timing is a

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matter of commonsense, and working through the process. The person has 28 days to react to the CIN. Within that time it is to be expected that those matters would be dealt with. If an extension were made during that process, it would be within the period of the extension.

Mr B.J. GRYLLS: My question about the withdrawal of a CIN refers to the 30-gram amount. We have not had explained to us how the police will be measuring a 30-gram amount at the time of the offence. Can a CIN be withdrawn if the amount is deemed to be around 30 grams but then is found later to have been more than 30 grams?

Mr R.C. KUCERA: As is current practice, the police will always make an estimation at the time of the discovery of the substance. If they later find it is heavier than that, obviously there will be a change of approach.

Ms S.E. WALKER: Is it true that, under this legislation, people do not have to pay for their CINs?

Several members interjected.

Ms S.E. WALKER: It was an attempt at humour. It is nearly midnight, and I thought I would be a bit jolly. The interjectors should go back to the bar.

Point of Order

Dr J.M. WOOLLARD: I am unable to hear the member for Nedlands, because there is so much noise in the House.

The ACTING SPEAKER (Mr A.J. Dean): Me, too.

Debate Resumed

Ms S.E. WALKER: Further to that point of order, I cannot hear myself!

The minister responded by saying that, under clause 11, an authorised person can withdraw a CIN if the person is discovered to be a juvenile. If the person is discovered to be a juvenile, what then happens to that person?

Mr R.C. KUCERA: They will be dealt with under the Young Offenders Act.

The ACTING SPEAKER: You need to be quicker seeking the call, member for Alfred Cove.

Mr P.G. Pendal: Sometimes we can't even hear!

Dr J.M. WOOLLARD: Clause 11 states that the cannabis infringement notice can be withdrawn if the alleged offender has completed a cannabis education session. I have been informed that someone growing two plants would make approximately \$67 000 if the plants were harvested three times a year. If someone is making \$67 000 out of two plants, will he or she not just pay the fine each time? What good would that be to the community?

Mr R.C. Kucera: If people were selling cannabis and making \$67 000 a year, they would be charged with dealing, not issued with a CIN. It's as simple as that.

Dr J.M. WOOLLARD: That is an interesting comment. My advice is that people can make up to \$67 000 from two plants. The minister told this House earlier that if two plants were in a household of four adults -

Point of Order

Ms S.E. WALKER: The laughter in the Assembly has reached a ridiculous stage.

Mr P.G. Pendal: How many times does he have to be told?

Ms S.E. WALKER: We ask and we get no response.

Mr P.G. Pendal: What about being an Acting Speaker? You have continually been asked to keep order so we can hear the debate. You do nothing.

The ACTING SPEAKER (Mr A.J. Dean): I suggest that the member for South Perth be careful with his words.

Mr P.G. Pendal: We just want to hear.

The ACTING SPEAKER: If the member stopped nattering, I could tell the members.

Mr P.G. Pendal: Good! We'll hold you to it.

The ACTING SPEAKER: Be quiet then, thank you.

Mr P.G. Pendal: You're not doing it so far.

The ACTING SPEAKER: I call the member for South Perth to order!

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Mr P.G. Pendal: Good! Let's be consistent from here on.

The ACTING SPEAKER: There is merit to the point of order. Too much conversation is taking place. The fans behind the table do not help the situation in the Chamber.

Debate Resumed

Dr J.M. WOOLLARD: The minister just said that a person caught with two plants would be convicted and charged under a criminal offence as a dealer. That is why some of the earlier clauses on which debate was gagged were very important. What if two plants were in a household, one of which belonged to Mr Brown and the other to Mrs Brown, and they were making \$67 000 a year by harvesting them three times a year? They would not be convicted as dealers. All that cannabis would be out on the streets. If people were making \$67 000 a year, they would not bother going to cannabis education sessions. We do not know what this session will entail. These people will pay the fine and be back growing plants again. That is why it is very disappointing that the Leader of the House continually gagged earlier debate. If an officer entered a house and found 140 grams and five people in that house, would these people be in trouble? No. Five people would be allowed to have 150 grams of cannabis, and these people would have only 140 grams. If an officer went into a house where there were two plants and two people, and they said they each owned one of the plants, the Government will give them the okay through this Bill to legally grow that cannabis.

Mr R.C. KUCERA: The Leader of the Opposition gave the House an example recently that people who divide amounts of cannabis into quantities that can be dealt will be charged with dealing. The cannabis infringement notice does not relate to that.

Ms S.E. WALKER: Why can a cannabis infringement notice not be withdrawn after an offender has completed a cannabis education session?

Mr R.C. KUCERA: I have answered that question on a number of occasions. A person cannot withdraw his participation in a cannabis education session.

Ms S.E. WALKER: That is the problem. This measure is not workable; it could penalise an innocent person. Members opposite might laugh, but they have not bothered to look at the legislation they will vote for because it does not interest them. It might be discovered after an offender has attended the lecture that he is only 17 years old. Members opposite want to know what the problem is with that. The problem is that after an offender has completed a CES, the Commissioner of Police is sent the details that the offender has been issued with a CIN. I seriously doubt whether the resources will be given to the police, but the Commissioner of Police is to be provided funds to record those details. The CIN will be a black mark against that person who was not entitled to be issued with it in the first place. What will the minister do about that?

Mr R.C. Kucera: I have answered that question.

Mr C.J. BARNETT: That is a fair question. We are talking about a black mark against a person's name. For argument's sake, has any member in this House had a cannabis conviction recorded against their name? That would be a black mark. Has anyone had a cannabis conviction? It can happen. I have not had one. Members opposite talk about small amounts of cannabis that do not cause harm. I do not mean to recriminate any members who have had a conviction recorded against them. Some members in their earlier years might have used or possessed cannabis and been convicted. Will members be clean? Has the Minister for Police ever had a conviction? I doubt whether she has even used cannabis. I do not know, but I doubt whether she has. I doubt that the member for Maylands has used cannabis. I am sure that she would not have a conviction against her name. Has the Leader of the House ever been convicted of cannabis use? Why all the muted faces? If cannabis is okay and people can grow their own, why are members opposite all ashamed of admitting whether someone has been convicted of cannabis use? Why the hesitancy and coyness?

The point the member for Nedlands made is that if a cannabis infringement notice is withdrawn, people can be left with a black mark against their name. A cannabis conviction is a black mark. We cannot even find out whether any member in this House has had a cannabis conviction. We do not even know which members have smoked cannabis in the past and which members still smoke it. Does the member for South Perth have a conviction?

Mr P.G. Pendal: It has been a boring old life!

Mr C.J. BARNETT: He does not have a cannabis conviction. I am curious to know whether any member in this Parliament has had a cannabis conviction. It is pertinent to this Bill. We are talking about stigma, black marks

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and the like. The public needs to know. We need to know whether it is a serious issue. If the CIN is withdrawn, why is it withdrawn? Is the person left with a stigma? It relates to age. Is the person a habitual user? Why would it be withdrawn? What does the Minister for Health say? He says that he has already answered the question. He has no bloody idea. He is an absolute dope. He does not know. We can see why he was transferred out of the Perth police district. We can see why Bob Falconer sent him south. He was so useless in the job that they could not get rid of him so they sent him south.

Mr M.J. Birney: Look what he did at the Belmont Police Station.

Mr C.J. BARNETT: He did a good job there did he not! Is the fact that he was involved in the bashing of Peter Mickelberg a stigma? Was he or was he not involved? I do not know. We do not know under this law. The minister is sitting there like the dope he is who got moved out of the Perth police district because he could not hack the job. Everyone in the Police Force knows that. The Labor Party thought it had gained a star. A star? He is more like a falling star. He is a complete numbskull.

Mr A.J. Carpenter interjected.

Mr C.J. BARNETT: Has the Minister for Education had a cannabis conviction?

Point of Order

Mrs M.H. ROBERTS: All I have heard in the past two or three minutes from the Leader of the Opposition is personal invective. He has not made any contribution to the debate. He has chosen to denigrate one of the most upstanding members of this House and one of the finest people to serve on the government benches. That kind of pathetic behaviour does nothing for the standing of this House. Members opposite have no parliamentary standards. The remarks of the Leader of the Opposition should be withdrawn and he should apologise to the House for his behaviour.

The ACTING SPEAKER (Mr McRae): The point of order has merit. I was about to ask the Leader of the Opposition to direct his attention to clause 11. I do not believe that continually asking members in turn whether they have a criminal conviction has a link to clause 11. I give the call to the Leader of the Opposition and ask him to direct his remarks to the clause.

Debate Resumed

Mr C.J. BARNETT: I wish to raise many points on clause 11. Subclause (4) provides that a CIN cannot be withdrawn if the alleged offender has completed a CES in relation to the CIN. Why not? What is the point? A person is caught with a tradeable amount of \$700 worth of cannabis in his \$25 sachets after he has done the rounds of the primary school, but that is okay because it is a small amount for personal use. After picking up \$700 at the primary school he is sent off to the cannabis education session. He lines up at the disused community hall with about 200 dopeheads and reads a brochure, with someone like the Minister for Health saying "It's not a good thing to smoke cannabis." That will be stimulating stuff! Then the CIN cannot be withdrawn. The person must listen to someone like the Minister for Health try to suggest that cannabis is not good for him, when we do not know whether members opposite have cannabis convictions. However, the CIN cannot be withdrawn. Where does the Government stand? I would appreciate an answer.

Standing Orders Suspension

Mr J.C. KOBELKE: I move, without notice -

That in relation to the Cannabis Control Bill 2003, so much of the standing orders be suspended as is necessary to enable by this motion -

- (a) one question to be put in relation to the remainder of part 2, and one question for each part to be put in relation to parts 3, 4 and 5; and
- (b) the third reading to be moved forthwith at the completion of consideration in detail stage.

It has been clear that members generally have not been able to stick to debate on this clause. The debate has continually been broadened to take in a range of matters. To try to assist members opposite to comply with the standing orders, clauses 11 to 19 will be taken as one vote. Members will therefore be able to debate all matters within those clauses before the vote is taken. We will then move to part 3, cannabis smoking paraphernalia, and the four clauses in that part will be debated as one and one vote will be taken. We will then move to part 4, miscellaneous, which has two clauses, and to part 5, clauses 26 to 31, which will be taken as a further vote. That may assist members opposite to abide by the standing orders and speak to those clauses. It has been very clear

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that, with one or two exceptions, members have been unable to abide by the standing orders and confine their remarks to the specific clauses.

Mr R.F. JOHNSON: The Opposition totally opposes this gag routine of the Leader of the House. He has been applying the gag all the way through the debate. He obviously wants the Premier to have another early night.

One of the reasons the Opposition completely opposes the guillotine of this very important Bill is the social disaster that will befall thousands of Western Australians, particularly young Western Australians, as a consequence of this Bill. Some of our ministers should hang their heads in shame because of what it will do to young Western Australians. Anybody involved with youth, particularly Aboriginal children, should know that they will suffer greatly because of the deleterious effects that this legislation will have on their health.

I believe that the Opposition has acted very honourably in this debate. The Leader of the House obviously does not like it when members on this side of the House use their democratic right to speak in this Chamber on behalf of their constituents. He is obviously very unhappy that all members on the opposition benches spoke during the second reading debate. He would have liked two or three members to have spoken so that the second reading debate would have taken about two and a half hours and he could have rushed this Bill through the Parliament and not had a late night last night. I have news for the Leader of the House. That is not the way that democracy works. As the Leader of the Opposition says, the public will not wear this.

We on this side of the House have a completely different view of this Bill from that of members on the government benches. They think that it will be all right; we think it will be a disaster for the health of Western Australians. We want to do our job and scrutinise this Bill. The only way we can do that is during the consideration in detail stage. We can make second reading contributions and put forward all the facts and figures that we have and the reasons that we oppose the Bill. Hardly any members on the other side of the House spoke during the second reading debate. The members for Rockingham, Roleystone and Perth spoke, but most of their contribution was not to do with the Bill before the House but was simply to try to denigrate members on this side of the House. That is politics. I understand that.

Mr M.P. Whitley interjected.

Mr C.J. Barnett: You are out of your chair, member for Roleystone, which seems to have gone unnoticed.

The ACTING SPEAKER (Mr A.D. McRae): Member for Roleystone, you are out of your chair. Therefore, you will not take part in the debate.

Mr R.F. JOHNSON: The reason we want to scrutinise this Bill during the consideration in detail stage is that we believe it has serious flaws. We totally disagree with many clauses of the Bill, so we must disagree with it as a total package. What is the point of trying to amend the Bill? The Government is always reluctant to accept amendments from this side of the House. An argument that has been put, and I believe it is quite justifiable, is: why should we want to make the Government's Bills better? Let the Government wear its rubbish Bills. Once those Bills come into effect, the public will see their value. Is it not right that the Government, as the sponsor of the Bill, should get the blame for it? Why should we want to make it easier for the Government? We have tried, but the Government does not want us to. As far as I am concerned, that is it; we will not help the Government any more; we have done the best we can.

All we want to do today is scrutinise the clauses in the Bill. Had the Minister for Health answered all of our questions and queries, the debate would have taken less than half the time it has taken. The minister does not seem to have a clue about the Bill, because he could not answer many of the questions. Why am I surprised? He is exactly the same at question time. Like the Premier, he never answers a question. The Minister for Health just goes off on a tangent. He normally reads out a set speech attacking the federal Government or the former Government in this State.

Many people who work in this House will be delighted at the guillotine motion moved by the Leader of the House. I refer not to members of Parliament, although we clearly do work in this House, but to the staff members of this House, for whom I have great respect. They have to tolerate some of the biggest rubbish that is dished out on this earth. They have to sit there and take down the words used in every debate on every Bill and every motion. It is unfortunate that the Leader of the House has moved this guillotine motion at this stage, because he has jumped the gun. I think someone rattled on me; they must have seen me getting some photocopies done. I was going to move a motion condemning the Leader of the House for dereliction of his duties under his ministerial portfolio, by not ensuring the safety and wellbeing of a certain group of workers in this State. I would happily have moved that motion. The people I am talking about are those who work in this

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House. The Leader of the House is putting their lives at risk. I cannot remember any other occasion on which we have had two nights on the trot; two consecutive nights when we have gone through until four o'clock one morning and have been threatened with going through until seven o'clock the next. They are long periods. Members of Parliament have to wear that. There is nothing we can do about it. We can complain, whinge and put forward justifiable cases for not doing that, because members of Parliament do not perform at their best or represent their electors in the best possible way when they are very tired. I had three hours sleep last night. I am one of those people who normally needs about eight hours sleep. I can get by on six hours sleep, but three hours -

Points of Order

Mr J.C. KOBELKE: The matters the member for Hillarys is raising may be important to him and other members, but I do not believe that they have any relevance to the motion before the House, which is a suspension motion for procedural matters. In the seven minutes in which the member for Hillarys has spoken, he has not made any mention of the motion before the House.

Mr C.J. BARNETT: Further to the point of order, it is absolutely pertinent that the member for Hillarys put his point of view on this guillotine motion. This motion will bring the passage of this Bill into disrespect. It will also bring the Parliament into disrespect. One person will be responsible for that; the Speaker of this House. He will be held personally responsible if any grief comes to any member of Parliament or staff member. I intend speaking to the Speaker about the action. He should be in the Chair.

The ACTING SPEAKER (Mr A.D. McRae): What is your point of order, Leader of the Opposition?

Mr C.J. BARNETT: The point of order is the Leader of the House's point of order. It is his, not mine.

The ACTING SPEAKER: I do not accept that argument. I do not understand the relationship between that argument and the point of order of the Leader of the House on the suspension of standing orders motion. The Leader of the House made a reasonable point. The member for Hillarys has spoken for only seven minutes, but I am yet to hear him directly debate the question before the House. I ask the member for Hillarys to take the call and resume debate on the matter before the House.

Debate Resumed

Mr R.F. JOHNSON: If I have wavered slightly from the motion before the House, it is because I am exhausted.

The ACTING SPEAKER: Sit down, member for Hillarys. I do not know whether the member for Hillarys understood what I just said. I did not say that the member for Hillarys had wavered, but that I had not yet heard him speak to the question before the House. I am warning the member for Hillarys, because I do not want him to go close to canvassing the advice I have given him. I call the member for Hillarys to order for the first time. I have been quite reasonable in giving the member advice about how he needs to conduct this debate. I give the member the call and ask him to speak to the question before the House.

Mr R.F. JOHNSON: The motion before the House is disgraceful. It is to suspend standing orders. I will speak to that because that is what the motion is about. I am opposed to the suspension of standing orders - absolutely opposed!

I wanted to wake up the Minister for Planning and Infrastructure because she was sitting upright with her mouth open and I was concerned that something might fall in!

The reason I am opposed to the suspension of our very important standing orders is that it affects the running of this House. That is immensely important to members on this side of the House. Without standing orders this House will not function. If they are suspended the House will not function properly. That is what the Leader of the House wants. He wants this House to function improperly because he wants to move for the suspension of standing orders in order to move an airy-fairy motion that will curb democratic speech in this House.

Mrs C.L. Edwardes: Democratic speech is the responsibility of every member of this House.

Mr R.F. JOHNSON: Absolutely. Suspending standing orders is a very serious thing to do. Such a motion in this situation is even more serious than normal. If I had moved a motion to suspend standing orders to condemn the Minister for Consumer and Employment Protection for his dereliction of duty to certain workers in this State - which I was going to do - it would not have had the same significance as the motion before the House. My motion would have simply condemned him. Members should read yesterday's *Hansard*. Mr Acting Speaker should read it, as I am sure he will find it interesting. The Minister for Consumer and Employment Protection made a brief ministerial statement about the safety of workers and their right to get home safely the same day.

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The minister is depriving members of staff in this House and this building of that right. I urge all members to read the statement very carefully.

What will the motion before the House actually do?

Mrs C.L. Edwardes: It will stop us from doing our job properly.

Mr R.F. JOHNSON: Yes, it will stop us from doing our job properly. It will stop us from scrutinising this legislation. I oppose the motion to suspend standing orders. That is what we are debating. A member opposite is nodding his head in agreement; I must be right. The reason I oppose this motion to suspend standing orders is that if passed it would deny the democratic right of members of this House to do their job properly; it would stop members from scrutinising this legislation properly. That obviously does not bother the Leader of the House. He wants to ram this legislation through the House without proper scrutiny. That is what this motion will do. It is the guillotine motion. It will not gag debate on the clauses; it will do worse than that. The motion will cut them all off. It will deny members the opportunity to have a third reading.

Mrs C.L. Edwardes: And from going through the clauses one by one.

Mr R.F. JOHNSON: As the member for Kingsley has alluded, that is the purpose of consideration in detail. That is the purpose of that parliamentary time. We have the second reading stage, the consideration in detail stage and the third reading stage. There is a very good reason for that. This motion will deny us the democratic right to that very important stage - the middle stage, as we often call it - of consideration in detail. It will also deny members their right to contribute to the third reading debate on this Bill.

Another reason I oppose this motion to suspend standing orders is that this Bill was not declared an urgent Bill. It has been 15 months in the making. Debate on the second reading began last Thursday. Today is Wednesday. This Bill has not even had three days of proper debate, and the Leader of the House wants to guillotine it. He has moved to suspend standing orders so that he can move the guillotine motion. This is a retrograde step in the history of this Parliament. If the Leader of the House were serious about ramming the Bill through, and if he had wanted to avoid all this, he would have used a sessional order rather than move the motion that is now before the House.

The problem with the Leader of the House moving this motion is that he has lost all credibility. I have cooperated with the Leader of the House enormously over the past few months to try to ensure the proper and relatively fast passage of Bills through this House without our having to sit too late. I had an agreement with the Leader of the House. I have now learnt that I cannot rely on his agreements. I have no faith or trust in the Leader of the House anymore. Yesterday he told me that we would probably sit late that night - until about 11.00 or 11.30 pm. I said that that was okay. He also said that we would probably sit two extra hours on Wednesday. The Wednesday sitting times were to be adjusted. I did not have a problem with that. He is the Leader of the House, and it is his call. That was reasonable. Nobody on this side of the House delayed the second reading debate. We did not pull any stunts. No-one in the Liberal Party suggested that the Bill be referred to a committee, although we could have. The member for Alfred Cove moved such a motion. She had a very good reason for doing so. It was not done simply to waste time.

Mr P.G. Pandal: It is part of standing orders.

Mr R.F. JOHNSON: Exactly. The member for South Perth is absolutely right. That is part of standing orders. The motion we are discussing is the suspension of those standing orders. The member for Alfred Cove legitimately used the standing orders to move a motion to send this Bill to a joint committee. I believe the Leader of the House is abusing standing orders by moving to suspend them so that he can guillotine debate on this very important Bill. The deal was that on Tuesday night we would sit until 11.30 or even midnight and that tonight we would sit until about 10 o'clock. I would have understood if we had sat until 11 o'clock. That would have been it. What is the hurry? What is the motive for suspending standing orders to guillotine this Bill? What difference would another day or even two days make in the life of this Bill?

Dr J.M. Woollard interjected.

Mr R.F. JOHNSON: We know that the community does not want this legislation. The survey clearly showed that the vast majority of people are now opposed to it. I must ask: why does the Leader of the House want to move a motion to suspend standing orders to guillotine the Bill? That is the substance of the motion - to guillotine the Bill. I know we can discuss only the reasons and purpose behind moving to suspend standing orders, but it follows on. Normally one is allowed a little licence to talk about that, but I do not intend to do that. I am talking about the reasons that we are opposed to the suspension of standing orders and I am questioning the

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reasons that the Leader of the House has moved the motion. As I said, where is the urgency for this Bill? Are members of the Government desperate to plant their two plants? Is that what it is? Do members on the government backbench want to get their plants in before winter sets in? None of my colleagues will be planting cannabis plants. None of my colleagues smokes cannabis and, as far as I am aware, none of my colleagues has ever been charged or convicted of smoking cannabis, so there is no rush by those on this side of the House. We are not cannabis fans.

Mrs C.L. Edwardes: I was going to go to Bunnings tomorrow to get some reticulation materials.

Mr R.F. JOHNSON: It could be deemed illegal under this Bill. The Leader of the House is looking over his glasses now and is deciding whether I am getting off the subject. No, I am not; I am speaking to his motion to suspend the standing orders of this House so that he can move this dreadful, undemocratic motion that he has put before the House.

Another reason that I and, I am sure, all members on this side of the House totally oppose the suspension of standing orders to move this motion is that we have a tremendous fear for the young people in our State. I have six grandchildren, and it worries me silly that this legislation will free up the use of cannabis and the opportunity to grow cannabis, and that there will be a proliferation of cannabis use. I do not want my grandchildren using cannabis in any way, shape or form, because I have seen the damage it does to young people. I have seen first-hand the damage it has done to the son of one of my constituents. That is why I do not agree with the suspension of standing orders.

Mr C.J. Barnett: Where is the Speaker?

Mr R.F. JOHNSON: I am sure the Acting Speaker has the same serious concerns as I do about the damage that cannabis does to children. I know that the member for Joondalup, the Acting Speaker, has children, and in the not-too-distant future he will probably have grandchildren.

The ACTING SPEAKER (Mr A.P. O’Gorman): I hope not.

Mr R.F. JOHNSON: Of course you will, Mr Acting Speaker. The not-too-distant future could be five or 10 years; that is not a long time. This is the problem and this is why we on this side of the House do not agree with the suspension of standing orders just so the Leader of the House can guillotine this Bill and go home. I wonder whether the Leader of the House has instructions from the Premier to guillotine this Bill because he does not want to be up all night. He had a lovely kip last night with teddy, and he does not want to be in the Chamber tonight; he wants to be home with teddy again.

The ACTING SPEAKER: Member for Hillarys!

Mr R.F. JOHNSON: That is what I reckon. I am giving the reason that I am opposed to the suspension of standing orders. That is my view. We have had a slight glimpse of the Premier. It looked like the Premier. I think it was the Premier.

Mr P.G. Pendal: We are very worried about teddy. Who is teddy?

Mr R.F. JOHNSON: I want to know what teddy’s name is. I think the Premier is one of those people who would have a teddy. I wonder whether this debate will also be gagged. The Leader of the House is a compulsive gagger, because he has gagged debate all night long. So far he has gagged every clause apart from one. We did not take long to deal with that clause and we dealt with it quite legitimately. We felt that that clause should be passed fairly quickly and we scrutinised it very carefully.

Mr P.G. Pendal: He should have been given a GIN.

Mr R.F. JOHNSON: What is that?

Mr P.G. Pendal: A gaggers infringement notice.

Mr R.F. JOHNSON: Members on this side have not wasted the time of the House. We have been frustrated, because every time we want an answer from the Minister for Health, we do not get one. Therefore, we have asked questions again in a different way to see whether we could trick the minister into giving us a truthful answer, but obviously the Leader of the House is trying to protect the minister. He decided to move the motion that is now before the House. That motion, in relation to this Cannabis Control Bill - the out of control Bill - is to suspend standing orders. I often try to agree with my opposite number over there - the Leader of the House - and over the past few months I have agreed with him on many things. However, I must say that he has turned into a real bully. I can only describe his actions over the past few days as bullyish. I am quite an easygoing sort

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of person and I try to get on with everybody here; everybody is my friend. I try to cooperate with the Leader of the House to get Bills through. I had faith and trust in him. I emphasise the word “had”, because I no longer have that. I thought he was a decent person but I do not believe that any more, because he has let me down by moving this motion to suspend standing orders for a disgraceful purpose. It will turn this House into an undemocratic place where people will not have the right to speak and to ask questions! Sorry, I get a bit emotional sometimes - I cannot help it. Will we debate this motion or not? I wonder whether we will debate it properly and sensibly.

Mr M.W. Trenorden: I think there might be a gag coming on.

Mr R.F. JOHNSON: That is why I am hesitating about sitting down, because this motion is so important.

For the sake of Hansard staff, I indicate that they will not be staying any longer because I am making this speech; I promise them that. I want the reporter to pass that on to her colleagues. The Leader of the House has already set the time for when we will go home. All I am trying to do is to point out, so that it is recorded in *Hansard*, the undemocratic manner and method that the Leader of the House has used in this Chamber tonight. It is just past 12.45 am. I know that the workers in this House - the Hansard staff, the Chamber staff, the table staff, the Clerk, the Deputy Clerk and the Clerk Assistants - all work jolly hard. I suggest that many of them have been working since about eight o'clock this morning. Nobody in any private industry would be expected to work those long hours without a proper rest break. The Leader of the House does not give a monkey's. He has no problem with Hansard reporters. They always work longer hours than members do. When we leave this House, they carry on working because they have to finish a certain amount of work. I feel extremely sorry for them. I want it recorded that my thanks go to them for the loyal way in which they serve this Parliament.

Point of Order

Mr J.C. KOBELKE: The member has been talking for nearly half an hour on a procedural motion for the suspension of standing orders for certain purposes. He has alluded occasionally to the motion but has not confined himself to addressing the motion before the House. The particular matter that he is talking to now - his feigned interest in a range of people - does not bear on the motion and is something that he has repeated many times in other debates in the past day or so.

Mr C.J. BARNETT: The member for Hillarys has barely developed his argument. He has 33 minutes to go to build his argument. A number of members wish to speak to the motion. This motion is about a Government that cannot get its legislation through the Parliament.

Mr A.D. McRae: What is the point of order?

Mr C.J. BARNETT: It is not my point of order. The member for Riverton should ask the Leader of the House, as he made it.

Mr A.D. McRae: Speak to it.

Mr C.J. BARNETT: Is the member for Riverton coaching from the sidelines? Who is running this show? Where is the Speaker? He was very keen to take charge before.

The ACTING SPEAKER (Mr A.P. O’Gorman): Will the Leader of the Opposition make his point of order?

Mr C.J. BARNETT: I am not making a point of order. I am responding to the point of order taken by the Leader of the House. The Leader of the House said that the member for Hillarys was not getting to the issue. He is getting to the issue. The issue is about suspending standing orders. It is about denying members of this House the opportunity not only to debate the clauses in the Bill but also to even speak on the third reading. The consequence of that, and the reason that the motion is important, is that the Bill will have no legitimacy. I will publicly hold government members responsible for the next young person who suicides under the influence of cannabis.

The ACTING SPEAKER: The member for Hillarys is talking to the motion to suspend standing orders. He has occasionally entertained us; however, he has quite seriously tried to get his point across. I advise that if he wishes to, he should continue to do that and to relate his comments directly to the motion.

Debate Resumed

Mrs C.L. EDWARDES: I also oppose the motion to suspend standing orders. I have been concerned about the way in which this debate has occurred this evening. The motion proposes to put each clause in each part together as one question instead of having separate questions for each clause. The third reading would then be

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moved forthwith at the completion of the consideration in detail stage. That means that a set time would have to be put, but nobody knows what that time period is because it has not been included in the sessional orders covering a motion to suspend standing orders. Therefore, although we have been debating part 2 of the Bill, we will now go from clause 11 all the way through to clause 19 with just one question being put. The issues in clauses 12 and 13 of the Bill are the benefits of paying a modified penalty or completing one CES for multiple CINs. The application of those clauses is a major issue that we have touched on in the debate and it demands a proper answer. Clauses 14 and 15 relate to the application of penalties collected and the appointment of authorised persons. Clause 16, on cannabis education sessions, is absolutely imperative. If this Bill is to work in the way in which the Government wants it to work, clause 16 is absolutely critical. Numerous questions need to be asked about clause 16. Clause 17 deals with the certificate of completion of a CES and clause 18 deals with the enforcement of a CIN under the Fines, Penalties and Infringement Notices Enforcement Act. Clause 19, again another important clause, deals with the operation of the Young Offenders Act. That again is a matter that we have touched on in the debate, yet we were told that we could not talk about it because it would be raised later. It is in clause 16, which deals with the CES, and in clause 19, which deals with the Young Offenders Act. The Government obviously does not want us to talk about it, because one question will be put for all those clauses in the part. Part 3 deals with cannabis smoking paraphernalia. That is another important part, with four clauses dealing with a warning notice, cannabis education materials, and the sale of cannabis smoking paraphernalia to minors. Again, these are very important issues that need thorough examination and questioning. I hesitate to suggest that we might even get some answers from the minister. Part 4 deals with miscellaneous provisions of regulations and the review of the Act. The Opposition has had no answers to its questions about regulations. We were not allowed to continue to do that because the Leader of the House stood on each occasion and said that that was not relevant to the clause under consideration and that it would be coming up later. It will not now be coming up later, because now we will be gagged on the debate. We will not get a chance to go through the regulations and get answers from the minister.

Part 5 deals with the amendments to the Misuse of Drugs Act 1981. The whole of this legislation goes hand in glove with that Act. This is a very important section for dealing with the sale or supply of a thing knowing it will be used in the hydroponic cultivation of prohibited plants. Many nurseries and horticultural organisations - as the member for Warren-Blackwood would hope to point out - are concerned about the way this is worded, and the impact it will have on their operations, many of which are small businesses. As far as they are concerned, it is a very serious matter. Then there are some amendments to the Criminal Code and changes to penalties. As members can see, some very important and serious clauses are still to be debated. The Opposition was stopped from debating many of those clauses and issues primarily because the Leader of the House stood and said that our comments were not relevant to the clause under consideration, and that the relevant clause would come up later, when there would be an opportunity to discuss those issues. He knew full well that he had every intention of moving this suspension of standing orders to put in place a sessional order to stop the debate.

The biggest issue I have about this debate and the behaviour of the Leader of the House is his intimidation of the member for Alfred Cove to prevent her from speaking in this House. That has been appalling behaviour. There has been absolute intimidation. I suggest it would even constitute a gross breach of the rules of this House, in that he was stopping a member from discharging her duties to her electorate. Every time the member for Alfred Cove got to her feet, even though on a couple of occasions it was the first time she had stood to address a clause, the minister straight afterwards moved to gag debate, on the basis that she was irrelevant and the matter she was raising was irrelevant.

Ms S.E. Walker: Can you record the fact that the member for Rockingham is sitting in his seat laughing. He thinks that is funny and smart. He is a pompous young man and full of his own self-importance. He sees a woman on her own and goes after her.

Mrs C.L. EDWARDES: A very serious pattern of behaviour has been exhibited.

Ms S.E. Walker interjected.

The ACTING SPEAKER (Mr A.P. O’Gorman): Member for Nedlands, the member for Kingsley has the floor, and she is clearly having difficulty being heard over the exchange across the Chamber. Could you take it down a couple of tones, please?

Mrs C.L. EDWARDES: Seriously poor behaviour has been exhibited here tonight. More than that, it has been a pattern of poor behaviour. The member for Alfred Cove may have a different point of view from that of the Leader of the House or the minister concerning the questions she wishes to raise on these provisions; however, it

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is her right to ask them. The Leader of the House moves to suspend standing orders when he wishes; however, he cited standing orders on a number of occasions as justification to stop the member for Alfred Cove speaking. I suggest that the Leader of the House be careful how he proceeds in future with the member for Alfred Cove. His behaviour may very well lead to a contempt of this House. It is such a serious matter that I will be recording the pattern of behaviour in respect of the member for Alfred Cove from here on in. It is insulting to not only the member for Alfred Cove, but also all members of this House.

Mr J.C. Kobelke: Speak to the motion.

Mrs C.L. EDWARDES: I am. The Leader of the House has stopped us from debating most of the provisions of the Bill because of his proposed suspension of standing orders. He kept saying to the member for Alfred Cove that she was referring to the wrong provision and that the provision in question would come up later. We now know it will not come up later. He tried to intimidate the member for Alfred Cove to stop her speaking. It was after she stood to speak for the first time that he moved the gag. He hoped that the rest of the House would get together and say, "We want to keep debating this Bill. Every time you stand up, member for Alfred Cove, the Leader of the House moves the gag. We would prefer it if you didn't speak." However, we will encourage the member for Alfred Cove to continue to play her part in this place on behalf of her constituents. It is an absolute disgrace that she was denied the opportunity in that way. It was an endeavour to compel an Independent member not to speak; I refer to somebody in this place who is without the support and backing of a party. I have seen disgraceful behaviour exhibited tonight. It is such a serious matter that it comprises a gross breach of the standing orders of this House. If that pattern of behaviour continues, it could be a contempt of this place, if not a breach of privilege.

Question to be Put

Mr M. McGOWAN: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (30)

Mr P.W. Andrews	Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr J.R. Quigley	
Dr G.I. Gallop	Mr J.A. McGinty	Ms J.A. Radisich	

Noes (18)

Mr C.J. Barnett	Mr B.J. Grylls	Mr P.D. Omodei	Ms S.E. Walker
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.G. Pandal	Dr J.M. Woollard
Mr M.F. Board	Mr R.F. Johnson	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr A.D. Marshall	Mr M.W. Trenorden	
Mrs C.L. Edwardes	Mr B.K. Masters	Mr T.K. Waldron	

Question thus passed.

Question (suspension of standing orders) put and a division taken with the following result -

Extract from Hansard
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Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (30)

Mr P.W. Andrews	Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
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Dr G.I. Gallop	Mr J.A. McGinty	Ms J.A. Radisich	

Noes (18)

Mr C.J. Barnett	Mr B.J. Grylls	Mr P.D. Omodei	Ms S.E. Walker
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.G. Pendal	Dr J.M. Woollard
Mr M.F. Board	Mr R.F. Johnson	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Dr E. Constable	Mr A.D. Marshall	Mr M.W. Trenorden	
Mrs C.L. Edwardes	Mr B.K. Masters	Mr T.K. Waldron	

Question thus passed with an absolute majority.

Consideration in Detail Resumed

The ACTING SPEAKER (Mr A.P. O’Gorman): Pursuant to the suspension of standing orders, the question is that the remainder of part 2 - clauses 11 to 19 - be agreed to.

Points of Order

Mr C.J. BARNETT: I seek clarification. I am not sure what effect this gag motion has. Can you confirm, Mr Acting Speaker, that there will be no third reading debate?

The ACTING SPEAKER (Mr A.P. O’Gorman): The third reading will be moved.

Mr C.J. BARNETT: Can you confirm, Mr Acting Speaker, that you are ruling that there will be no third reading?

The ACTING SPEAKER: The third reading will proceed at the end of the consideration in detail stage.

Mr J.A. McGinty interjected.

Mr C.J. BARNETT: This is a serious inquiry. Debate on this Bill has been gagged. Will members have the opportunity to speak in the third reading debate?

The ACTING SPEAKER: The third reading will be moved at the end of consideration in detail. It will be a matter for the House to decide when it will stop.

Mr C.J. BARNETT: Will members have the right to make a third reading speech?

The ACTING SPEAKER: I do not know how much clearer I can make it. The third reading will be moved forthwith following consideration in detail. The number of members who speak will be a matter for the House to decide at that time.

Mr M.W. TRENORDEN: On a further point of order, my reading of this motion is that you, Mr Acting Speaker, will choose who will speak on the next four occasions. How will you make that decision?

The ACTING SPEAKER: The decision on who speaks will be done as it is always done. Members will seek the call and the call will be granted to a member.

Mr M.W. TRENORDEN: Several people will seek the call, Mr Acting Speaker. I would like some indication of how you will choose which member will speak.

Several members interjected.

Mr M.W. TRENORDEN: I am making a point, Mr Acting Speaker.

The ACTING SPEAKER: I am quite clear on this issue. Members wishing to seek the call will do so in the normal manner and I will call those who catch my eye or my ear.

Mr M.W. TRENORDEN: Mr Acting Speaker, you will choose the next four speakers on this debate.

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The ACTING SPEAKER: I cannot give a guarantee it will be me because another Acting Speaker might be in the Chair. That is clear. The call will be sought in the normal way. At the moment the member for Kingsley has the call.

Mr M.W. TRENORDEN: This is getting to an intolerable position.

Mr J.N. Hyde: What is the standing order?

Mr M.W. TRENORDEN: I am talking about the functioning of this House. We are getting to the intolerable position in which a member of the Government will be choosing who can speak on a very important Bill. It is not a laughing matter. We need some clarification of how you will make the decision, Mr Acting Speaker.

The ACTING SPEAKER: I have already given a ruling on how I will do that. I have given the member for Kingsley the call. I would like to move on.

Mr M.W. TRENORDEN: You are in a very invidious position, Mr Acting Speaker.

Debate Resumed

Mrs C.L. EDWARDES: The clause deals with the benefit of paying a modified penalty or completing a cannabis education session. Clause 12(2) applies, and states that “the bringing of proceedings and the imposition of penalties are prevented to the same extent that they would be prevented if the alleged offender had been convicted by a court of, and punished for, the alleged offence”. Subclause (1) states that “the modified penalty specified in a CIN has been paid within 28 days or such further time as is allowed and the CIN has not been withdrawn”. Subclause (3) deals with the fact that it is not an admission for the purpose of any civil or criminal proceedings. Will the minister explain subclauses (1) and (2)?

Point of Order

Mr R.F. JOHNSON: Madam Deputy Speaker, let me assure you that I am not canvassing the ruling of the previous Acting Speaker, but I would like some clarification on this particular issue as opposition manager of business. The motion that has been passed by the Government using its numbers quite clearly refers to one question to be put in respect of the remainder of part 2. My reading of that is that there will be only one speaker on the remainder of part 2 and one speaker on parts 3, 4 and 5, because that is what the motion says.

The DEPUTY SPEAKER: I wish to clarify for the House the question before members. The question is that the remainder of part 2 stand as printed. It has no relation to the number of speakers; it is simply the question that the remainder of part 2 stand as printed.

Several members interjected.

The DEPUTY SPEAKER: Order!

Debated Resumed

Mr R.C. KUCERA: The benefit is that the matter simply does not go before the courts once it has been dealt with under the infringement process. Therefore, a person cannot be placed in double jeopardy.

Several members interjected.

The DEPUTY SPEAKER: I call the Leader of the Opposition to order for the first time.

Mrs C.L. EDWARDES: Clause 13 refers to completing one CES for multiple CINs. I refer the minister to the wording of the clause. The concern that has been raised is this: what if a CIN were identified for one day and then another issued a month later?

The DEPUTY SPEAKER: Members, the conversation level in this place is far too high. I am having difficulty hearing and members are making the job difficult for the minister, his advisers, the member who has the call and Hansard. Please show some courtesy. If members wish to have a conversation, they should have it somewhere else.

Mrs C.L. EDWARDES: If the offender completes one cannabis education session for the first lot of cannabis infringement notices with which he was issued and is subsequently given a further CIN, what will be the value of him attending more than one CES? Will the Government require offenders to attend cannabis education sessions for as many CINs as are issued to them? How many CINs will the Government allow to be issued at the discretion of police officers, and, therefore, how many cannabis education sessions will an offender be required

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to attend? Offenders have the choice, upon issue of a CIN, to attend court, receive a modified penalty or go to a CES.

Mr R.C. KUCERA: Firstly, I must clear up some misinformation that was provided during the second reading debate by the member for Nedlands. The cannabis education sessions cannot be stacked up over a number of months. That is not what this legislation is about. Clause 13 contemplates more than one CIN being issued to an alleged offender on a single day. This may occur, for example, when police find a person in possession of cannabis within the limits of the scheme or growing up to two cannabis plants. For instance, the police may go to one house and find a person with two cannabis plants, a bong and an amount of dried cannabis. In such an instance, three infringement notices would be issued. If the accused chose to go to an education session, all three CINs would be rolled into one and the accused would be required to attend one education session. However, if he were caught with cannabis two days later in another house and issued with another CIN, it would be a separate issue and would not be rolled into the one CES. There are occasions when it will be of benefit for a person to attend more than one education session during a short period. This issue arose in South Australia. The discretion was essentially left in because if someone started to flout the process, the police would have the option to use a different method to deal with him; he would simply be charged.

Mrs C.L. EDWARDES: I move to clause 16, because we are now talking about cannabis education sessions, which is an important area. The Opposition has identified one of the issues. How will the cannabis education sessions be relevant to individuals who attend those sessions, particularly if those individuals must attend a CES on more than one occasion for CINs issued on different days. What will be the value of attending the same CES twice or even three or four times? There does not appear to be a limit on the number of CINs that can be issued by police officers. I am talking about the content of the cannabis education sessions and how that will relate to individuals, particularly if an individual has already attended one CES. The Opposition would also like to further explore the service or carrying out -

Point of Order

Ms S.E. WALKER: It is hard to follow a logical and intellectual argument when conversations are occurring all around the Chamber.

A government member interjected.

Ms S.E. WALKER: The member for Albany was not in his seat when he interjected. At least he is talking!

The DEPUTY SPEAKER: There is no point of order. However, I ask members once again to be mindful of the conversations they are having in this place, so that we can hear the speaker with the call.

Debate Resumed

Mrs C.L. EDWARDES: Thank you, Madam Deputy Speaker. I refer to the provision of those services and the money provided to the Department of Health to carry out those services. How much more money will be provided in next year's budget to provide those services? Is it proposed that the individuals on the list circulated yesterday will be used? Will those people be volunteers, as has previously been the case, particularly in regional and country areas? Is it proposed that the process will be better formalised, given that the process will now have a formal part to play in legislation?

Mr M.W. TRENORDEN: I attended a briefing by the Auditor General this morning. He brought the question of programs very clearly into focus. He said the Minister for Health has been overseeing \$260 million worth of programs that cannot be audited. He said there is no process in the programs to measure a performance audit. It is one of the most appalling positions I have ever heard a minister of this House to be in. Given his performance over the past 18 months, how can the minister tell us that \$260 million worth of programs have been rejected by the Auditor General because they cannot comply with performance audits? How will the minister conduct the programs in regional areas? How will the programs be placed and who will pay for them? Where will the resources come from? They certainly will not be in the central wheatbelt. How will the system work if an individual living in the wheatbelt is issued with a cannabis infringement notice? The resources are not there. The minister admitted this week that the drug team in Northam is not allowed to interact with schools.

Mr R.C. Kucera: I did not.

Mr M.W. TRENORDEN: It is not an issue, minister. The drug team in Northam has been directed not to interact with schools. I read that to the House earlier today. How will the system work in country areas? This is the only question I have asked during this part of the debate, but the minister flatly refuses to answer. I am

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speaking to clause 16, which is concerned with cannabis education sessions. Where will the sessions be held? Who will be paid to carry them out? Who will lecture people on the health and social consequences of cannabis use and the treatment of cannabis-related harm?

A member of my staff rang the local Clerk of Courts in Northam a few days ago. Over 400 cases related to cannabis have been recorded in Northam. One drug group is located in the town but its resources are only \$70 000 - a whopping \$70 000! Where will the resources come from to apply the provisions of this Bill? The minister has no intention of meeting the requirements of this Bill. I have not heard the minister on one occasion outline to the House how he will deliver a service to rural, regional and coastal Western Australia.

I travel up and down the coast a lot. If a person visits a town that has a crayfishing industry, he will hear boat owners express their concerns about their deckhands being heavily involved in the use of cannabis. The industry raised it as an issue only a few weeks ago. The industry between Perth and Geraldton is asking for assistance. How will it be resourced? The answer is that there is no intention of resourcing it. The drug team in Northam has been told to butt out of schools, but not the general community. If a person is picked up in Beacon, Wialki or Dalwallinu, how will he be able to interact with a program?

Mr B.K. MASTERS: I want to read into *Hansard* some extracts from some newspaper articles I read when in Auckland in April 2000. There had recently been a change of government and the Helen Clark Labour Government -

Mr R.C. Kucera: Could I be advised what clause we are on?

The DEPUTY SPEAKER: We are discussing the remainder of part 2.

Mr C.J. Barnett: It is quite clear. This is part 2; the part the Government has guillotined. Have you got the gist of that?

The DEPUTY SPEAKER: Leader of the Opposition, you do not have the call.

Mr C.J. Barnett: We are discussing part 2. I am just helping out the minister.

The DEPUTY SPEAKER: I call the Leader of the Opposition to order for the third time.

Mr B.K. MASTERS: I am discussing clause 16.

Mr R.C. Kucera: Thank you.

Mr B.K. MASTERS: Members of the Aotearoa Legalise Cannabis Party had been elected to the New Zealand Parliament for the first time, and a similar debate to what is taking place here today was occurring there. I want to read these articles into *Hansard* for reasons that will become apparent. The information contained in the second of the articles should be incorporated into the cannabis education sessions described in clause 16. The first article was published on 23 April 2000 in the *Sunday Star Times* and is headed "Marijuana decriminalisation not about living the high life". The subheading reads -

An Australian scheme on which New Zealand looks set to base any cannabis reform laws, has been only a partial success,

That is a reference to the South Australian model. The article in part reads as follows -

... a Commonwealth Department of Health and Family Services report shows only 45% of those dealt with under the scheme paid up without further legal action.

That relates to the South Australian experience. The minister can expect that in Western Australia only 45 per cent of people who are fined under his new, weaker laws will pay those fines. I continue -

Cannabis use has also increased in the Netherlands, where small amounts of cannabis have effectively been legalised since 1976.

Again, this is a good point that needs to be made in the cannabis education sessions -

An estimated 20% of Dutch 18-year-olds had used drugs in 1970, rising to about 30% in 1998.

According to the article, former Labour Prime Minister David Lange -

still stands by his claim that butter has killed more people than marijuana ... but he is no advocate for decriminalisation.

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“I got put off the idea about 1996 when I saw the Legalise Cannabis Party television advertisements. It seemed to me that smoking cannabis gave people quite serious brain damage. They sort of shuffled along, spoke like zombies and went off into the night.”

More importantly, I refer to an article published in the same newspaper headed “MPs in cannabis backlash”.

The DEPUTY SPEAKER: Member for Vasse, I urge you to make a direct link between those articles and what is written in part 2.

Mr B.K. MASTERS: Clause 16 in part 2 relates to cannabis education sessions. I am raising issues that I believe need to be discussed in those sessions. The subheading of the article reads -

Samuels says decriminalisation would be cultural genocide for Maori

I note that the member for Kimberley is not in the Chamber. I seek leave to lay these two items on the Table of this House so that other members can look at them if they so choose.

[The articles were tabled for the information of members.]

Mr B.K. MASTERS: Three paragraphs of the second article state -

Decriminalising marijuana will result in “cultural genocide” for Maori, says Maori Affairs Minister Dover Sammuels, as he and other ministers lead a backlash against government plans to reform marijuana laws.

Police Minister George Hawkins has also weighed in with a damning critique on liberalising cannabis law - championed by Prime Minister Helen Clark - saying the move lacks logic given the greater restrictions being placed on tobacco.

The important part reads -

Samuels said Maori organisations were telling him they were “totally opposed” to decriminalisation. “This is just another nail in the coffin and in my opinion it would be cultural genocide for Maori on top of what is already a major problem of liquor abuse. Ask our women’s refugees who are burdened with the implications and effects of liquor and drugs now.”

I hope that that quote, along with the quotes from the first newspaper article, will be incorporated as much as possible into the cannabis education sessions. There are many messages that the minister has said need to be conveyed during those sessions. I hope that he ensures that the issue of cultural genocide also is addressed.

Mr R.C. KUCERA: Paragraphs (a), (b) and (c) of clause 16(1) clearly outline all of the issues that the member has just mentioned; that is, the adverse health and social consequences of cannabis use, the treatment of cannabis-related harm and the laws relating to the use, possession and cultivation of cannabis. All of the issues the member has just raised are included not as a hope but as a requirement of the cannabis education sessions. The member for Vasse seems to be presuming that this process will increase cannabis use. All of the evidence from expiation schemes right across the world - not just here - clearly indicates that when linked with proper educational processes, use is actually reduced. The interesting point is that despite all of the doom and gloom in South Australia, that State has a lower usage of cannabis than does Western Australia.

Dr J.M. WOOLLARD: Clause 16 relates to the cannabis education sessions. I have asked several times in the House today whether the minister would give some indication of what these cannabis education sessions will consist of, and the minister has been unable to do so. I am left to believe that the cart has been put before the horse. We are now two years into the term of this Government and this Bill is on the Table. I wonder whether there has been any curriculum development at all for these cannabis education sessions. If there has been some curriculum development, I hope that the minister will agree to table tomorrow the program that has been put together for these sessions, or, if it cannot be done tomorrow, at the next sitting of the House, so that members can look at it.

Although I know that the Government intends to continue to gag this debate in order to pass the Bill before we break for Easter, it is still very important that the community knows what the Government intends with these cannabis education sessions. One has no idea whatsoever about the education sessions from reading the Bill. All one can see from the next clause is that people will get certificates when they finish an education session. It is like taking a dog to a dog-training program. Some people who will be sent to these programs will be straight-out drug dealers, and the programs will have no effect on them whatsoever because of the money they will be raking in from their two plants. Two or three people living in a house might grow two plants. However, some of

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the people who will attend these programs will have been using cannabis for several years and will be suffering from depression, psychosis or schizophrenia. It will be an absolute waste of time for drug dealers. It will not do them any good whatsoever, because they are in it for what they can make from the community and from our children. Drug dealers will make quite a bit of money out of our children when this legislation goes through. However, I am concerned about the children who start using cannabis at the age of 12 or 13 and the increase in the number of children who will start using cannabis because of this Bill. By the time they reach 18 or 19 years of age they will be depressed, possibly suicidal or will suffer from schizophrenia. This Government is not worried about all these mental health problems because it is closing down mental health services. It does not worry this Government that an increasing number of people will have mental health problems. This Bill will cause an increase in the incidence of mental health illness. The minister cannot table information about the cannabis education sessions tonight and I do not think that he will be able to table it tomorrow. In fact, I would be surprised if he could table anything in the next three months, because a program like this cannot be dreamt up in a few days. I would like the minister to give a commitment that he will table the program in this House when we return after the Easter break.

Mr C.J. BARNETT: I will follow on from what the member for Alfred Cove said. What kind of education program will this Government provide? I will provide some practical examples from people who have contacted me. One person has a 28-year-old son who has never worked. He smokes 40 joints a week, abuses alcohol and heroin, and has attempted suicide many times. His psychiatrist makes a direct connection between his present mental health condition and his use of cannabis since the age of 12 or 13. Another person has written to me about a 37-year-old daughter who is suicidal and now being treated in the public health system due to many years of cannabis abuse. She has not worked for seven years and has been on the disability pension for two years. Another sad case involves a woman who three years ago lost her stepson who was 17 years old, all because of a bit of marijuana.

Mrs M.H. Roberts interjected.

Mr C.J. BARNETT: Very smart Minister for Police! The minister has no compassion. I am talking about a woman who has lost a 17-year-old stepson and the minister makes a flippant comment. That tells us more about the Labor Party and the minister's lack of consideration for a woman who has recently lost her 17-year-old stepson.

Several members interjected.

The DEPUTY SPEAKER: Order, members!

Mr C.J. BARNETT: At least members on this side of the House care about the effects of cannabis. A woman has described her son who starting smoking cannabis at 30 years of age. He was diagnosed with schizophrenia two years later and she stated that there had never been schizophrenia in her family. She then went on about keeping up the fight and so on. Another woman described her husband who smoked cannabis. She wished that he was charged and deterred from the habit as it cost him dearly and caused financial loss, suicidal depression and dangerous behaviour. She said that it nearly broke their marriage. Thankfully he stopped smoking, but it was too late. He now has mental problems, he is on the disability pension and he is unable to hold a normal job. In her opinion, marijuana is the main cause of his current situation.

The examples go on and on. They are just a handful of people in my electorate who have contacted me. What sort of education program will this Government run? Will it say that a couple of plants is okay? Will it say that it is okay for people to have in their possession up to 30 grams of cannabis, which is three weeks supply for a heavy cannabis user? There will be an increase in the incidence of schizophrenia, suicide, mental illness and crime, while people found in possession of cannabis will just get a slap across the wrist and be told to go to an education program. These are not politicians performing stunts in Parliament. These are real people. Do you, Madam Deputy Speaker, think that any people in your electorate of Wanneroo have similar stories of suicide, broken marriages, mental illness, schizophrenia, depression, crime and heartbroken mothers and fathers, all because of cannabis? Do you think, Madam Deputy Speaker, that exists in Wanneroo? Have you asked your constituents to tell us their story? No; the member in the Chair laughs.

Mrs M.H. Roberts interjected.

Mr C.J. BARNETT: I am asking the Deputy Speaker a question. I am asking a rhetorical question of every government member in this House. Have they bothered to ask their constituents, as I have? They have not. The Minister for Police sniggered when I read out the account of a woman who had lost her 17-year-old child.

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Mrs M.H. Roberts: Liar!

Mr C.J. BARNETT: She sniggered and giggled.

Withdrawal of Remark

Mr P.D. OMODEI: I twice heard the Minister for Police call the Leader of the Opposition a liar.

Mrs M.H. ROBERTS: I withdraw that remark. I should not have called the Leader of the Opposition a liar.

Mr P.D. OMODEI: That is not an unconditional withdrawal.

Mr C.J. BARNETT: I require a ruling, Madam Deputy Speaker.

The DEPUTY SPEAKER: I ask the member to withdraw her comments.

Mrs M.H. ROBERTS: I withdraw calling the Leader of the Opposition a liar.

The DEPUTY SPEAKER: When the Leader of the Opposition makes his comments, I ask him to reflect on the Chair correctly. He made an incorrect statement and I think he needs to note that.

Mr C.J. BARNETT: I do not know what the incorrect statement was that you are referring to, Madam Deputy Speaker.

The DEPUTY SPEAKER: You said that the person in the Chair was smiling, when she was not. That was a reflection on the Chair and I ask the Leader of the Opposition to consider that in his comments.

Debate Resumed

Mr C.J. BARNETT: Madam Deputy Speaker, I can ask any member of this Parliament any question that I want to. I have spoken about people in my electorate, which is probably the most affluent electorate in this Parliament and probably an electorate in which people can more easily afford to pay for assistance than people in any other electorate. I imagine that the problems in the lower socioeconomic electorates are several-fold those in my electorate, yet we have not heard Labor members speaking in this debate. This is the sort of issue that reaches women, yet not one female member of the Labor Party in this Parliament has said a single thing in this debate. This is the sort of issue that women speak out about strongly. Not one female member of the Labor Party has stood up for children, for families, for their sons and daughters or for the sons and daughters of their constituents.

Mr R.C. KUCERA: I must correct a statement that I made earlier so that *Hansard* is clear. I said that expiation schemes reduce cannabis usage. I clarify that comment by saying that there is no evidence that they increase use or harm. The point was that usage rates in South Australia are lower than the usage rates in Western Australia, Victoria and Tasmania, which have similar cautioning schemes. Therefore, the usage rates in a State in which an expiation scheme has been introduced are lower than the rates in Western Australia, Victoria and Tasmania.

I will move on quickly to the examples read out by the Leader of the Opposition. His examples reinforce the fact that the treatment of people with a drug addiction is a health issue. When these people seek help they do not need a further barrier put in front of them by being made criminals. We must ensure that they obtain access to treatment programs. The Leader of the Opposition is the only person who is handing out the message that people will be allowed to do anything with cannabis.

Today I received a copy of a paper issued by Dr Constable, the member for Churchlands, titled "Your Parliament". I compliment her on her analysis of the Cannabis Control Bill 2003. She does not agree with the Government on some issues in the Bill. However, I want to make the point about the messages on education that are being given to the community. The member for Churchlands has gone to a great deal of trouble in her paper to explain exactly the Government's intention under the Bill. The paper states that under the Bill all use of cannabis will remain illegal. She says that police will have the discretion to issue cannabis infringement notices to those who are found in possession of two plants etc, and that people issued with a CIN will have the choice of paying a \$200 fine, attending court or attending a cannabis education session. She goes on to say that this legislation is controversial because of the arguments about the messages it may send to the community and to vulnerable individuals. She has taken a very balanced view, as every other member of Parliament should, in presenting the argument. She does not agree with some of the issues. People in this State need to compare that with the ridiculous and irresponsible piece of untruth put out by the member for Nedlands, headed "Drugs will be at our kids' fingertips", which states that they will no longer have to climb out of their pyjamas or find the

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money to purchase the drug. That type of message is totally irresponsible. Sensible people in this State, and sensible members of Parliament, will compare those messages and realise who is the sensible person in the debate.

The only people giving the wrong message about education are members of the Liberal Party. I have already stated that we will make a full information package available to the community as soon as this Bill is passed, clearly pointing out the misinformation put out by the Liberal Party and clearly stating the issues. The Leader of the Opposition is like the cock who thought the sun had risen just so that he could crow at it.

Mr B.J. GRYLLS: I would like to add a quick point to what the Leader of the Opposition said previously about the ability of the people in his electorate to afford and access treatment. Studies have shown that some of the poorest people in this State live in my electorate. That is not something we are proud of, and we are working on it, but we cannot move away from it. My concern, and that of some other members of the National Party, is that the minister just spoke for another five-minute session on how education is important to divert people from the courts. However, the people of Tammin and other small, underresourced communities do not have drug education officers who perhaps might come around every three months if they are not busy. They are also unable to come to the city to attend programs, or even to travel to Northam. They will need people on the ground in their towns to access these programs, which the minister believes will be the counter to high cannabis use in regional Western Australia. How will these people access those programs, and how will the minister put in place a budget that will allow this to happen? He has spoken around the issue every time he has got to his feet tonight. I would appreciate one straight answer on how he will resource this issue in my electorate of Merredin.

Ms S.E. WALKER: I will address two clauses in part 2, and perhaps the minister can let me know his thoughts when I have finished speaking on them both. The first is clause 14, which states -

An amount paid as a modified penalty is, subject to section 11(3), to be dealt with as if it were a penalty imposed by a court as a penalty for an offence under section 5(1)(d)(i), 6(2) or 7(2) of the *Misuse of Drugs Act 1981*, as the case may be.

Does that mean that if an offender chooses to go with a penalty, he will have a conviction recorded against him on his criminal records?

Mr R.C. Kucera: By way of interjection, no he would not.

Ms S.E. WALKER: What, then, does it mean? How will it be a penalty imposed by a court?

Mr R.C. Kucera: Clause 14 provides a modified penalty that will be paid to the consolidated fund.

Ms S.E. WALKER: That aspect is decriminalised, too.

I now refer to Dr O'Neil's article in *The West Australian*. In consideration of what the minister has said about the legislation, I refer to clause 19 in part 2 headed "Operation of *Young Offenders Act 1994* unaffected". George O'Neil, who is scathing about this legislation, said -

Changes to legislation -

He was talking about the minister's legislation -

risk increasing the current marijuana-use problem, particularly in the young, and if the Government makes these highly risky legislative changes, major effective measures must be put in place to monitor and protect those aged under 20.

Cannabis is at our kids' fingertips. The minister skirted around that point, but we have reached clause 19. How will the Young Offenders Act affect young people who come under these provisions? Young people have the capacity to be cautioned under the Young Offenders Act. I record this point for *Hansard*. I want government members to wear it. I note that George O'Neil said that constituents may be able to bring a class action against the Government for bringing in legislation that causes the death of children or has a significant impact upon them.

Ms M.M. Quirk interjected.

Ms S.E. WALKER: Instead of interrupting, the member for Girrawheen should think about the young people in her electorate.

Ms M.M. Quirk: I do all the time.

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Ms S.E. WALKER: The member has not said a thing in this debate. Part 5 of the Young Offenders Act refers to the cautioning provisions, and states under section 22A -

The purpose of this Division is to set up a way of diverting a child who commits an offence from the courts' criminal justice system by allowing a police officer to administer a caution to the young person instead of starting a proceeding for the offence.

Section 22B reads -

A police officer, before starting a proceeding against a young person for an offence -

This is a young person under 18 years -

must first consider whether in all the circumstances it would more appropriate -

- (a) to take no action; or
- (b) administer a caution to the young person.

However, as a result of the case of *Sloan v T* of 1998, 104 *Australian Criminal Reports* 450, the police officer must first consider whether the offence is one for which a caution cannot be given.

Points of Order

Mr R.C. KUCERA: My point of order is about relevance. Yet again, the member for Nedlands is referring to the Young Offenders Act. Clause 19 indicates that the police will not be able to issue a CIN to a person who has not reached the age of 18 years at the time of an alleged offence. Young people are excluded from the CIN scheme because other methods exist for dealing with juveniles who commit offences under sections 5(1)(d)(i), 6(2) or 7(2) of the Misuse of Drugs Act 1981. Clause 19 makes it clear that the Bill does not prevent persons who have not reached 18 years of age from being dealt with under part 5 of the Young Offenders Act 1994 in respect of an offence under a series of sections of the Misuse of Drugs Act. My point of order is that the member is dealing with the Young Offenders Act.

Deputy Speaker's Ruling

The DEPUTY SPEAKER: Clause 19 specifically excludes the Young Offenders Act. Therefore, it does not become part of this debate.

Mr P.D. OMODEI: I am not aware whether you, Madam Deputy Speaker, have ruled on the minister's point of order, if that is what it was.

The DEPUTY SPEAKER: I am ruling on the points of order by the member for Nedlands and the minister.

Mr P.D. OMODEI: It appeared that the member for Nedlands had the floor and the minister rose and embarked on debate, not a point of order.

The DEPUTY SPEAKER: The minister had an expansive point of order - it was certainly more than normal. The ruling is clear. Clause 19 states that the operation of the Young Offenders Act is not affected. Therefore, we are not having a discussion about the Young Offenders Act.

Ms K. HODSON-THOMAS: I find this extraordinary. I am not canvassing the Deputy Speaker's ruling. The Bill states that the operation of the Young Offenders Act 1994 is unaffected. If it is unaffected, it could certainly be excluded. However, the Bill clearly states that this clause relates to the Young Offenders Act 1994. Although it might be deemed to be unaffected, it mentions the Young Offenders Act. Frankly, the member for Nedlands is outlining the relationship.

Ms M.H. Roberts: You are disputing the Deputy Speaker's ruling, aren't you?

Ms K. HODSON-THOMAS: If the Minister for Police wants to make a point of order, she should get up and make her own.

The DEPUTY SPEAKER: Order! Further to the point of order, clause 19 of part 2 deals specifically with the previous clauses and states that the operation of the Young Offenders Act 1994 is unaffected. The debate then cannot be about the Young Offenders Act. It can be about and in the context of the clauses that are listed. Because the Act is in place, the other relevant Acts are not affected by it. I am sorry member, but it is quite clear.

Dissent from Deputy Speaker's Ruling

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Mr C.J. BARNETT: I move -

That the House dissent from the Deputy Speaker's ruling with respect to clause 19.

I move this motion most reluctantly. It is a great pity that the Deputy Speaker is in the Chair rather than the Speaker when the Bill is being guillotined. If ever there was a time in Parliament when the Speaker -

Mrs M.H. Roberts: I know she is only a woman to you, but she is the Deputy Speaker.

The DEPUTY SPEAKER: Order, members!

Mr C.J. BARNETT: With due respect to the Deputy Speaker, if ever there was a time during a parliamentary debate when the Speaker should be in the Chair -

Mrs M.H. Roberts: Speak to your motion. This is pathetic. Stop complaining about the Chair.

The DEPUTY SPEAKER: Order, minister!

Mr C.J. BARNETT: This is a dissent motion; it is about the Chair. This ruling -

The DEPUTY SPEAKER: The dissent motion refers to the ruling with regard to clause 19. I ask all members to address themselves to that point.

Mr C.J. BARNETT: The dissent motion relates to the ruling given by the Deputy Speaker on clause 19. Clause 19 is headed "Operation of *Young Offenders Act 1994* unaffected" and states -

Nothing in this Part prevents a young person within the meaning of the *Young Offenders Act 1994* from being dealt with under Part 5 of that Act in respect of an offence under section 5(1)(d)(i), 6(2) or 7(2) of the *Misuse of Drugs Act 1981*.

This is about when the Young Offenders Act might or might not apply. How can the Deputy Speaker possibly rule that we cannot debate the Young Offenders Act and its application? The member for Nedlands did not draw it into the debate; clause 19 is about that Act. Under a guillotine motion the Deputy Speaker of this Parliament has told the member for Nedlands that she cannot debate anything to do with the Young Offenders Act when the clause is about the Young Offenders Act. What else do we do?

I see that the Speaker has taken the Chair. I am glad he has done so. I would be happy to sit down now if you, Mr Speaker, were to indicate that you would overrule that ruling; then we could continue with the debate. Will you confirm that ruling, Mr Speaker, that we cannot debate the Young Offenders Act under clause 19?

The SPEAKER: I will not overrule it.

Mr C.J. BARNETT: You will not overrule it, Mr Speaker, but you clearly do not support it.

The Deputy Speaker has ruled that we cannot debate the Young Offenders Act under clause 19, even though the clause is about that Act, and the Speaker - I can understand that he is in a difficult position - is saying that the ruling is okay. That is why I have moved a motion to dissent. We have not moved dissent against a ruling of a Speaker in the past two and a half years.

Mr E.S. Ripper: That isn't right.

Mr C.J. BARNETT: I will stand corrected if the Treasurer can produce the *Hansard* to illustrate that I am wrong. I cannot recall the Opposition moving dissent.

Ms K. Hodson-Thomas: We have.

Mr C.J. BARNETT: Okay, although I cannot remember the occasion. Perhaps I was not here. I do not wish to prolong this debate, but I am at a loss for what to say. The argument is self-evident. The clause relates to the Young Offenders Act, yet the Speaker is saying we cannot debate the Young Offenders Act. I do not know whether this means that a young offender is covered or implicated by this legislation. I am not an expert. One thing is certain: if clause 19 is about the operation of the Young Offenders Act, the member for Nedlands can talk about it. Surely that is self-evident. Yet the Deputy Speaker has made what I can only assume is a politically based ruling.

Mr J.C. Kobelke: You are pathetic.

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Mr C.J. BARNETT: Why else rule that the member for Nedlands cannot debate the Young Offenders Act? Perhaps we are all a bit tired. We have now been debating this Bill for well over 40 hours. Perhaps most members are like me and have had about two hours sleep. I am tired.

Mr E.S. Ripper: And emotional.

Mr C.J. BARNETT: Yes. I am emotional. I will tell members why. In about five hours I was hoping to attend a reception at Government House for the families of the Special Air Service. The Premier has gone home; he will be there.

Ms M.M. Quirk: No, he hasn't.

Mr C.J. BARNETT: I hope he is here. He slept last night. I am a bit emotional about that because I support the troops. They come from my electorate. I have much to do with their families and their kids in schools. I want to be there with the Prime Minister. I do not dismiss parents and their children in that way. They are my constituents. I want to be there with the Prime Minister and, presumably, the Premier.

Mrs M.H. Roberts: This is a delaying tactic.

The SPEAKER: Members!

Mr C.J. BARNETT: I am trying to find out why the Deputy Speaker made such an appalling ruling. I assume that the Deputy Speaker is also tired. I would expect her to be tired. The Deputy Premier is now fast asleep - no, he has woken up. Everyone is tired. I am delighted that you are back, Mr Speaker.

Mr E.S. Ripper: I am bored.

Mr C.J. BARNETT: I am bored too. Of course we are bored. This debate on this Bill has been going on since 2.00 pm on Tuesday. I assume that most of us got up at about 6.00 am on that day. It is now 2.00 am on Thursday. Someone a bit more mathematically inclined than I could work it out. How many hours is that?

Several members interjected.

The SPEAKER: Members, it is late. We want to move on from this motion as quickly as possible. I therefore urge members not to interject. This is a serious motion and one that demands a little more silence than we are hearing. I do not want to call members to order. They should know the importance of this motion and be quiet.

Mr C.J. BARNETT: Thank you, Mr Speaker. It is important. Members behind me who have a greater clarity of calculation at this time have said that if I got up at 6.00 am on Tuesday, which I did, then in the past 44 hours I have had two hours sleep. That would be pretty typical. Maybe the member for Wanneroo, who was in the Chair, is in a similar situation. People will not make sound decisions, and there will not be responsible, sensible debate on this Bill or any other matter in this Chamber, when people are suffering from lack of sleep. I can argue with the Minister for Police, I can insult her and she can insult me. We can all go around in circles.

Mrs M.H. Roberts: You could sit down and go and see the SAS in the morning.

The SPEAKER: Minister!

Mr C.J. BARNETT: I am pleased that you are here, Mr Speaker, because it gives me the opportunity to discuss why we are moving dissent. It is because the ruling is so patently wrong. How can we be precluded from debating matters relating to the Young Offenders Act when the clause in the Bill relates to the application of the Young Offenders Act? The ruling is so patently wrong that I should not have to argue the point. The member for Wanneroo when in the Chair clearly made a wrong ruling. She is probably exhausted. I am exhausted. I have had two hours sleep in 44 hours, and I am not used to it. I will probably go on for another 10 hours.

Mr P.D. Omodei: And drive home.

Mr C.J. BARNETT: Yes. I am also glad that you are here, Mr Speaker, because I want to divert for a moment, if I may, just to make the point that you are the Speaker of this House. I stated this in your absence earlier and I will repeat it - it will not take a second - I will hold you, as Speaker of this House, personally responsible for your duty of care to members of Parliament and the staff of this Parliament. I do not do that to you as an individual, but you are the Speaker. You have failed to act in this debate to exercise your duty of care to staff and members of Parliament. You have failed. You alone have that responsibility.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

The SPEAKER: Dealing with a dissent motion in respect of a ruling does not give the member licence to call the Chair to order in relation to any other matter he may think is important. A separate dissent motion would be required to allow him to do that.

Mr C.J. BARNETT: Thank you, Mr Speaker. I appreciate that point. I do not intend to move a second dissent motion. I know that it is open to me.

The SPEAKER: Do not enter into that field then, because I will call you to order.

Mr C.J. BARNETT: I am agreeing with your ruling, Mr Speaker. I do not intend to move a second dissent motion. However, this is the first opportunity we have had, now that the Speaker is in the Chair, to look at the ruling of the member for Wanneroo when in the Chair, which was patently wrong. I have known the member for Wanneroo for a long time, and she is a very decent person.

Mrs M.H. Roberts: That is about the sixth time you have said that.

Mr C.J. BARNETT: That is the first time that I have said I have known her for a long time.

Mrs M.H. Roberts: It is about the sixth time you have said that the ruling is wrong. You cannot just keep on repeating it.

Several members interjected.

The SPEAKER: Members!

Mrs M.H. Roberts: You are wasting time.

The SPEAKER: Members!

Mr C.J. BARNETT: I do not intend to detain the House on this point. I had hoped now that the Speaker has assumed the Chair that he would look at this dissent motion. Perhaps he should leave the Chair and seek advice from the Clerks. The Speaker should perhaps discuss the ruling with the Deputy Speaker, the member for Wanneroo. The Deputy Speaker could perhaps then resume the Chair and alter her ruling, and we could get on with the debate. I suspect that we will see a political act by the Labor Party. The ruling that came from the Chair - the member for Wanneroo - was a political decision of the Labor Party, because the ruling supported the minister's comment in the debate - if I recall rightly it was to the member for Nedlands - that the Young Offenders Act could not be discussed because it had nothing to do with the clause. The minister at the Table gave his interpretation of the Bill to the member for Nedlands. The Deputy Speaker then ruled in that way. I can only deduce that it was a politically based ruling, made effectively on the advice of the Minister for Health. That is why I dissent from the Deputy Speaker's ruling. It is an illogical ruling. It is clearly wrong.

I respectfully suggest, Mr Speaker, that you leave the Chair, discuss the issue with the Clerks and the Deputy Speaker, and give your ruling. I request that you also give the reasons for your ruling. That will end the issue. We will accept your ruling, Mr Speaker. It would be an extraordinary precedent if the Speaker were to say to members in this House that they cannot discuss an item when the clause refers specifically to that item; that is, the Young Offenders Act. I suggest that the Speaker would be making parliamentary history. He would be the first Speaker in a Westminster Parliament to rule that members cannot discuss the content of a clause if it has such a name. How could the Deputy Speaker say that members cannot discuss anything to do with the Young Offenders Act when the clause is on the Young Offenders Act? It is absolutely absurd. We may well see parliamentary history being made. The ludicrous ruling of the Deputy Speaker could be confirmed by the Speaker; that members cannot discuss the subject matter of a clause.

Mr E.S. Ripper: Leader of the Opposition, would you regard that clause as opening up for debate any issue concerning the Young Offenders Act?

Mr C.J. BARNETT: No, I certainly do not.

Mr E.S. Ripper: How would you narrow it?

Mr C.J. BARNETT: The member for Nedlands was talking about the application of the Young Offenders Act and whether adults or young offenders could somehow be drawn into that. She was talking specifically about how that would flow. If the Young Offenders Act had no relevance, clause 19 of the Bill would not refer to it; it would not be there. The member for Nedlands was quite properly exploring the application of that clause. The

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minister was struggling and said that it did not apply, and the Deputy Speaker gave a politically based ruling that it could not be discussed.

Mrs D.J. Guise: That is incorrect and you know it. It is a reflection on the Chair.

Mr C.J. BARNETT: This is a dissent motion; it is about reflecting on the Chair. It is the one time that members can do that. I am reflecting directly on the Deputy Speaker's ruling. I assert that the Deputy Speaker ruled effectively on the comments made by the Minister for Health. It was a poor ruling. I will not pursue the matter any further. It was an appalling ruling. The problem that the Deputy Speaker created must now be resolved by the Speaker. If the Speaker does the Labor Party solidarity thing, which he probably will, and simply backs the Deputy Speaker, he will create history in this Parliament. Clause 19 is headed "*Operation of Young Offenders Act 1994 unaffected*". The Speaker may rule that members cannot discuss anything to do with the Young Offenders Act under a clause relating to that Act. I ask that the Speaker rule and give clear reasons for his ruling.

Mr J.C. KOBELKE: I oppose the dissent motion. First, the moving of this motion by the Leader of the Opposition went well beyond the accepted practice in this House in speaking to the standing orders. The Leader of the Opposition continued to deride the Chair and sought to raise other matters that are not appropriate to this dissent motion. That is the behaviour of the Leader of the Opposition. People will judge him on that behaviour.

Mr P.D. Omodei: They will also judge you on your behaviour.

Mr J.C. KOBELKE: I will take the interjection. That is correct. I am happy to stand by the things I have done.

Mr P.D. Omodei: We have been sitting here for more than 40 hours with only two hours sleep. How do you reckon they will remember you, Leader of the House?

The SPEAKER: Member!

Mr J.C. KOBELKE: The second matter that leads me to why we should not support the dissent motion is that the debate on this Bill- which has gone for more than 24 hours, including the second reading, although a lot of the time has been in consideration in detail - has led me to the conclusion that few members opposite understand the standing orders and can debate within them. Members occupying the Chair have been very open in allowing members to continue their contributions when I believed they had gone beyond what it was possible to debate on the clauses before the House. Acting Speaker after Acting Speaker has had the difficulty of trying to apply the standing orders and have members debate the issue before the House. Without entering into the other debate, that is why I moved the suspension of standing orders to enable the House to debate a broader number of clauses, and, hopefully, members would have less difficulty in going beyond the clauses before the House on a particular vote.

Clause 19 is titled "*Operation of Young Offenders Act 1994 unaffected*". I emphasise that the last word of the title is "unaffected". The Young Offenders Act is unaffected by the Cannabis Control Bill. The ruling given is that because there is mention of the Young Offenders Act in clause 19 it does not provide a basis for members to enter into a debate on the Young Offenders Act. That is an absolutely correct ruling.

Several members interjected.

The SPEAKER: Order, members!

Mr J.C. KOBELKE: The level of noise indicates that I must have some rationality and effect to my argument. All we have had from members opposite is noise. We have heard far too much of the sound of empty gongs clanging. As I understand the ruling, it did not rule out reference to the Young Offenders Act. Members could see there was a reference, and they tied the reference to clause 19, which is that the Cannabis Control Bill is unaffected by that Act, and they might have suggested that it should have been, and that amendments could have brought it into scope, and in that limited way members could have delved into matters in the Young Offenders Act. The ruling quite correctly stated that members could not enter into any fulsome debate on the Young Offenders Act. That ruling was necessary because on numerous occasions members sought to debate the Young Offenders Act on a range of other clauses. The ruling that it was not open to debate the Young Offenders Act was a correct ruling and one that the House should support.

Dr J.M. WOOLLARD: Before dissent was moved to the Deputy Speaker's ruling, the Leader of the House was canvassing opinion from members on the suspension of standing orders. He asked members which clauses in the

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different parts they wanted to discuss because we would not be discussing them all. I told the Leader of the House that I had asked the minister to agree to table the information about the educational sessions, even if it was after the Easter break or before the Bill goes to the Legislative Council. I told the Leader of the House that I wanted to discuss clause 19. He led me to believe that it could be discussed and moved on to talk to other members. That is why I will support this motion. Because clause 19 is in this Bill, members should be given the opportunity to raise any questions they have about the clause.

Mr M.W. TRENORDEN: I was well schooled in the ways of this House by the previous Leader of the National Party, Hendy Cowan, and by Bill Grayden, whom I sat beside for many years. The very firm and important position which they put to me and which I hold is that one cannot move a dissent motion against the Chair without having an effect on this place. There is absolutely no question about that.

I refer to the explanatory memorandum for the Cannabis Control Bill. I like to use the explanatory memoranda because they are a good tool for guiding members through legislation. The last paragraph of the explanatory notes on clause 19 states -

Clause 19 makes it clear that the Bill does not prevent persons who have not reached the age of 18 years from being dealt with under Part 5 of the *Young Offenders Act 1994* in respect of an offence under s.5(1)(d)(i), s.6(2), or s.7(2) of the *Misuse of Drugs Act 1981*.

I am not a lawyer, but it is clear that youths will be caught by this Bill. It seems strange that in debating this clause we cannot talk about the effect that cannabis has on people who are under the age of 18 years. I say to the member for Wanneroo that I hate to be in this position, and I cannot agree with her ruling.

I cannot speak for my colleagues, but I also support the motion.

Ms S.E. WALKER: I support this motion. Every time that I have sought to talk about how young people will be dealt with by this Bill, there has been an argument. Immediately before I started considering clause 19, the minister raised the issue of a letter I wrote to my local newspaper saying that kids will not have to get out of their pyjamas to get drugs because they will be at their fingertips. I went through this Bill in detail. I looked at clause 19, which does not consist of only a title that happens to politically suit the member for Nollamara. That is all this is about. The clause title is "Operation of *Young Offenders Act 1994* unaffected". That is only the title. The Deputy Speaker's ruling means that a substantive clause in a Bill before this House cannot be debated if the title says an Act is unaffected. If members read *Hansard*, they will find that the clause does not say what the minister says it does. It states -

Nothing in this Part prevents a young person within the meaning of the *Young Offenders Act 1994* from being dealt with under Part 5 of that Act . . .

I am entitled to question how a child is dealt with under part 5 of that Act. George O'Neil is reported in today's *The West Australian* as wanting to know. My local newspaper and my community want to know, and I will explore that question. I tell the House how children will be dealt with: they will be given a caution. On behalf of my electorate, I will give my best in this job, and my best is to explore the legislation. It seems to be one thing for the minister to talk about what I have to say about juveniles. It is okay for the Government to talk about it, but it is not okay for the Opposition. Every time we mention children in this debate, those on the government side run scared. In my view, the Deputy Speaker gave a political ruling. She does not want me to talk about what will happen with the children. It is inconceivable to the Western Australian community that kids can grow cannabis and be given a caution. However, that will very definitely be the result of this provision. When I work through the legislation and raise that issue, those opposites run scared and abuse their position by cutting off the debate.

I am pleased and proud to stand here on behalf of the children of Western Australia to voice what really happens in the legislation in this State. Compared with what happens in court, this place is often a circus. I know how to deal with legislation, I know how to read legislation, and members opposite do not. Members can laugh because this concerns children. They may not care, but they should read George O'Neil's article. It is on their conscience.

Mr J.N. Hyde interjected.

The SPEAKER: Members!

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ms S.E. WALKER: Clause 19 states that nothing in this part prevents a young person within the meaning of the Young Offenders Act from being dealt with under part 5 of that Act. That clearly entitles me as a member of Parliament, on behalf of my community, to work through how a child is dealt with. I dissent from the Deputy Speaker's ruling. Nothing that the member for Nollamara or anyone else has said will convince me other than that I was entitled to work through that clause.

Question to be Put

Mr M.P. MURRAY: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (30)

Mr P.W. Andrews	Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Dr G.I. Gallop	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (21)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.J. Birney	Mr B.J. Grylls	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Question thus passed.

Question (dissent from Deputy Speaker's ruling) put and a division taken with the following result -

Ayes (21)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.J. Birney	Mr B.J. Grylls	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Noes (30)

Mr P.W. Andrews	Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
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Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Dr G.I. Gallop	Mr J.A. McGinty	Mr J.R. Quigley	

Question thus negatived.

Consideration in Detail Resumed

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (30)

Mr P.W. Andrews	Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Dr G.I. Gallop	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (21)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.J. Birney	Mr B.J. Grylls	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Question thus passed.

Part 2 (clauses 11 to 19) put and a division taken with the following result -

Ayes (30)

Mr P.W. Andrews	Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Dr G.I. Gallop	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (21)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.J. Birney	Mr B.J. Grylls	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Mr T.K. Waldron	

Part thus passed.

Part 3: Cannabis smoking paraphernalia -

Mr P.D. OMODEI: I refer to clause 22, which reads -

Cannabis education materials

A person who operates a shop or other retail outlet where cannabis smoking paraphernalia is sold must make available to any purchaser of cannabis smoking paraphernalia cannabis education materials prescribed by the regulations relating to the adverse consequences of cannabis use.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pental; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Penalty:

- (a) in the case of a natural person - \$1 000; 25
- (b) in the case of a body corporate - \$5 000.

I would like the minister to outline what those regulations will entail.

The minister made some comments earlier about information being put out into the public arena by the Liberal Party. I refer him to page 26 of today's *The West Australian*. Dr George O'Neil, a pioneer in treating drug addiction, has grave misgivings about the Government's proposed cannabis law changes. The article is headed "Puffed-up laws lack substance". I will read part of what Dr O'Neil says -

There is an urgent and continuing need for public health and research investment to reduce cannabis dependence. The community and government do not have the resolve, the clinical knowledge or the budget available to have a positive impact in this area at present. If increases in cannabis use follow legislative changes, the State Government will find itself having to alter the legislation in the same way that the South Australian Government is.

The minister referred to the South Australian experience and what a success it was. The article continues -

Legislation should not change to sanction cannabis use without the associated budget and spending necessary to protect the teenage population.

The last point is very relevant, and reads -

Legislative changes moving towards decriminalisation occurred in South Australia in 1987. Since then, the young people and families in South Australia have been exposed to a message that "cannabis is relatively legal and harmless". The South Australian Government has responded by reducing the allowed number of plants from 10 to three, and then to only one in 2001. Why are we starting with two plants?

What the minister said in debate is not correct. First, he cast aspersions on the Liberal Party claiming it put misinformation into the community. That is not the case. The Labor Party is conning the people of Western Australia. It gives the impression that the cannabis legislation refers only to people over 18 years. That is not the case. The minister gave the impression that the South Australian experiment was a success. Dr George O'Neil said in today's *The West Australian* that it was not a success. The number of plants people are permitted to grow was reduced from three to one in South Australia, yet the starting point in this State will be two plants. Why? If the South Australian experience was so good - obviously it was not because the number of plants was reduced - why are we commencing with two plants? This debate has been a sham.

What will be in the regulations with regard to cannabis education material? I regard people under 18 years of age as young. The minister claims they will not be affected by the legislation. The minister creates the impression that this legislation applies only to adults. The guillotine has prevented members getting to the bottom of the legislation, but sooner or later we will do so, and the minister will be judged accordingly. What the minister is doing to society in Western Australia is an absolute disgrace. He will bring many young people to cannabis use who have never used it before.

Mr M.J. BIRNEY: Before the minister responds to my friend from Warren-Blackwood, I pick up a point on clause 22. I draw members' attention to one of the many absurdities in the legislation. Clause 22 provides -

A person who operates a shop or other retail outlet where cannabis smoking paraphernalia is sold must make available to any purchaser of cannabis smoking paraphernalia cannabis education materials . . .

If a shop proprietor fails to do that, he will receive a fine of \$1 000 in the case of a natural person; and \$5 000 in the case of a body corporate. When people buy a bong, for example, if the shop owner does not hand over some kind of leaflet stating that cannabis is bad for the purchaser, the shop owner will be fined \$1 000. However, if the shop owner happened to be in possession of the stuff that is bad for people - that is, 30 grams or less of cannabis - he or she will be fined \$150. What an absolute absurdity! It is one of many in the Bill. If a shop owner fails to tell a customer who buys a bong that cannabis is bad, he will receive a \$1 000 fine. However, if the shop owner has the stuff that is bad, he will receive a \$150 fine. Who drafts this rubbish? This legislation is absurd rubbish all the way through. Clauses 21 and 22 are glowing examples of the ridiculousness of the legislation. It is a glaring anomaly to fine someone \$1 000 for failing to say cannabis is bad, yet impose a fine of only \$150 for possessing the stuff. The member for Nedlands made a good point. If a person has 30 grams or less, he will probably not be fined \$150, but be made to attend a joke education session. It is ridiculous.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pental; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr R.C. KUCERA: People who sell cannabis paraphernalia and encourage people to smoke cannabis deserve everything coming to them. The Leader of the Opposition delivered some messages in this House last week, and the newspaper carried photographs of him purporting to be a dealer. Frankly, people who send such messages and sell smoking implements to encourage people to smoke cannabis deserve everything they get.

Mr J.P.D. EDWARDS: I seek some clarification about a concern I have. I refer to clauses 20, 21 and 22. It seems that an enormous onus will be placed on shopkeepers and retailers who sell cannabis smoking paraphernalia. I might seem a bit dumb, but it seems that these clauses have so many holes that a truck could be driven through them. Will shopkeepers who sell ordinary smoking pipes that are used to smoke tobacco, for example, be affected? Will the provisions include pieces of timber or metal with holes drilled in them to enable them to be used as smoking implements? Could a child's bubble pipe fall under these provisions? I am trying to find out what is the definition of a smoking implement. Who will decide those things, which will allow the onus to be placed on the shopkeepers?

Mr R.C. KUCERA: The member for Greenough has a good point. I refer to the debate over the past week in the House, particularly some of the issues raised by the member for Murdoch. When paraphernalia is obviously being displayed and advertised for the purpose of smoking cannabis, these provisions will apply. Obviously what used to be known as Sharps, on the corner of Hay and Barrack Streets, is a tobacconist. It does not advertise or push its wares to be used for the purpose of smoking cannabis. Some discretion must be applied. The legislation deals with shops such as Joynt Venture Pty Ltd and the type of shops that the member for Murdoch supplied.

Several members interjected.

The SPEAKER: Order, members!

Mr R.C. KUCERA: The member for Murdoch showed some courage and a degree of the honesty this week in addressing the issues that he was involved in some 20 years ago. This clause is specifically designed for the types of businesses such as Joynt Venture that openly advertise the selling of smoking paraphernalia. Yesterday the member for Roleystone -

Several members interjected.

The SPEAKER: Order, members! The member for Carine!

Mr R.C. KUCERA: Yesterday the member for Roleystone demonstrated the type of thing that we are talking about by way of a 20-year-old advertisement. If people deliberately set out to sell the kind of paraphernalia that is clearly designed for the use of cannabis, this provision will apply.

Mr J.P.D. EDWARDS: A tobacco shop sells pipes for tobacco use. However, that might not necessarily be the case. Second-hand shops sell all kinds of equipment. They might very well sell a child's bubble pipe, which someone could purchase to smoke cannabis with. How does the shopkeeper who sells the equipment know that he must advertise that he is selling an item that can be used for cannabis smoking? The Government is leaving them wide open. I would like to know how the provision might be further defined.

Mr R.C. KUCERA: The shops that clearly sell marijuana smoking paraphernalia will be approached and advised by the people who deal with these matters. It is no different from people who sell cigarettes to minors. They have an obligation and a responsibility to honour the spirit of the legislation. The Government cannot lead people by the hand. This legislation will be well publicised when it passes through Parliament so that people will be well aware of their obligations and responsibilities. People who deliberately sell smoking paraphernalia that is intended to be used to smoke cannabis deserves everything they get.

Ms S.E. WALKER: I agree with the comments of some of the previous speakers on this clause. I think I know who had some input into the drafting of this legislation, so I can understand why it is a complete shambles. It is about marketing. When the Government thought about this it wondered how to make the public think it was getting tough on people who sell paraphernalia or are on the fringe of cannabis dealing and smoking etc, and it chose paraphernalia. I am astonished that the Government will not ban shops from selling paraphernalia? This will never be policed. That is why this is a rubbish Act. The Government does not have sufficient funding to run the education scheme for our kids. We have repeatedly asked what is the estimated cost for introducing the cannabis education scheme. The press release of 19 March - the spin - indicates that \$135 000 has been put aside to establish the CIN scheme and \$412 000 to operate the statewide cannabis education campaign. That is

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interesting because the Government cannot tell us in detail what it is. This Bill is junk and that is all that this Government has produced.

Under clause 23 a person who operates a shop or other retail outlet where cannabis smoking paraphernalia is sold must not sell cannabis smoking paraphernalia to a person under 18 years of age. This Bill applies to juveniles. People who sell paraphernalia - which should be outlawed if the Government is serious - will be fined \$5 000 or, in the case of a body corporate, \$25 000. Why does the Government not set out in clause 23 how a retailer should determine whether a person is under 18 years of age? It does not say a person must produce his drivers licence. When young people go to nightclubs they are asked to produce their drivers licence. The Government is not serious about this legislation. Clause 23(2) provides that it is a defence to a charge of an offence under subsection (1) for a person charged to prove that the person - that is, the seller - honestly and reasonably believed that the person to whom the cannabis smoking paraphernalia was sold had reached 18 years of age. That could be said about most young people between 15 and 18, so the Government is not really serious about this issue. That is apparent because the Government wanted to show that it was being tough by beating its chest and penalising people who sell paraphernalia. Interestingly, it has not decreased the number of plants a person must have in his possession before -

Mr R.C. Kucera: Yes we have.

Ms S.E. WALKER: No it has not. A person with 250 cannabis plants is automatically deemed a drug trafficker. I am talking about drug trafficking, not about cultivating 10 to 25 plants. The Government is beating its chest on this. It is rubbish legislation. If the Government were serious it would have reduced from 250 to 25 the number of plants a person can grow before being declared a drug trafficker, but it has not done so. The Government is not serious about this Bill. Its provisions are just window dressing. As a Government, the Labor Party should be ashamed of itself.

Mr R.C. KUCERA: Clause 23 does not apply to juveniles but to adults selling to juveniles. I do not resile from holding the view that people who want to sell smoking paraphernalia to people under the age of 18 years deserve everything they get, quite frankly. That is the spirit of the legislation. As for paraphernalia not being banned, the member for Greenough quite rightly pointed out that some of the paraphernalia, even cannabis paraphernalia, has legitimate uses. People might use it for a legitimate purpose and not for cannabis. Many people in the Arabic world use the kind of paraphernalia we are talking about for smoking tobacco; in fact, many people in South East Asia use a water-based pipe for smoking tobacco. Paraphernalia can have a legitimate use, and that is why it has not been banned.

Mr C.J. BARNETT: These clauses are an absolute joke. Clause 21 states that a person who operates a shop or other retail outlet where cannabis smoking paraphernalia is sold must ensure that a warning notice prescribed by the regulations relating to the adverse consequences of cannabis use is clearly visible. A warning sign! What a joke. There might as well be an advertising sign on the street telling people to enter the shop to buy its paraphernalia. Clause 22 states that a person who operates a shop or other retail outlet where cannabis smoking paraphernalia is sold must make available to any purchaser of cannabis smoking paraphernalia cannabis education materials. A kid goes into a shop and sees a warning sign saying that cannabis is nasty stuff. The shop owner then asks him if he wants to buy a bong and gives him an educational pamphlet. What a joke! The minister reckons that this legislation is not soft on crime. This is the most ludicrous soft on drugs legislation. It is farcical.

The member for Nedlands asked why not ban paraphernalia. That is a fair question. I will tell the member for Nedlands why paraphernalia is not banned. This Bill is all about allowing people to smoke cannabis. If they are to smoke cannabis they must be able to buy the paraphernalia. This legislation is not about health or cutting down on cannabis use; it has always been about the 10 to 15 per cent of the population who sometimes smoke cannabis and who lobby the Labor Party. The Labor Party made a commitment to that minority group to decriminalise cannabis, and it has done so and tried to dress it up in other ways by saying that it has been tough on this and tough on that. This Bill was always about allowing people to grow their two plants and carry around their 30 grams of cannabis. It was about facilitating a group within the Labor Party and the wider community who smoke cannabis on a regular basis. If the growing of marijuana plants and the possession and use of cannabis is to be condoned, the sale of the paraphernalia must also be condoned. That is what this Bill is all about.

What does the Labor Government do? It says that there must be a little warning sign on the shop window. That will be cute. Will it have a photograph of the minister, with the caption "Cannabis is bad for you"? When a

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young person buys cannabis, he will be given a little brochure and told, "Here is your brochure, sonny; off you go." What an absolute joke. These provisions are an insult to the intelligence of the community, let alone this Parliament. These clauses are simply about trying to hide the facilitation of the sale of implements for smoking cannabis, which people can now buy, easily obtain or grow. It is an absolute disgrace. We have such a foolish minister here who has been given the job by the Labor Party. He will do his duty. Because the Labor Party gave him a seat and backed his campaign, he must deliver on this. This is what it is all about.

It is highly impolite for the minister to talk to his advisers across the Table in an audible way. The minister can seek advice but he should not have an open conversation with his advisers in the Parliament, otherwise his advisers cannot stay in the Parliament. I do not wish to see that, but they are here as guests of the Parliament to provide discreet, quiet advice to the minister and not to engage in audible conversation. The minister should not engage them in that way.

This Bill is all about facilitating the growing, possession and use of cannabis. What an absolute joke this minister is! This Bill is an absolute joke. In the past two or three days, this Parliament has been an absolute joke.

Mr R.C. KUCERA: The point of sale information on the adverse effects and consequences of cannabis use is an important part of the overall education program. It is disturbing that the Leader of the Opposition is putting himself on the record as being opposed to that sort of thing in the community.

Several members interjected.

The SPEAKER: Members!

Mr R.C. KUCERA: The Leader of the Opposition said that the release by the Government of information pointing out the adverse effects of cannabis to the broader community is a farce. I remind the Leader of the Opposition that his own party, based in Canberra, and indeed the Prime Minister and Brian Watters, the head of the National Drug Strategy, spent many millions of dollars on fridge magnets and material that was sent to every household in this country to do exactly what this legislation says should be done: to get information out to young people. I will not apologise, resile or move away from making sure that cannabis will remain illegal, and that people know that cannabis is dangerous and is a drug that is not tolerated by this Government. We will make sure that all people, and not just young people, are clear about the intent of this legislation and are not just given the claptrap of the Leader of the Opposition.

Mr P.D. OMODEI: I asked the minister some questions on clause 22 and he has not yet responded. I have given him a couple of opportunities to do so. I have never before seen this kind of debate in this Parliament in the 15 years that I have been here. Normally, a minister comes into the Parliament with his or her advisers, goes through the Bill in a clinical way and gives advice to members opposite on what is contained in the legislation. The minister has failed to do that. Almost every time that he has stood up he has not been able to resist making a political point to totally politicise the debate, because the Opposition is opposed to this Bill. If the minister stays in this place for a while, he will realise that the normal procedure is for a minister to deal with legislation in a sensible way and with sensible arguments, rather than by making snide comments about the members for Carine or Murdoch and others. I have been disgusted by the way in which the minister has handled this Bill.

I ask the minister to answer one question: has the minister any respect for the opinions of Dr George O'Neil and the work he does in the drug field in Western Australia? The minister can answer by way of interjection. Let the record show that the minister refused to answer a question on one of the greatest drug pioneers in the treatment of drug addiction in this State. This man is highly respected by the community across this State. He deals with both hard and soft drugs. I will repeat what the good doctor has said. The headline to the article is "Puffed-up laws lack substance". Dr O'Neil, who is a pioneer in the fight against drugs in Western Australia, is quoted as saying that this legislation will not work. This article appears in today's edition of *The West Australian* - the date is 17 April.

Mr J.H.D. Day: Given the Labor Party's commitment during the last election campaign to Dr George O'Neil and his programs, its members presumably have a very high opinion of what he does.

Mr P.D. OMODEI: The minister is not prepared to say. I ask the minister, firstly: what will be included in the regulations on cannabis education materials? Secondly, does the minister agree with what Dr George O'Neil is doing in Western Australia, and what he has said about what has happened in South Australia and is about to happen in Western Australia? Dr George O'Neil has said that the minister is a failure. Despite all the minister's protestations and his political comments in this House, he has failed miserably to explain to members on this side

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of the House what this legislation is about. The minister has made snide remarks to all and sundry on this side of the House every time he has been under pressure. It is not becoming of him, particularly given his background as a police officer in this State. I have no respect whatsoever for him as the Minister for Health or in his previous role. At one stage I thought I had some respect for the then superintendent who seemed to be a reasonable person. I have come to know the minister better. I apologise in a funny way for attacking him in this manner. All I have seen in this place is the ugly copper syndrome coming out in whatever he does, whether it is in the health system, this legislation or anything else he does in Western Australia.

Mr P.B. Watson: Mr Do Good - holier than thou!

Mr P.D. OMODEI: The member for Albany interjects but he has failed to make a speech or contribute to the debate. He should stand up so his comments are on the record.

I have no confidence in the Minister for Health whatsoever in achieving legislation that will work in Western Australia.

Mr R.C. KUCERA: I pay the Chair the courtesy of waiting until the member on his feet finishes before I rise. I did not see any need to answer by interjection.

This Government supports Dr George O'Neil in his work with heroin addicts and has done so since the day I came to office. I meet regularly with Dr O'Neil. His programs are supported.

None of the questions raised by the member for Warren-Blackwood were relevant.

Mr P.D. Omodei: The Leader of the House told you not to respond.

Dr J.M. WOOLLARD: I heard what the member for Warren-Blackwood just said. I saw the Leader of the House lean over and speak to the minister before he made the comment.

Part 3, which deals with cannabis smoking paraphernalia, is totally outrageous. I would like the minister to explain which shops and retail outlets will be able to sell smoking paraphernalia. With people growing two plants worth many thousands of dollars a year, dealers will market their smoking paraphernalia to shops to try to suck teenagers into the habit. Which retail outlets are involved? The minister said there will be educational materials; there will be signs about the hazards of cannabis for people entering shops and signs for people leaving them. We know that not everyone can read. They will not know about the hazards and it will not matter that they are given material when they purchase their bongs, or whatever else the paraphernalia consists of. The paraphernalia should be banned. If it is not available, it will not tempt our children. I know from research in the tobacco industry over the past few years that children at the age of 13 or 14 years have been able to buy cigarettes because they look 18 or 19 years old. Will all the shopkeepers be told to ask for some form of identification indicating the age of people who want to buy paraphernalia? Will the Government state that only certain shops can sell paraphernalia? I am not hearing no. I am interested to hear what the minister has to say about this because it is another example of how this Bill will decriminalise marijuana. It will cause severe problems. People are dying from drugs now. More people will die because of this Bill. This legislation will affect our youth. I would appreciate the minister explaining which shops or other retail outlets will be allowed to sell this paraphernalia. I can see that the Leader of the House is ready to jump up. I assume that this debate will also be gagged. It will probably be gagged because the Government has not considered the implications of drug dealers marketing their equipment.

Mr C.J. Barnett: You will be gagged because you are a woman and in speaking you have shown up every woman on the other side of the House. Not one of them has been prepared to speak.

Several members interjected.

Dr J.M. WOOLLARD: No, I think the Leader of the House will gag this debate because he knows that this provision will lead to marketing by drug dealers.

Several members interjected.

Dr J.M. WOOLLARD: The Government has not decided which shops will be allowed to sell this paraphernalia. It has not thought about the dealers who will go to the local shopping centres and offer to pay someone so much money for putting the paraphernalia in his or her shop window.

Several members interjected.

Point of Order

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ms S.E. WALKER: I can hear people calling out from all over the Chamber. The member for Alfred Cove is trying to project her voice a long way, and the Hansard reporter cannot hear.

The ACTING SPEAKER (Mr P.W. Andrews): The member for Nedlands is perfectly correct. In my opinion, I was not on the ball in pulling people up. I thank the member for raising the point.

Debate Resumed

Dr J.M. WOOLLARD: I wonder whether the Leader of the House will let the Minister for Health answer my questions about which shops and retail outlets will be able to sell this paraphernalia and whether people will be required to present identification cards. If people are to be so required, that could mean that this stuff will not be sold to our 13 and 14-year-old children.

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (25)

Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper	

Noes (19)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	

Independent Pair

Dr E. Constable	Mr P.G. Pendal
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Question thus passed.

Part 3 put and a division taken with the following result -

Extract from *Hansard*
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (25)

Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper	

Noes (19)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	

Independent Pair

Dr E. Constable Mr P.G. Pandal

Part thus passed.

Part 4: Miscellaneous -

Mr M.J. BIRNEY: I note that clause 25 refers to the need for a review of this Bill in three years following its passage through this place. Following on from the decriminalisation of marijuana in South Australia, it has become very evident in that State that organised crime has somehow filtered its way into the cannabis industry and that 10 per cent of all home invasions were attributable to cannabis rip-offs. I hope that any review of this Bill in three years includes a review of the levels of organised crime that may or may not have infiltrated the cannabis industry. As I said, experiences in other States tell us clearly that when marijuana is decriminalised, a bad element is attracted and when a bad element is attracted, invariably organised crime is attracted. Will the minister give some thought or consideration to widening the review of this Act to include organised crime and the impact that the decriminalisation of marijuana might have had on organised crime in Western Australia?

Mr R.C. KUCERA: First, I will deal with the issue of decriminalisation and remind the member what the previous coalition Government minister responsible for drug strategy, Rhonda Parker, said about decriminalisation in South Australia. In *Hansard* on 27 November 1997 she is recorded as having said -

I will update the House on what is happening in South Australia. It must be understood that the possession of cannabis has not been decriminalised, but rather small amounts will invite a fine and not a criminal prosecution.

As we have said, cannabis is not being decriminalised. It will remain illegal and unlawful.

Clause 25 is specific in terms of the review of the Act. Subclause (1)(a) is specific in terms of the continuation of the Act and subsection (b) states -

any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.

Ms K. HODSON-THOMAS: I will follow on from where the member for Kalgoorlie left off, particularly in relation to clause 25(1)(a), which states -

whether there is a need for the Act to continue;

Can the minister explain what that means? Will a review be carried out and then a determination made on whether this Act is needed? What happens if it is determined that there is no need for the Act? The minister is saying that it is unlawful, but can he clarify what that process will be?

Mr R.C. KUCERA: Quite frankly, the clause is self-explanatory. If it is found at the time that there is no need - for whatever reason - for the Act to continue, then there will be no need for it to continue.

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pental; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ms K. HODSON-THOMAS: Does that then mean that we would end up back where we are now? Would we then go back to using the current Act? I cannot understand where the minister is going with this. If there is no need for the Act, surely there must be something that would then follow from that.

Mr R.C. KUCERA: Who knows? In three years we may have found a scientific way of getting rid of cannabis plants. There are a number of reasons for having that provision in the legislation. If the community feels that this Act does not need to continue, the normal course of events will follow.

Dr J.M. WOOLLARD: Clause 25(1)(a) probably shows the true intent of this Bill. In three years cannabis may be completely legalised. Why wait for three years to review this legislation when the Government knows what will happen from the South Australian experience? The drug cartel might be three times as bad within one year of this Bill being proclaimed. This shows that the Government has absolutely no consideration for and does not care about this State's youth. It is ridiculous that this Government will wait three years before it sees what damage this legislation has done to the community. As I mentioned earlier in the second reading debate, this Bill has not dealt with putting in place measures in the home to protect children from cannabis. People can go into the house or the garden and access the cannabis because there is no fence or barrier. Under one of the last parts to this Bill, children will be able to walk into any shop and buy paraphernalia. However, under clause 25, in three years time the legislation is likely to be thrown out anyway.

Point of Order

Mr R.C. KUCERA: Again I ask what relevance the member for Alfred Cove's comments have to the clause. The clause is self-explanatory.

Mr D.F. BARRON-SULLIVAN: Mr Acting Speaker -

The ACTING SPEAKER (Mr P.W. Andrews): The member for Mitchell.

Dr J.M. WOOLLARD: Mr Acting Speaker, is that further to the point of order?

Mr D.F. BARRON-SULLIVAN: No.

Dr J.M. WOOLLARD: Mr Acting Speaker, I believe I still have the floor.

The ACTING SPEAKER: There is no point of order. The member for Alfred Cove was referring to clause 25 and she has the call.

Debate Resumed

Dr J.M. WOOLLARD: The Government will carry out a review of this legislation in three years. Read out today was a newspaper article about the health problems that this Bill will create and in the past two days the Government has heard all about those health problems. Yet, the Government is crying poor. It has said that it does not have money to fix the health budget and it must sell off community assets to do so.

Mrs C.L. Edwardes: Duncraig House.

Dr J.M. WOOLLARD: Yes, it is selling off Duncraig House for 0.5 per cent of one year's health budget to fix the health system. It is selling off community assets to fix the health budget. This Bill will increase expenditure on health. This Government is not looking after people with mental illness appropriately now. There are not enough mental health nurses in the community and not enough hospital beds for those who need them. This Government will not review this legislation for three years and the consequences in that time will be devastating. How many children will die in those three years as a result of allowing people to grow cannabis? Until this evening I was unaware that South Australia had amended its legislation to permit people to grow only one plant. I would have thought that the Government would know that, given the resources that the Government has and the staff who drafted this Bill. I totally oppose legalising the possession of any cannabis plant. However, this Government is going against advice about the problems that have occurred in South Australia, which is reducing the number of plants that people can have. This Government will allow more plants to be grown and will wait three years - when it hopes it is still in government - to determine whether that will have any effect on the community.

The Leader of the House is sitting in his chair getting ready to jump up again. He is nodding his head to indicate that he will jump up again. The debate will be gagged again, Mr Acting Speaker. It is no good the member for Mitchell seeking the call.

Mr D.F. Barron-Sullivan: I can try.

Extract from *Hansard*
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr R.C. Kucera: By way of interjection, in the event that the member for Alfred Cove is cut off -

Dr J.M. WOOLLARD: I cannot take that interjection, Mr Acting Speaker. As it is, I will not get another opportunity to speak on this aspect of the Bill.

Clause 25(1)(a) indicates that the Government's long-term intention is to legalise all drugs and that it is just starting with cannabis. That is a disgrace.

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (26)

Mr J.J.M. Bowler	Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper
Mr C.M. Brown	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Mrs D.J. Guise	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (19)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	

Independent Pair

Dr E. Constable	Mr P.G. Pandal
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Question thus passed.

Part 4 put and a division taken with the following result -

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (26)

Mr J.J.M. Bowler	Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper
Mr C.M. Brown	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
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Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Mrs D.J. Guise	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (19)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	

Independent Pair

Dr E. Constable Mr P.G. Pandal

Part thus passed.

Part 5: *Misuse of Drugs Act 1981* amended -

Mr P.D. OMODEI: I referred to clause 28 earlier when I quoted a letter I received from a person concerning the hydroponics industry. What does the minister regard as the hydroponics industry? The legislation contains no description. Is it purely a liquid medium, a soil aggregate, a polystyrene system or whatever? Proposed section 7A in clause 28 reads -

7A. Selling or supplying a thing knowing it will be used in the hydroponic cultivation of a prohibited plant

- (1) A person who sells or supplies, or offers to sell or supply, to another, any thing that the person knows, or reasonably ought to know, will be used to cultivate a prohibited plant contrary to section 7(1)(a) or (2) by hydroponic means commits an indictable offence.
- (2) A court convicting a person of the offence under subsection (1) may, on the application of the Director of Public Prosecutions or a police prosecutor, in addition order that the person be prohibited for a period set by the court (but not exceeding 2 years) from selling or supplying, or offering for sale or supply, to another, any thing that may be used to cultivate plants by hydroponic means.
- (3) A person who contravenes an order under subsection (2) is guilty of a simple offence.

Will the minister explain an indictable offence, a simple offence, and the penalties?

The ACTING SPEAKER (Mr P.W. Andrews): There is too much noise in the room. I am having difficulty hearing the member for Warren-Blackwood. I suggest that members keep the noise down and enjoy their chocolates.

Mr P.D. OMODEI: This provision sets up for possible prosecution many people involved in the hydroponics industry and in horticultural supplies. I will not go through all the points raised by the person who wrote the letter to which I have referred. It noted the implications of the legislation, such as discrimination for a number of reasons. It mentioned that the words that a "person knows, or reasonably ought to know," is open to interpretation. Also, it is open to corruption with somebody setting up another person in the hydroponics retail sector. The letter also referred to the possibility of conspiracies to catch out people breaking the law. The correspondence also referred to best practice and fair trading; that is, people being able to compete in the retail sector with people who sell many things.

I mentioned in my contribution to the second reading debate some of the hydroponics equipment to be prescribed in regulation. This includes specialist lighting, light shades, ballast boxes, electrical timing devices, literature

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relating to plants grown through artificial mediums, water pumps, plant nutrients, artificial soil mediums, carbon dioxide gas, carbon dioxide gas regulators, air movement or extraction equipment, air filtering devices, odour control systems and heating devices. All that equipment can be used for not only hydroponics but also the cultivation of plants in hothouses around Western Australia. I do not need to tell members how extensive that industry is across the State; it grows vegetables, tomatoes, cut flowers and so on. It is a major industry in Western Australia. Under this legislation, a person in a hydroponics shop, a downtown Elders Pty Ltd or Wesfarmers Ltd store who sells growing equipment that is later found being used to grow cannabis illegally can be indicted and be given a major penalty. I would like the minister to respond to my comments and then I will take up the argument further.

Mr R.C. KUCERA: This proposed section is underpinned by the requirement to show proof beyond a reasonable doubt that a person who supplies such products knows what the equipment will be used for. For example, a number of years ago, some of the Italian crime syndicates in Lake Grace who were linked to the Griffiths syndicates set up a very large professional cannabis cultivation operation. Much of the irrigation equipment was traced back to the people who sold it. There was no suggestion that the people who sold the equipment were involved in the cannabis cultivation. That is exactly the same situation to which the member for Warren-Blackwood refers. In order to charge the suppliers of the equipment, it would need to be proved beyond reasonable doubt that they knew that it would be used to cultivate cannabis. If a retailer at the local Wesfarmers branch at Manjimup or wherever was asked by someone to sell him some growing equipment that he intended to use to grow a cannabis plantation down the road and the retailer agreed to help and sold him the gear, the retailer would be charged. Knowledge beyond reasonable doubt must be proved. The member can put his constituents' concerns at rest. Provided they are not knowingly involved in cannabis cultivation, they will not have a problem. The South Australian police pointed out to us - and this was included in the report of the committee - that an extensive system of regulation was recommended. We did not consider that to be practical or applicable in this State. As the member quite rightly pointed out, that would then unwittingly put people in jeopardy. Knowledge must be proved beyond reasonable doubt and the retailer must have knowledge or reasonably know of the operation to grow cannabis. Under the current legislation, those retailers would be charged with conspiracy to cultivate or produce cannabis because they would have knowledge of the conspiracy. It is far better to make provision for substantive offences, because often a substantive offence can be proved but the link to a conspiracy cannot. We are establishing substantive offences. We are not imposing a regime of regulation, which was recommended in the original report. We suggested that recommendation to the drafters, but they considered it to be impractical. The drafters recommended this provision, which is why it is included. It is a sensible provision. I am sure that the member would agree that people who are knowingly involved in the selling of hydroponic equipment to organised crime syndicates or to anybody who wants to grow cannabis should be charged.

Mr J.L. BRADSHAW: This legislation worries me considerably because it gives more powers to the police. It is all right for the minister to say that the police have to prove beyond reasonable doubt that the people who supplied the equipment for the production of cannabis were involved in the production. Recently - I am relying on my memory of what I read in the newspaper - Mary-Anne Kenworthy upset a couple of police officers. Shortly afterwards she found herself charged with running a brothel. It has been well known for many years that she runs a brothel, but she has been left alone. It is well known also that many other brothels operate in the community. However, suddenly, she was charged with running a brothel. If someone who operates a hydroponics shop were to upset a police officer, that officer could lay charges. The officer might not win the case in the court but it would put that person's life under a big cloud. The charges would be hanging over his head; he would have to hire a lawyer and attend court. I have problems with this legislation. It is disgraceful. I am not a lawyer, but I am sure other Acts cover a situation in which someone has criminal intent and is involved in that system. If I had a hydroponics business, I would be worried sick that somewhere along the line, for no reason at all, I would be charged. It is disgraceful legislation. I do not support it.

Mr R.C. KUCERA: I am glad the member for Murray-Wellington made the point about people being concerned about being charged. People must be careful when dealing with this equipment. Provided that people are careful and operate a legitimate business, they will be all right. This legislation deals with having knowledge that can be proved beyond reasonable doubt.

In relation to the comments about police officers perhaps acting inappropriately, other legislation covers police officers who act inappropriately.

Mr P.D. OMODEI: I take issue with the minister's comments regarding organised crime members growing cannabis at Lake Grace. I doubt that the people who grew the cannabis at Lake Grace went into a Wesfarmers

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Ltd store or any other store and asked for some hydroponics equipment because they wanted to grow cannabis. No crook would ever do that.

The person who wrote this letter states -

Given that the hydroponics retail sector has a lot to lose from this bill, it is highly questionable as to why (as key stakeholders) we were never approached by the working party, or any other relevant groups, for input into the political process. Government has clearly failed to exercise best practice. More importantly, why were we never approached?

Proposed section 7A(1) on page 13 of the Bill refers to a person who “knows, or reasonably ought to know”. His letter states earlier -

As a hydroponics retailer, should I ‘reasonably know’ that a young male with long hair and tattoos will use growing equipment to cultivate cannabis? What about the Yuppie in the BMW - he seems to have too much money; is he a cannabis cultivator or a dentist growing vegetables?

The interpretation of clause 23(2) is quite legitimately questioned. How do I know when the member for Perth comes into my hydroponics shop whether he is a drug dealer who grows cannabis? I am in the business of selling hydroponics equipment. I could be selling it from a hydroponics store or a host of other stores across Western Australia. This legislation provides that I reasonably ought to know. How the hell can I know? The Bill is open to interpretation and it will turn many law-abiding citizens in this State into criminals. Once they are visited by the Police Service their reputation will be tarnished even for a very minor offence. I am not talking about the big boys from Griffiths. I am talking about cannabis growers who will grow half a dozen plants hydroponically. How do we know which is which? How do we know that members of Parliament will not grow cannabis using hydroponics?

Mr J.N. Hyde: If you were to deliver 30 tonnes to Cue where tomatoes are not grown, that would give someone a fair idea.

Mr P.D. OMODEI: The legislation passed by this Parliament should cover all situations. If somebody was buying 30 tonnes of fertiliser and a great deal of polypipe, a casual overfly by the local spotter plane from the Department of Conservation and Land Management office would pick up any plantation very quickly. We are talking about many people who buy lights and pumps for their normal backyard gardens. I have an acre of garden with a whole lot of polypipe running around it. There is no cannabis there.

If I decided to turn to crime, would it mean that the man I know at the Wesfarmers store, the Elders store, the RTC or whatever should reasonably know that I am growing cannabis? He would not have a clue. Does that turn him into a criminal? This legislation is full of holes. It is something to placate the community by selling the story, as the member for Nedlands has quite rightly said. This kind of legislation and penalty will not stop people from growing cannabis. If the Government wants to catch them, it should catch them for conspiracy if it knows that they have been growing cannabis. The Police Service is pretty good at catching crooks.

Ms S.E. WALKER: Under section 5 of the Misuse of Drugs Act a person found in any place, which is then being used for the purpose of smoking a prohibited drug or prohibited plant, is guilty of a simple offence. Clause 27 decriminalises that offence. Proposed section 5 would read that a person who is found in any place, which is then being used for the purpose of smoking a prohibited drug or prohibited plant other than cannabis, is guilty of a simple offence. Can the minister confirm that the offence has been decriminalised?

Mr R.C. Kucera: Yes.

Mr B.K. MASTERS: About three or four years ago I used to travel into Perth on Thursday lunchtimes when this place was in session to pick up some surfing magazines for my wife’s nephews. They contained advertisements for hydroponics. It was absolutely clear that they were advertising the use of their equipment for the cultivation of cannabis. The advertisements obviously showed tomato bushes growing and not cannabis plants, but they referred to a high quality crop, fast production rates and a whole range of matters that made absolutely clear the purpose of the advertisements. I cannot find in this legislation a provision that bans these advertisements for misuse of hydroponic equipment. Will the minister comment on that? There may be no specific reference to cannabis, no photograph and no words but the intent is clear. Because no reference is made to this in the legislation, I submit to the minister that there will be a significant amount of advertising. I compare this with advertisements for prostitutes and escort agencies. Although the advertisements will not state that they are promoting misuse of hydroponic equipment, people will be left in no doubt whatsoever.

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Mrs C.L. Edwardes: There could be a health warning.

Mr B.K. MASTERS: There may be a health warning for all advertised hydroponic equipment.

Mr R.C. KUCERA: One of the elements of proving any intent is an overt action. If people are exhibiting an overt action such as the member describes, I suggest they would have to be very careful in the way they go about their business. Once this Bill is enacted, they could be putting themselves into a position -

Mr B.K. Masters: Under what provision?

Mr R.C. KUCERA: Under this clause.

Mr B.K. Masters: Will you read the words that say it is an offence to advertise?

Mr R.C. KUCERA: No, it is an offence to sell or supply anything knowing that it will be used in the hydroponic cultivation of a prohibited plant. If someone advertised a piece of equipment as being used in the production of a prohibited plant and then sold it to a person knowing that, in essence that person would put himself in jeopardy as far as this clause is concerned. Again, that was the specific reason for this provision. Learning from the South Australian experience, the Bill particularly targets those people who deliberately move into the industry to support the growing of cannabis. That is what happened in South Australia. If the member is seriously suggesting that we should not target those sorts of people, and that he wants to oppose this legislation so that what happened in South Australia will happen in Western Australia, I am somewhat disappointed.

Mr P.D. OMODEI: The minister used the word "know". I suggest that the defence that will be used by everybody who supplies hydroponic equipment is that he or she did not know. Whether that person did know would have to be proved in a court of law.

Mr R.C. Kucera: Exactly. That is the same with any other offence.

Mr P.D. OMODEI: What will this provision do to the legitimate hydroponic suppliers who do not supply hydroponic equipment for the growing of cannabis? It will force them into the courts at great expense. It will destroy their reputation. They will need to employ good lawyers at great expense to show that they did not know. In the meantime, reputations and businesses will be damaged, all because the Government is using sledgehammer legislation to crack a nut. If people grow cannabis hydroponically, the Police Service should go and find them. I have already asked what is an indictable offence, what is the simple offence and what is the penalty. The minister has not responded to those questions. What is hydroponics? Is it purely a system that uses nutrient-rich water? What kind of medium does it use? I put to members that most of the vegies grown in the metropolitan area are basically grown hydroponically. They are grown in a straight sand medium to which water and nutrients are added. If that is not hydroponics, I do not know what is. On the other hand, I have seen hydroponic systems that use troughs and nutrient-rich water. We need to make that plain. The Bill does not explain that. It provides no description of what hydroponics is, at what level this legislation applies and those sorts of things. A good lawyer would shoot holes through this legislation with no trouble. Of course, it would be easy to catch a hydroponic supplier who was part of a deal with a Mr Big of organised crime.

We are talking about a situation in which cannabis plants will be planted right across the metropolitan area. We could have a new agricultural industry in Perth's backyards. As I said in my contribution to the second reading debate, this legislation will create a couple of new industries. There will be the 300-gram sachet market, by the gross.

Mr B.K. Masters: Thirty.

Mr P.D. OMODEI: Sorry, it is 30 grams. What did I say?

Mr B.K. Masters: Three hundred.

Mr P.D. OMODEI: It must be getting late. There will be a boost for the sign-writing industry; every hydroponics business in Perth will change its name. The word "hydroponics" will no longer be used; instead, they will use the term "horticultural supplies".

This legislation is making a mountain out of a molehill. If the Government wants to introduce legislation to catch crooks, it will find that a whole lot of dope will be grown not necessarily hydroponically but in people's backyards around the State. It will be sport for people around the State to plant a couple of cannabis plants in the backyard of somebody they do not like, and then to report that person to the authorities. They may plant a handful of cannabis plants in other people's backyards and harvest them at will. This is nonsense stuff. If the

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Government wants to crack down on cannabis in Western Australia, it should make it illegal across the board. It should make the supply of products used in the growing of cannabis illegal. It should not turn law-abiding citizens into crooks overnight.

Mr R.C. KUCERA: Legitimate businesses have nothing to fear. As I said before, the provision particularly targets people who deliberately move into the industry. The member for Vasse made the point about backyards and corner stores that advertise in an attempt to cash in on that type of operation. They certainly need to fear this legislation.

An indictable offence is a matter that can be heard on indictment. It is as simple as that. A summary offence is one that can be heard in a summary court. It is referring to the jurisdiction in which a matter is dealt with. I cannot go any further than that. If convicted on indictment, the penalty is a fine not exceeding \$20 000 or imprisonment for a term not exceeding five years or both. If convicted by a summary court, the penalty is a fine not exceeding \$2 000 or imprisonment for a term not exceeding two years or both. In most instances these matters would be dealt with in a summary court or summarily. If a magistrate feels that he cannot deal adequately with a matter, as is the case with many of these issues, it would be sent on indictment to a superior court. The fine would then be \$20 000 or five years imprisonment or both.

Mr B.K. MASTERS: I have a friend of the family who is a practising psychiatrist. I suggest to the minister that if he ever needs psychiatric help, he should see this person and take things further. It is possible the minister should get some help in that regard. When the minister stood to answer some queries and questions I had about advertising, he trivialised my concern and threw a smokescreen in front of it. There was no suggestion on my part that proposed section 7A should not be in the legislation. I said nothing to indicate that. The minister's attempt to deflect the issue because he did not know the answer or because he knew the answer but did not want to say, is beneath what should be the dignity of a minister. The issue I raised, which I will repeat again, concerns advertising that is intended to tell people that hydroponic equipment is ideally suited to the growing of cannabis. The minister responded by talking about advertising and selling or intent to supply. I did not mix those two things together; I talked only about advertising. I do not require any comment from the minister about "a person who sells or supplies, or offers to sell or supply, to another, any thing that the person knows, or reasonably ought to know, will be used to cultivate a prohibited plant". Such a person commits an offence. A person may advertise equipment for sale that is clearly but not specifically to be used for the growing of cannabis. Someone like myself may walk into the shop and say I would like to buy the equipment to grow cannabis. The person may say he is sorry but he is not allowed to sell equipment for the purpose of growing cannabis - wink, wink - nod, nod. Advertising can be used to entice people into a shop. From then on it is all legal and aboveboard and there is no suggestion of any illegal activity whatever. Why does this legislation not discuss advertising in the same way that the prostitution legislation will hopefully address the advertisements for sex workers and the services they offer?

Mr R.C. KUCERA: Once this legislation is passed it would be somewhat foolish of businesses to advertise in that way. Advertising will lead to the police giving attention to a particular business. If the attention given to a business links it to the offences as described, so be it.

Dr J.M. WOOLLARD: Before this clause was dissected by the member for Warren-Blackwood I thought it was quite good. I would like to see anyone who has anything to do with drug dealing receive some form of punishment. Now that I have had the opportunity to examine this clause, I would like to ask the minister whether he will provide a list of what people reasonably ought to know. I reasonably do not know what the equipment is. From what the member for Warren-Blackwood has just said, probably many hardware stores within my electorate sell various items of equipment that could be used for hydroponic purposes. Will the regulations include a list of the equipment that can be used to cultivate plants hydroponically?

My next concern relates to proposed section 7A(2), which states that a court convicting a person can prohibit that person -

from selling or supplying, or offering for sale or supply, . . . any thing that may be used to cultivate plants by hydroponic means.

Is that a typo, and should the proposed subsection read "to cultivate prohibited plants"?

Until I see the list of the equipment that is used to grow hydroponic plants, I will remain concerned that the equipment is of a general nature and sold in many stores, and in future may not be available to other people who legitimately want to use it.

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Mr R.C. KUCERA: The offence is knowing that the equipment will be used for growing cannabis, rather than for hydroponic cultivation. As the member for Warren-Blackwood rightly pointed out, a large number of plants and flowers are legitimately grown using hydroponic processes. The offence is knowing that the equipment will be used to grow cannabis by hydroponic means.

Dr J.M. Woollard: How will people know if they are not given a description of the equipment? Shopkeepers in my area probably know very little about growing cannabis. That is the case at the moment. It may be different in two years.

Mr R.C. KUCERA: In that case, they would not be in jeopardy. The jeopardy is when the shopkeeper knows that the equipment will be used for growing cannabis. The provision is not about whether the equipment is used for the hydroponic process; it is whether it is used for hydroponically growing cannabis. That is the difference. The issue is the knowledge that the equipment will be used for growing cannabis.

I am glad the member raised that point about proposed section 7A(2). It is not a misprint. This provision relates to somebody involved in the business of hydroponics being convicted for knowingly selling equipment for the growing of cannabis. The intent of this legislation is to put those people out of business and to make sure that they remain out of business. We make no apology for that. That arose out of the incursion of organised crime into the hydroponics industry in South Australia. That is why this legislation essentially makes any activities associated with hydroponics to grow a prohibited plant totally illegal. People convicted of such hydroponic activity will not be subject to cannabis infringement notices. They will be subject to charges, courts and conviction - the full sanctions of the criminal law. Members suggest that people might start growing cannabis plants in their backyards instead of hydroponically. That is the intent of this legislation. Everybody on the other side of the House who has spoken has referred to the problems with the hydroponics industry. We do not resile from the fact that that is the intent of this legislation. We learnt from the South Australian experience. We sent the committee to look at it. The lesson is that in making any legislative change to cannabis laws, we must make sure that we outlaw the growing of cannabis hydroponically. That is why all the criminal sanctions apply to that offence and this strengthened provision will be included in the Misuse of Drugs Act. That is why someone who knowingly goes into the business and is convicted will be put out of business and will remain out of business.

Dr J.M. Woollard: I refer to proposed section 7A(1). The police might go to a premise and discover that the three occupants are sharing four plants. I am concerned that the police will go to the hardware store from where the equipment was bought and charge the retailer. How will the police get a conviction? The retailer will say that he did not know the occupants would use that equipment to grow a prohibited plant. How will that proposed section be used?

Mr R.C. KUCERA: The reality is that, in practice, police do not go looking for a hardware store that sells hydroponic equipment. They would go there on information. There would be a link between organised crime and the kinds of things that are happening there, or, as the member for Vasse said, people would be clearly advertising and bringing attention to the fact that that is what it is for. It is not a matter of attacking legitimate businesses. People who have a legitimate hydroponics business have nothing to fear from this legislation. This legislation is specifically aimed at those people who use the guise of the legitimate business to move into the growing of cannabis hydroponically or who move into the industry to sell equipment to allow people, as has happened in South Australia, to become part of organised crime groups. That is why the slant that the member for Warren-Blackwood is putting on it is wrong in many ways.

Mr P.D. OMODEI: I raised this issue merely because of the very people whom the minister has just mentioned - those people who run a legitimate business and who the minister says have nothing to worry about from this Bill. Obviously the task force has not spoken to those in the hydroponics industry. Will the minister agree to accept a delegation of people from the industry? The legislation will have passed through this House, but there will be time between its passage through this place and through the other place in which to amend the legislation if necessary. If the minister had the trust and the support of the hydroponics industry, it would make this legislation all the more legitimate.

I was merely highlighting the fact that the phrase "the person knows, or reasonably ought to know" may force a number of legitimate people to get a lawyer to defend themselves in the courts so that they can show that they have not breached the law in any way. I am trying to defend the good guys. I do not want to defend the bad guys. The Opposition will not divide on this part. I understand where the minister is coming from, but he must accept that there is a group of people out there who may not have hydroponic supplies written across their front door but who supply that sort of equipment; that is, lighting, filters, pumps and so on. A pall should not be cast

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over those people because the Government wants to strengthen this legislation. I do not mind having legislation to catch those people who are illegally growing drugs under this legislation. However, I want to protect the innocent people from an overzealous Police Service or whatever. Members know what industry is like. It takes only one malicious person to say that somebody is selling hydroponic equipment illegally to start an investigation and all the issues that are involved with it. The minister should jump on and close down those people who openly advertise hydroponics for growing drugs; I am 100 per cent behind that. However, if he were to accept a delegation of these people, I would have done my job in protecting the legitimate people in the hydroponics industry, and I am sure they would be supportive of the minister and the legislation.

Mr R.C. KUCERA: Two issues arise from the member's comments. First, if this legislation encourages people in the legitimate industry to seek out information, the legislation is already doing its job. I am more than happy to give those people the information to put their minds at rest. My adviser has indicated that he has no difficulty meeting with the people from the industry and explaining both the intent and the portent of the legislation. I do not have a problem with that. We did not seek out the various interest groups involved in this legislation because we got good advice from both the Drug Summit and the John Prior committee. It was good advice. As the member quite rightly pointed out, this provision targets people who want to get into the industry illegitimately or use it for illegitimate means. Those in the industry that are legitimate should have nothing to fear. However, to put their minds at rest, my adviser is happy to discuss that issue with them.

Mr J.L. BRADSHAW: I have not been satisfied by that explanation. I still believe that people in the business of selling equipment for horticultural production or even flower production might have concerns about this provision. One of the former members, George Spriggs, grows flowers hydroponically. He was probably one of the first people in Western Australia to get into that industry.

Mr B.K. Masters: Did he grow poppies?

Mr J.L. BRADSHAW: No, carnations actually.

I have a problem with the words "reasonably ought to know." What the hell does that mean? Does it mean that the supplier knows that the equipment might be used to grow cannabis hydroponically? The meaning behind the words "reasonably ought to know" just scares the pants off me.

Recently, in my electorate, a house in which cannabis was found to be growing hydroponically was raided. Under this legislation, the police would then have to follow up where that equipment came from and ask the person where he got it. He might say, "I bought it at Joe Smith's hydroponic store." The police would then have to talk to the owner of that business, or the employee, who in some cases might be under threat of being heavied. Just because the supplier might say, "I do not know anything about it" does not mean that the police will accept that answer. If they did, they would never get anywhere with the investigation. Most people probably say that at the start. That person would then be under threat of being heavied. Of course, a person who looks a little shady might walk into a shop and the owner might think, "Boy, this guy is going to buy some equipment to grow cannabis." Is it that supplier's responsibility to say, "Are you going to grow cannabis? Sign here if you are or are not."? Perhaps it is not his role to find out whether that person will grow cannabis or some illegal plant with the equipment he purchases. The supplier is in a very difficult position because he might think it, but is that reasonably knowing that the person will do it?

I do not like the Bill at all, but this part of it really worries me. Innocent people will be heavied and put under a lot of pressure. As I pointed out, a supplier might upset an investigator, and the next thing he knows is that he is charged and has to go to court. He then has to pay the lawyer's bills and has the onerous problem of being named in the local media, which can create more problems. It is wrong that we have this sort of legislation. If people are knowingly supplying equipment, we must come down on them. However, a lot of innocent people will come under threat from this legislation. I do not like this provision and I will not be supporting it.

Mr R.C. KUCERA: The simple answer is that the police would have to prove a *prima facie* case. The intent and the knowledge would essentially have to be proved, and there would have to be a sufficient case mounted against the people in the industry to refer the charges. Intent is never an easy charge to prove when one is simply relying on knowledge and intent. Therefore, the police would have to have evidence. It is as simple as that. Without the *prima facie* case they would not lay charges. However, the police would have to investigate the matter. If people are experiencing the kinds of things that the member for Vasse talked about and bringing themselves under notice, or if there is a regular supply of equipment to people who are known to be involved in organised crime, then the police will obviously have to investigate the matter. That is exactly what happened in South

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Australia and why the South Australian police talked about putting these provisions into the legislation. In fact, they went much further than this piece of legislation. They recommended that we put in a host of regulations against the hydroponics industry and the suppliers of equipment. Both the committee and the legislators said that it was impracticable and, as the member for Warren-Blackwood said, would do a great deal of harm to a legitimate industry. That is not the intent of this part of the Bill.

I sum up by saying that the intention of proposed section 7A of the Bill is to catch people who deliberately move into the industry to grow cannabis hydroponically and to supply hydroponic equipment. The proposed section deals with the issues that created those problems in South Australia. Another issue in South Australia that nobody in this place has talked about today was the capacity of people to grow 10 plants in their backyards. South Australia, therefore, had a very different picture and we have learnt from those mistakes. John Prior's committee should be commended for the practical way in which it approached the matter of keeping those people out of the industry. The intention of proposed section 7A(2) is to ensure that people cannot return to the industry. The legislation will be applied practically so that the kinds of people whom the member for Warren-Blackwood talked about are not pushed out of legitimate business enterprises.

Dr J.M. WOOLLARD: I accept the minister's explanation of proposed subsection (2). However, I am unclear why the words "or reasonably ought to know" in proposed subsection (1) are needed when an offence is committed by someone who the police know has a link with organised crime. Will the minister consider amending this proposed section? If not, I will move an amendment so that the proposed subsection will read -

A person who sells or supplies, or offers to sell or supply, to another, any thing that the person knows will be used to cultivate a prohibited plant contrary to section 7 . . .

The minister has said on the record tonight that the police will be required to prove a link with organised crime. In that case, why does the Bill need the words "or reasonably ought to know" in proposed subsection (1)?

Mr R.C. KUCERA: The proposed subsection deals precisely with someone who says that he or she did not know that the other person was growing cannabis when all the other evidence points to that person having reasonably known that it was the case. A raft of evidentiary issues could arise that could indicate that a person should reasonably have known that. Taking those words out of the proposed section would create a defence for people who reasonably should not have a defence.

Ms S.E. WALKER: One of my roles as a crown prosecutor was to draft indictments. When the police sent me complaints, I considered the brief of evidence.

Mr J.R. Quigley interjected.

Ms S.E. WALKER: I did a good job, thank you, member for Innaloo. I think the member for Innaloo drafted this legislation; a defence lawyer would have to have drafted it because it is rubbish. Part of my job as a crown prosecutor was to consider whether there was a prima facie case to answer in a brief of evidence; and, if there was, to draft an indictment. The point is that the minister fudges around and does not get down to details. He is not the only minister who does that. Will the minister give me an example of how a person "reasonably ought to know"? The minister mentioned intent but there is nothing in the clause about intent.

Ms M.M. Quirk interjected.

Ms S.E. WALKER: I think the member for Girrawheen too was responsible for this bit of rubbish. Did she have something to do with it?

Ms M.M. Quirk: No, I had nothing to do with it.

Ms S.E. WALKER: That is fine; it would have been worse then. There is no mention of intent in this proposed subsection. How can a person come into the category of "reasonably ought to have known"? Do they come in with their plants and say they want to grow them hydroponically? I have drafted hundreds of indictments, and I am struggling to think of an example -

Mr J.R. Quigley interjected.

Ms S.E. WALKER: The member for Innaloo should worry about his Legal Practice Board disciplinary proceedings. He will be struck off as a lawyer pretty soon. He should tell us how his Supreme Court case is going, with the disciplinary proceedings at the Legal Practice Board. He should not sit there with a queerer face than he already has.

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I agree with the members for Warren-Blackwood, Alfred Cove and Murray-Wellington.

Dr J.M. Woollard: If you agree, because the Leader of the House is about to chop again, would you consider moving the amendment?

Ms S.E. WALKER: No, because we have made a decision not to move any amendments.

Mr J.R. Quigley interjected.

Ms S.E. WALKER: The member for Innaloo should go off to the Legal Practice Board and try to persuade them.

I want to talk about the amendment in part 5 to schedule VI of the Act. The Government has beaten its breast again about reducing the number of plants from 25 to 10, for the presumption of intent to sell or supply. Schedule VI is not the only schedule in the Act. That is why George O'Neil, one of my constituents, calls this Bill puffed-up laws that lack substance. There are other schedules in the Misuse of Drugs Act that could have been amended. I will go briefly through them. It will not take me long, as it would not have taken the people who plotted to bring on this appalling piece of legislation very long. In schedule V, the quantity of drugs giving rise to presumption of intent to sell or supply is given as 100 grams. That has not been altered. Why was that not altered? Schedule VII has a list of the amounts of prohibited drugs required for the presumption of drug trafficking, and the amount for cannabis is three kilograms. Why was that not reduced?

The Government is serious and wants to get tough on crime, yet this is not tough on crime. Schedule VIII shows the number of prohibited plants required for the presumption of drug trafficking. There is only one item in there, and that is cannabis. The number of plants is given as 250. That has not been altered. When a person has 250 plants, he is automatically deemed by the court to be a drug trafficker. The Government could have toughened the law on that, but it did not do that either. The Government simply played around and toyed at the edges with this, and had some spin doctor develop this legislation.

Perhaps the minister can answer me, because he has not explained in detail how anybody is supposed to reasonably know. He should give us an example; something we can hang our hat on. Then he can tell us why he did not look at the other schedules and toughen up the other parts of the Act.

Question to be Put

Mr J.C. KOBELKE: I move -

That the question be now put.

Question put and a division taken with the following result -

Extract from *Hansard*
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (26)

Mr P.W. Andrews	Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Mrs D.J. Guise	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (17)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Mr M.F. Board	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Ms S.E. Walker	

Independent Pair

Dr E. Constable	Mr P.G. Pandal
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Question thus passed.

Part 5 put and a division taken with the following result -

Ayes (26)

Mr P.W. Andrews	Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Mrs D.J. Guise	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (17)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Mr M.F. Board	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Ms S.E. Walker	

Independent Pair

Dr E. Constable	Mr P.G. Pandal
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Part thus passed.

Title -

Title put and a division taken with the following result -

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
p6848b-6932a

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Ayes (26)

Mr P.W. Andrews	Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Mrs D.J. Guise	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (17)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Mr J.L. Bradshaw (<i>Teller</i>)
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr R.N. Sweetman	
Mr M.F. Board	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.H.D. Day	Mr A.D. Marshall	Ms S.E. Walker	

Independent Pair

Dr E. Constable Mr P.G. Pendal

Title thus passed.

Withdrawal of Remark

Ms S.E. WALKER: The member for Riverton referred to the member for Murray-Wellington as an antique. He is the father of the House and I ask that the member withdraw that comment.

Mr A.D. McRAE: One can take antique in any way one chooses. I meant it to be tinny, trashy and worthless.

The ACTING SPEAKER (Mr A.J. Dean): The original utterance was probably not unacceptable, but I request that the member withdraw the second utterance, please.

Mr A.D. McRAE: I withdraw, Mr Acting Speaker.

Third Reading

MR R.C. KUCERA (Yokine - Minister for Health) [4.44 am]: I move -

That the Bill be now read a third time.

I thank, firstly, the people who made a constructive contribution to this debate.

Point of Order

Mr P.D. OMODEI: Mr Acting Speaker, will you indicate whether the minister is closing the debate?

The ACTING SPEAKER: He is moving the third reading. I assume at the end other members will have a right to speak.

Debate Resumed

Mr R.C. KUCERA: As I said, I thank those people who made a constructive contribution to this debate throughout the many hours this issue has been debated. There is no doubt that this is an emotive issue. However, as was done with the Drug Summit we must take emotion out of it and deal with things properly and sensibly and without the kind of rhetoric that we have heard over the past couple of days. I also put on record my gratitude for the contributions of Superintendent Jim Migro, Mr Steve Allsop from the Drug and Alcohol Authority and Mr Wayne Salvage from the legal section in the Department of Health. They have sat through almost 30 hours of rhetoric and have handled the issues extremely professionally. It is a tribute to the various agencies they come from. They deserve a great deal of credit for helping me steer this matter through the House. I also put on record my appreciation of the efforts of Mr John Prior and his committee, which took up the challenge from the historic Drugs Summit held in this Parliament to again help us bring before this House a very sensible, balanced and thought-out piece of legislation that will allow us to deal sensibly and properly with the

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issues of cannabis use in this State. I will not name all the members of the committee but I put on the record my appreciation for their help. I refer to the committee now headed by Mrs Rae Keane. I compliment the members of the committee; they have been advertising regularly in the lead-up to this debate to ensure that proper and sensible information, not coloured rhetoric, was given to community members who sought it.

I began the debate and will finish it by simply noting that the message we will convey when this Bill passes through both Houses is that cannabis use is harmful and dangerous.

Several members interjected.

The ACTING SPEAKER: Members, thank you. I will not tolerate these interjections at this time of the morning.

Mr R.C. KUCERA: Cannabis will remain unlawful. Cannabis use will attract severe penalties and cannabis supply will result in severe criminal sanctions. We have heard much information and much misinformation over the past 30-odd hours of debate. The people who sensibly positioned themselves in this debate will look back in a number of years and realise the impact it is having on the people of our State. They will also realise that members on the other side of the House deliberately went out of their way to oppose the clauses of this Bill that deal very deliberately with the hydroponics industry and those people who seek to profit from other people's misery by trafficking and dealing with drugs. Those people who desperately need help for drug addiction and their involvement in the drug scene have for the very first time a piece of legislation that will allow them to be treated sensibly and with compassion. The key message that came out of the historic Community Drug Summit was that we need to put people first. For people who are involved in the use of cannabis, the issue must be treated first and foremost as a health issue. There is no doubt about that.

I do not resile from or apologise in any way for the severe penalties that have been reinforced for cultivating trafficable amounts of cannabis with the intent of selling it or supplying it to others. They will apply to those people who choose to have an amount of cannabis in their possession that clearly defines them as a dealer.

We have seen many stunts by opposition members; we have heard many pieces of misinformation; and, as I have pointed out on a number of occasions, in the past 30-odd hours we have seen some of the most irresponsible messages being put out to the community that have ever come before this Parliament.

Several members interjected.

Withdrawal of Remark

Mr A.J. CARPENTER: The Leader of the Opposition referred to the Minister for Health as a jerk. That is unparliamentary.

Mr C.J. BARNETT: I withdraw.

Debate Resumed

Mr R.C. KUCERA: The Opposition made much of the fact that I come from a background of policing, a background of which I am very proud. I am also proud of the many members of the Police Force with whom I have served over the years. It was somewhat ironic that sitting opposite me proudly wearing his uniform was Superintendent Jim Migro. He and I worked together for many years in this field.

Several members interjected.

The ACTING SPEAKER: Leader of the Opposition!

Mr M. McGowan: The minister is thanking people.

Mr M.W. Trenorden: Rubbish! He is thanking himself.

The ACTING SPEAKER: Member for Avon!

Mr R.C. KUCERA: Superintendent Jim Migro has dealt with the results of those people who have sunk to the very depths of despair because of drugs. As Superintendent Migro related to me, it is somewhat ironic that we are taking a step, which many other police officers have not had the opportunity to take, of reforming and putting in place drug laws that deal sensibly with the issues that are foremost in our community today.

The end of this debate highlights the fundamental difference between our Government and the previous Government of this State. We have acted rather than leave police officers hanging in the air over their discretion

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

on a whole raft of social issues. I talked earlier about the fact that the previous Government never had the courage to tackle the major social issues in the community. I can recall almost three years ago now when I first stood for office that I said that the then Government was a tired Government that had run out of ideas, initiative and inspiration. The past 30-odd hours has certainly proved that. I am proud to be part of a Government that has new ideas. I am proud to be part of a Government that has the courage to tackle the most pressing and urgent social issues in our community. I am proud to have the courage to be able to stand up and do that.

I will work through a number of issues that arose during consideration in detail. I thank the member for Kingsley for raising the issue of the limit on the number of plants at a premise. I will seek advice on that issue from the Crown Solicitor's Office. Whatever the result of that advice, I will act on it.

On the query of the member for Merredin on Aboriginal aides, the advice I received during the debate was that Aboriginal aides are not able to issue infringement notices, as they have limited powers under the Police Act. They are neither constables nor special constables. That is the situation at this stage. That issue cannot be remedied by this legislation. If the member for Merredin wishes to take up that issue with the Minister for Police at some stage, no doubt she will listen to whatever he has to say.

The third issue concerned hydroponics and was properly raised by the member for Warren-Blackwood in terms of the legitimate hydroponics industry in this State. I am happy for my legal adviser, Mr Wayne Salvage, to offer a briefing to any people who contact the member for Warren-Blackwood on their concerns about the future of the industry. The part of the Bill on which the member for Warren-Blackwood said the Opposition would not call a division, but on which it did, was specifically placed in the legislation to keep organised crime out of the industry. That is one of the issues that has become part of the scourge in South Australia, because of the oversight on the part of that Government when the legislative base was introduced in that State. That legislative base is very different from the one in this Bill.

Mr C.J. Barnett: I am sure the kids will see the difference.

Mr R.C. KUCERA: We have again heard the Leader of the Opposition's message to children - it is a message that the Liberal Party has given for the past couple of weeks - that it is okay to use cannabis. They are the only ones in the State who are saying that.

Several members interjected.

The ACTING SPEAKER (Mr A.J. Dean): Members! Do not get excited.

Mr R.C. KUCERA: This is and has been a difficult debate. It is one of the first major debates, in terms of legislation, that I have been involved in as a member of Parliament.

Mr P.D. Omodei interjected.

The ACTING SPEAKER: I call the member for Warren-Blackwood to order.

Mr R.C. KUCERA: The big surprise in steering this Bill through the House has been the shallowness of the debate from the Opposition. All but a handful of members on the other side of the House approached this debate in a shallow way. Some members on the other side of the House approached this Bill in a sensible and reasoned way. I thank the member for Kingsley once again for her input on the legal and technical aspects of the Bill. She brought a degree of experience to the debate, which I appreciated and acknowledged. I also thank the member for Murdoch for his honesty on his views. As he said, his views have changed over the years. I thank the member for Murdoch for raising those issues in the House in the way in which he did. That proved the efficacy of this legislation and the sensible approach it takes: that people who make mistakes and misjudgments in their younger days will not have to live with that mark for the rest of their lives.

Mr P.D. Omodei: Does that mean we will get a confession from you on Lewandowski?

The ACTING SPEAKER: Member for Warren-Blackwood!

Mr P.D. Omodei: Are you going to tell us what happened at Belmont Police Station?

Withdrawal of Remark

The ACTING SPEAKER: Member for Warren-Blackwood, you will withdraw that remark.

Mr P.D. OMODEI: I withdraw.

Debate Resumed

Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pendal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Mr R.C. KUCERA: I am aware of the political courage that it takes to make those kinds of comments. At the end of the day, it simply proves this legislation. It proves that people who make mistakes when young can still become community leaders if they receive or choose to seek proper direction. That is the principle that has been forgotten in all the rhetoric. That principle is that people will experiment when young and it should not mark them for the rest of their lives.

Several members interjected.

The ACTING SPEAKER (Mr A.J. Dean) Order, members!

Mr R.C. KUCERA: Statistics show clearly that the principal group that this legislation will deal with are those aged between 18 and 25 years. Those people move through a period of their lives in which they make mistakes. That has been amply demonstrated throughout this debate, whether a person takes the negative, head-in-the-sand attitude that the Leader of the Opposition takes or whether a person takes the positive, egalitarian view expressed by others.

This is about creating a better quality of life for people. It is about people seeking out treatment they require and not besmirching themselves for the rest of their lives. People will be dealt with sensibly by this legislation.

When this legislation is passed by Parliament there will be a full program for education of the community. We will not make the mistake made in South Australia that allowed the Opposition to put out the types of ridiculous messages in which people are allegedly hanging out their bedroom windows in their pyjamas plucking pieces of cannabis off plants. That kind of legislation gives only one message: that it is okay to grow and use cannabis. Only one party in this State is giving out that message - the Opposition. I will not include the National Party because its policy clearly stated in 1998 that it supported this type of legislation. I will not include it with the other side of the House on this occasion.

It has been a privilege for me to put this legislation through the House. All my previous career was aimed at locking up drug dealers. I am very pleased to say that the Drug Summit and the subsequent committee have been absolutely firm that anyone who traffics or deals in cannabis will go to jail. It is as simple as that. That has been reinforced. The dealing provisions have brought down the number of plants that can be cultivated by almost 120 per cent. It strengthens the legislation and puts in place a very sensible, realistic and balanced piece of legislation.

The Leader of the Opposition said the other day that the Government would be judged on its record. He said this would be a defining piece of legislation in terms of the difference between the two parties. It is defining legislation because this Government has moved on the four main social issues in the State. The Government has had the courage to stand up and not sit with its head between its legs or stuck in the sand. As a party, it has had the courage to stand up and deal with the most pressing social issues.

Several members interjected.

Mr R.C. KUCERA: I am hearing the usual level of rhetoric from the other side. In deference to the change of Acting Speakers, I do not want to call that rhetoric the drivel that it is. I will move on as it is getting late.

Mr C.J. Barnett: That is as good as your 120 per cent reduction!

The ACTING SPEAKER (Mr A.D. McRae): The Leader of the Opposition has made it this far through this debate. I do not want to be the person who says that this warning is his last. Please take that as a genuine piece of advice. I advise other members that the sooner they allow the member on his feet to complete his contribution to this debate, the sooner they will be out of here.

Mr R.C. KUCERA: I thank the party for the support it has given me on this issue. I thank the Premier for his support and courage, and for helping to introduce this Bill. I commend the Bill to the House.

MR C.J. BARNETT (Cottesloe - Leader of the Opposition) [5.05 am]: I will make only a few brief comments. I want to say some things about the passage of this legislation. The Drug Summit was held more than 18 months ago. What is the urgency? This is not a complicated piece of legislation. It is a flawed piece of legislation, but it is not complicated. It took more than 18 months to draft. As the opposition leader of the House said, it was not declared an urgent Bill. It was always a Bill that would attract a lot of debate, but it would not have attracted an inordinate amount of debate. The second reading debate commenced on Thursday of last week, and almost all members on this side of the House spoke. I must say that it was probably the most informed and well-researched and presented second reading debate I have ever heard in this Parliament.

Mr J.C. Kobelke interjected.

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Mr C.J. BARNETT: The Leader of the House should read the speeches and give me an example of a poor contribution to the second reading debate by a member on this side of the House.

Mr J.C. Kobelke: I listened to most of the drivel.

Mr C.J. BARNETT: Every member on this side of the House took the trouble to read about and research the issue.

Mr J.C. Kobelke: That was not evident. The contributions were absolute drivel, and you should get on with yours.

Mr R.F. Johnson: You are a bullyboy. You are a nasty person.

Mr C.J. BARNETT: That is incredible. I place on the public record that it was without doubt one of the best second reading debates I have heard in my 12 years as a member of Parliament. It was noticeable that the Premier of this State did not once show his face during the second reading debate on what is arguably the most important social issue facing Western Australia. Indeed, he did not utter a single word in this debate. He appeared for only a couple of divisions when the gag motion was put. That was his contribution as Premier. I have never seen a Premier be so derelict in his responsibility to this House and a major social debate, particularly one that affects young people. History will record and remember that.

High and low moments occurred during the consideration in detail stage. I thank members on this side of the House, particularly the members for Kingsley, Nedlands and Alfred Cove. Despite the fact that they were limited in covering all the issues they wished and despite repeated use of the guillotine, they kept raising substantive issues about this legislation, even until the last half hour. The Labor Party pushed this Bill through with the use of the guillotine. It held its Community Drug Summit in this Chamber. That was the warm and fuzzy stuff. However, when it came to the crunch, the Labor Party guillotined debate on the Bill. It did so because it was not going down well with the community. The community was starting to understand this legislation, and it was concerned about it. That explains why the Premier was under instructions from his media staff to not show his face in the Parliament. It explains why he dreamt up the idea of a curfew in Northbridge. He wants to give the impression that he is tough on crime because the community sees this Bill as soft on crime. That is what that stunt was all about. Government members know that is the case. Half of them have told members on this side what really happened. That is the reality. The media know what happened. That was a stunt to try to distract attention from this Bill.

Even last night the opposition leader of the House put it to the Leader of the House that if we sat to perhaps 11.30 pm, we could complete the consideration in detail stage during the course of a normal sitting on Thursday. That would have taken us into the third reading debate, which by definition can go for only a few hours. This House could have completed that on a Tuesday after dinner. That would have been reasonable. However, for the sake of one day, the Leader of the House and the Government in their arrogance forced the guillotine motion. It was an absolutely arrogant and stupid action by the Leader of the House to show how important he is. It was done for the huff-and-puff Minister for Health. The Government did it for one day. Members opposite think that is pretty smart. However, the Government has now guillotined through a piece of legislation. It will never have the degree of moral basis that it otherwise might have had because of that. It has weakened the substantive position of this legislation.

This legislation will result in the increased cultivation of cannabis in our community. It does not matter what members opposite say about youths, adults, cautioning systems, education programs or signs in stores selling paraphernalia stating "Buy it but please don't use it" - I know what the signs will say - there is absolutely no doubt that there will be an increase in cannabis use and production. That is without question. Therefore, there will be an increase in the harmful effects of cannabis in our community, and none more harmful than the impact on mental health and the incidence of youth suicide. That will be the consequence. There will be young people in this State who, as a result of this legislation, will have access to and will use cannabis when they might not otherwise have done so. It therefore inevitably follows that young people in this State will lose their lives because of this legislation. That is the tragic but inevitable result of this legislation.

Throughout the debate, we have seen pretence, bravado and huff and puff from the minister. It does not matter what the minister has said and done, it has not disguised the fact that this Bill is about one thing - the decriminalisation of the possession of specified amounts of cannabis and of the cultivation of a specified number of cannabis plants. It does not matter what the minister says about its being illegal and unlawful. As I said at the beginning of my contribution to the second reading debate last week, in 1999 the resolution of the Labor Party

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was to decriminalise cannabis. Its election statement in 2001 was about decriminalising cannabis. Its instructions to the delegates at the Community Drug Summit were to decriminalise cannabis. They are the Labor Party's words, not mine. This has always been about the decriminalisation of cannabis.

The minister has tried to argue at various stages of the debate that the Government does not want to make criminals of people who make a one-off mistake. Neither do we. I do not think anyone in this House wants to do that. If that had been the objective, the Government would have introduced legislation specifically dealing with the criminality aspect. It might have extended cautioning systems or had a system of expunging convictions after a specific period. It would have dealt with that aspect if that had been its objective. However, it was never the Government's objective; its objective always was to decriminalise and essentially condone the possession of relatively small amounts of cannabis and the cultivation of a specific number of plants. The Labor Party was delivering to the cannabis users in that group within its party, and perhaps to the Greens (WA) and a section of the community. That is what the Labor Party did and members opposite know it. It was delivering on its commitment and its obligation to that group in the community. That is what it is about. The consequences of that for other people and families will be tragic.

I conclude with an observation about the passage of this Bill. The second reading debate was a very full and high-quality debate. The consideration in detail stage had its highs and lows. I am extremely tired. Most of us got up at six o'clock or so on Tuesday morning. We have effectively sat for almost 48 hours. Most of us have had only two or three hours sleep in 48 hours. That is the reality. No wonder at stages the debate became ragged, people's tempers became frayed, and insults, of which I contributed a few, flew across this Chamber. No wonder people made mistakes, because people are tired.

What happens now? A few speeches will still be made at the third reading stage - unless it, too, gets gagged. The Presiding Officer, the Clerk and the management of this Parliament have a duty of care to members of Parliament and staff. I hope every member of Parliament and every staff member can return safely to their homes. As leader of the Parliamentary Liberal Party, I have a concern, and I am sure my colleague the member for Avon, as Leader of the National Party, has a similar concern. I know that some country members on this side of the House, no matter what I or their wives or husbands might say to them, will inevitably drive some distance to their electorates later today. They will be tired, which will be dangerous. I hope that they can have a few hours rest before they drive home, but they will be keen to get back to their electorate. We are leading up to the Easter break so some members will be going to mass services and the like tonight. They will want to get back to their electorate and their family. They will be travelling in an extremely dangerous position. That should never happen.

I have been Leader of the House for eight of the 12 years I have been a member of Parliament. I presided over some late night sittings but never did I sit the House until 3.45 am one day and 5.15 am the next. That is absolutely irresponsible. However, if someone does come to some harm, it will be the fault not of the Leader of the House but of the Presiding Officer. At the end of the day, the Presiding Officer had an opportunity to act and he has a duty of care to the members and staff who work in this Parliament. The Presiding Officer failed in that responsibility. That should never have happened and I hope it never happens again.

Mr E.S. Ripper: Would you support a guillotine motion as a way of dealing with that problem?

Mr C.J. BARNETT: What a brilliant interjection. I said that all it took was to allow the consideration in detail stage to run out on Thursday, and it is agreed that that would have been concluded then. Questions could then have been asked and hopefully answered. However, some important provisions in this Bill have not been scrutinised in this Parliament. Perhaps the majority have, but a number of key issues have not been subject to parliamentary scrutiny, which weakens the legislation. Why has the Government done this? It has done it to save one day and perhaps another three hours debate on the third reading on a Tuesday night. Why did it do it? The heat was on and the Government could not stand the fact that the public and the media were starting to take some interest in the matter. The Government was also being questioned about the legislation. There was no urgency. If there had been urgency, the Government would not have allowed 18 months to elapse between the Drug Summit and the introduction of this Bill. There was never any urgency, and the way in which this Bill has been handled over the past 48 hours is a shame on this Parliament.

MR A.D. MARSHALL (Dawesville) [5.17 am]: In my contribution to the second reading debate I spoke about the intense disgust that I had for this Labor Government's legislation to decriminalise cannabis. I concentrated on quotes supplied to me by the New South Wales Parliamentary Library research service about the medical

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risks associated with marijuana use. I also talked in-depth about the ramifications of the use, abuse and addiction cycle of cannabis use and then quoted Abraham Lincoln's famous line -

You cannot build character and courage by taking away a man's initiative and independence.

That is something drugs obviously do. I also questioned the minister about the kind of a future he is attempting to give our grandchildren by encouraging young people to smoke cannabis. Now that some of the members have the opportunity to talk to the third reading stage of this debate, I want to elaborate even more on the medical risks associated with cannabis use by referring to more information sent to me from the New South Wales Parliamentary Library research service. One report divided the harmful effects of marijuana into acute and chronic effects and stated that for most people, the primary adverse effect of acute marijuana use was diminished psychomotor performance. That report found that it was inadvisable to drive any vehicle or potentially dangerous equipment while under the influence of marijuana. That reminds us that the campaigns about the negative aspects of drinking and driving will now have to be widened to, "Do not smoke dope and drive." Does the Minister for Health for instance, want a friend or relative killed or maimed by a drug-affected driver? The odds of this happening will dramatically increase as a result of this legislation.

To allow all Western Australians to grow two marijuana plants in their backyard is just asking for trouble. It will lead to lower drug prices and increased availability. It attacks the vulnerability of youth. Just as this Government's legislation dropped the age of consent for homosexuals from 18 to 16 years and encouraged older people to prey on young lads, so too will this legislation allow drug sellers to encourage -

Mr J.N. Hyde interjected.

Mr A.D. MARSHALL: The member should just shut up for one minute. I am also getting irritable. This legislation will allow drug sellers to encourage youngsters to use cannabis. Again, I remind the minister of the cycle of use, abuse, and addiction. This Government's social beliefs have become quite scary. This Government, which boasts about having been voted in because it listened to the community, does not listen to my electorate. This petition I have with me, which was circulated by people in south Mandurah, received a 90 per cent result from people who are against the decriminalisation of cannabis. The petition states -

We the undersigned, strongly oppose the Labor Government's legislation which decriminalises cannabis use and cultivation. Cannabis use, possession and cultivation should be illegal and a criminal offence. Cannabis is a dangerous drug with serious mental and physical side effects. We already have enough problems in the community with alcohol abuse and the health impact of tobacco smoking without adding a third tolerated drug to the list.

I return to the risks associated with cannabis and I again quote from the New South Wales Parliamentary Library Research Service, which states -

It has been assumed that young cannabis users give up the habit when they enter their thirties . . . The British crime survey (1996) shows that although the prevalence of cannabis use falls after the age of 30, the greatest proportional increases in the period 1991-1996 were in older age groups, with incidence of past use doubling in the 40-44 age group -

That was 15 per cent -

and trebling in the 45-59 age group -

That went from three per cent to 10 per cent. Another quote states -

Neil Montgomery estimates that approximately 5 per cent of regular cannabis users are heavy users, consuming as much as 28 gm of cannabis resin per week. "These are people who have become dependent on cannabis; they are psychologically addicted to the almost constant consumption of cannabis . . . Becoming stoned and remaining stoned throughout the day is their prime directive.

Now regular cannabis users need go only into their backyards to ensure they keep getting those kicks.

When I read medical advice like that, I wonder why the Government is hell-bent on destroying the initiative and independence of youth in Western Australia. To confirm that statement, I will read a letter from a constituent of mine, who is a leader in the community, but whose son went off the rails with marijuana. I hope the Minister for Health will take time to listen to this letter. I naturally will not mention the person's name. The letter reads -

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Hi Arthur - Sorry this has taken so long I also wanted to get to talk to our GP who was horrified at the treatment we received from PMH and wanted me to take it further as he was seeing people treated the same the same sort of treatment meted out repeatedly.

Unfortunately, he has been away but if I get to speak to him this week, I will send you another fax or email you.

As Mandurah/Peel region has such a huge drug problems and high suicide rate I believe it has become necessary that we have:

- A Psychiatric Emergency Team (PET) available in Mandurah (at present it only comes as far as Rockingham)
- A maximum waiting time for therapist appointments when referred by a psychiatrist. A waiting time of six to eight weeks is far too long for a patient in need.

The lady who wrote this letter knows all about that. Her son was almost suicidal. It was only because of parental backing that the lad was saved. The letter continues -

- A facility whereby a qualified person can visit a needy patient his/her home if family, friends consider them at risk.
- Better communications between hospitals out of the area so that when a patient is sent to a hospital other than Alma Street (as it may be full) he/she may get an appointment when discharged from hospital as soon as required at Peel Mental Health and his/her notes, medical records etc will be available at Peel when required.
- Better communications between the Peel Mental Health and patient's GP.

Cheers for now.

The minister has a mental health system that is out of control. He cannot supply the necessary services to drug-affected youths, yet he supports this legislation. How many drug-affected suicides will there have to be before the Premier and the Minister for Health admit they have made a mistake. I reiterate the words of previous speakers: the Premier of this State has buried his head in the sand on this important legislation and has attended this marathon debate for only a couple of moments. He should be ashamed of himself.

The "House of Lords Select Committee on Science and Technology, Ninth Report" states -

The Institute for the Study of Drug Dependence likewise conclude that, while physical dependence is rare, "Regular users can come to feel a psychological need for the drug or may rely on it as a "social lubricant": it is not unknown for people to use cannabis so frequently that they are almost constantly under the influence."

I have many medical quotes, but I would like to finish with just one vital one. The report states, in an earlier paragraph -

Professor Griffith Edwards, a member of the Advisory Council on the Misuse of Drugs . . . said that, using internationally agreed criteria . . . there seemed no doubt that some regular cannabis users become dependent, and that they suffer withdrawal symptoms on terminating drug use. According to the WHO report, cannabis dependence is characterised by a loss of control over drug use, cognitive and motivational impairments that interfere with work performance, lowered self-esteem and often depression. Professor Hall wrote, "By popular repute, cannabis is not a drug of dependence because it does not have a clearly defined withdrawal syndrome. There is, however, little doubt that some users who want to stop or cut down their cannabis use find it very difficult to do so, and continue to use cannabis despite the adverse effects that it has on their lives." In oral evidence he added that users who sought treatment for cannabis dependence had typically taken large amounts of cannabis every day for perhaps 15 years or more.

I know the minister has a reputation for talking his way out of a paper bag, but does he think that his allegedly cooked-up forum was aware of the community harm it was recommending that the minister pursue?

In summing up, I simply ask what two backyard plants will be worth on the street, and what will they do to a youngster who wishes to experiment with drugs; to the health and wellbeing of happy families; to the addict who lives next door; to the out-of-control home invasion statistics; to suicidal youth; and to youngsters who hear the

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wrong message when it is said that a little bit is okay. If this legislation gets through, the minister's reputation will be ruined. I am hoping that at least half of the government members will vote against this Bill; that the young parents on the government side will think of their children's future; that the former teachers on the government side will oppose Caucus direction and have the courage to vote with their conscience; that the member for Mandurah, who was an advocate for youth development, will not be shown up as a hypocrite; and that the sports people on the government side, whether of Olympic or just participant standard, will lead the way to help defeat this Bill. They know that people who use performance enhancing drugs are seen as cheats and fools. The people who encourage drug use are seen as cheats and the scum of the universe. I do not want Western Australians to be encouraged to use cannabis, or the progression of use, abuse and addiction become a majority, rather than a minority, and I do not want our youth - the future of Western Australia - to have their initiative and independence taken away by a Labor State Premier and a Minister for Health who seem to have sold their soul for a minority vote. I am emotional when I say that I wholeheartedly disagree with this legislation.

MR J.P.D. EDWARDS (Greenough) [5.30 am]: Nothing I have heard in the past two days or nights - I lose count a little - has changed my view that this Bill does nothing more than decriminalise cannabis. I return to some comments I made in my contribution to the second reading debate. The minister and the Government he represents should encourage positive roles for young people, not provide an avenue of temptation. The Bill fails the people of Western Australia, especially young people, and those in the agencies who will have to pick up the pieces when problems arise. I have heard nothing to change my firm view on that aspect.

Other members have mentioned organised crime; driver safety - I throw in work safety again - the temptation for schoolchildren; and probably the area of greatest impact, indigenous communities. This is a major factor as this Bill may encourage those communities to use cannabis more than is currently the case.

I comment on adopting a soft line on cannabis. I made some mention in my contribution to the second reading debate to the United Kingdom experiment, and I draw on it a little further during the third reading stage. It is ironic that one of the main characters involved in the decriminalisation of cannabis in the UK should be an ex-superintendent of police. He was known as the "Drug Tsar". The Home Secretary of the UK Government, David Blunkett, decided to take a softer line on the possession of cannabis. The Government last year downgraded the drug to one of less harm; that is, it was reclassified from a class B to a class C substance. I understand that the London Metropolitan Police Service made this change, and other forces might follow suit, marking the expansion of an experiment conducted in Brixton; I mentioned this matter during the second reading. This experiment has bitterly divided opinion among Brixton residents.

Ministers have denied, as we have heard today and in the past couple of nights, that relaxation amounts to decriminalisation. However, it means that the possession of cannabis for personal use will no longer automatically be an arrestable offence. The critics said the policy would send confusing signals, as is the case with the Bill before the House. The opposition to this move in the UK was led by former superintendent Keith Hellawell. He was the so-called "Drug Tsar" appointed by the Blair Government. As a result of his opposition to the softer line, he was demoted last year. Keith Hellawell had an illuminated career in the UK police service. He was a police chief. He was prepared to take on the role of "Drug Tsar", but he was not prepared to see a softer line adopted on cannabis. He remained for a while a part-time drug adviser to the Government, despite losing his more grandiose status. He made it clear that the decision to reclassify the drug from a class B to a class C substance was the Home Secretary's personal initiative. I do not know where he got his advice; it certainly was not from me. An article in the UK's *The Daily Telegraph* stated -

Mr Hellawell's resignation from his position was all the more surprising since, when he was appointed shortly after Labour's election victory in 1997, he was considered to be a "liberal" on cannabis.

His resignation left the Home Secretary looking exposed yesterday and also brought to a head 10 months of growing disenchantment with Government policy.

Even people such as Mr Hellawell, who had a liberal approach, understood the dangerous direction the Government was taking. Another article in *The Daily Telegraph* on 11 July 2002 states -

However, Mr Hellawell said the Government was going further than any country in the world toward decriminalising cannabis.

"There are strains of cannabis which are extremely powerful, hallucinogenic and very dangerous," he said.

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“The perception now, certainly in Britain, is that the Government does not care about personal possession of cannabis, which gives a totally misleading message to parents, children and the public as a whole.”

I venture to say that that is exactly what is happening in this Parliament today. The article continues -

Teachers’ leaders also expressed concern. John Dunsford, the general secretary of the Secondary Heads Association, said: “For many years, cannabis has been understood to be dangerous. The Government is now recategorising it, with limited explanation and without the support of its drugs tsar.”

I refer to Labour MP Kate Hoey, whom I mentioned during the second reading debate. It is worth repeating that the Labour MP for Lambeth, who was one of the most vociferous opponents of the softly, softly approach to the cannabis experiment in Brixton, has listened to her constituents in the past six months. Previously she had no particular views on the subject, but has been influenced only through contact with her constituents. In an article in *The Daily Telegraph* on 11 July 2002, she is reported to have said -

“Every time I attend liaison meetings between residents’ groups and police the big issue was the number of dealers on the streets - people were being propositioned all the time and complained that the police were doing nothing about it,”

She said that it was clear such complaints were not confined to Lambeth’s middle-class enclaves, filled with residents concerned chiefly about their property prices. She is reported to have said -

From mothers on the Stockwell Park Estate to local GPs, lunchtime drinkers in a pub on Brixton Road and Church leaders, the message was clear - that the Lambeth pilot was making life worse for everybody except the dealers, who were bolder and more prevalent than ever.

“Everywhere I went I was hearing the same story,” Ms Hoey said. “The policy was sending out completely the wrong message. How do parents try to stop their children getting into drugs when the police appear to be saying it’s OK to smoke cannabis?”

I believe that is exactly what this Bill does. I think I have got my message across. I do not need to go on. However, I will conclude by reading the last two paragraphs of this article. I read one of them during the second reading debate. Ms Hoey is reported to have said -

“This entire scheme -

which was being trialled in Brixton -

was ill-conceived and badly executed. What is the point of having a pilot scheme if you are not prepared to heed the results?”

She said the Home Secretary, Mr Blunkett, -

keeps referring to all his ‘experts’, but you don’t need a professor to tell you that this policy will mean more dealers on the streets and more young people coming into contact with drugs.”

I believe the minister is taking the wrong direction. The Government is sending the wrong message to the people of Western Australia. I think the Government will regret the day it introduced this Bill. I have not been impressed with the passage of this Bill through this House. The leadership shown by the Government has been woeful. Although I am a new member of this House, I have heard that this is probably the first time we have had to sit for two days and two nights in a row. That is appalling. It is very difficult for those of us who are country members. I appreciate the fact that I am one of the lucky members because I can catch an aeroplane and be flown back to my electorate. Many country members have to drive four or five hours to get back to their electorates. I include government members. As I said, I believe the Bill sends the wrong message and I think Western Australia will rue the day this Bill was introduced.

DR J.M. WOOLLARD (Alfred Cove) [5.39 am]: I was a bit worried that if I stood up other members might not get the call, so I will keep my comments short and hope that the Leader of the House will allow other people an opportunity to say a few words.

In speaking to this third reading I must say how disappointed I am in the Government for repeatedly gagging the debate. When the Bill is transmitted to the upper House people will not be able read explanatory comments. The Minister for Health said he would undertake research on the number of plants that will be considered legal in a household in relation to the number of residents. He has not stated whether households will be investigated.

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He did not explain whether the police could act if 140 grams of cannabis was found on a premise belonging to five people who claimed that it belonged to all of them.

Throughout this debate, members of the Opposition have supported their arguments with research on the damage cannabis can cause people. Their information has shown that the use of cannabis is the start of a downhill trend towards the use of hard drugs. People who started smoking cannabis from the ages of 12 and 13 have shown signs of depression and psychosis later in life. Given the harmful effects of cannabis on people's mental health, the minister was questioned repeatedly about our mental health services because we know that increased use of cannabis will increase the need to access mental health services. The minister did not provide any assurance that more funding would be provided to mental health services. He has been unwilling to discuss the costs to the community that will result from this Bill.

When asked about the educational program that people can elect to attend rather than pay a fine, the minister again was unable to provide answers. He could not tell us anything about it. I hope that by the time this Bill is transmitted to the upper House he will have some of the answers that he has been unable to provide in this House. I hope also that he will investigate further the issue of marketing that will arise from this Bill. The minister was unable to advise which premises would be able to sell the paraphernalia associated with cannabis.

Members referred on many occasions to community concern about a potential increase in crime as a result of the introduction of this Bill. We know already, as the local police will confirm, that one of the main reasons young people commit crime is because of their drug habits. We also know that this legislation will lead to greater drug use in the community. The Government has not listened to the community. A minority faction of the Labor Party has pushed this Bill through; it has certainly not arisen as a result of community wishes. The community is very opposed to the Bill. I believe that is why the Leader of the House has continually gagged debate. He does not want the full facts out in the community before the Bill goes to the upper House. He has been doing his very best to keep as much of the information as he can under the table. I wonder how this Government will respond in the next few years to the many parents who will lose their children because of youth suicides or road traffic accidents associated with cannabis use. This Bill will result in more than physical costs to us and our health system. It will result in a human cost and a cost to families who will lose loved ones because they may take their own lives or their own lives and someone else's life on the road.

The Government has not looked at those factors and this Bill has been pushed through quickly. That is why I moved that this Bill go to a joint select committee. I hoped that if the Bill did go to a joint select committee, more research could be done and maybe the Government could take back the facts to the faction that is driving the Bill. Perhaps then a wiser decision might be made. I hoped it might be decided to look at the issue of drugs but not to decriminalise them. I was also very concerned when I saw in one of the clauses that the Bill was to be reviewed in three years time and that possibly following that, there might not be a need for the Bill any more.

Some members of the Government believe that all drugs should be legal. That is recorded in *Hansard* and the reports. The Government came into power on a platform of accountability and of listening to the community. I do not believe that this Bill represents accountability or listening to the community. I held a drug forum in my area, and no-one came along to support the Bill. People came along to hear about the Bill and what might happen as a consequence of it. Different groups discussed the problems the community has with drugs. I could probably say that everyone who left that forum did so believing that this legislation was the wrong way to go.

I am very disappointed about this Bill on behalf of the community and the families who will suffer losses; not solely the loss of lives but the loss that results from the problems that families experience when a family member is hooked on drugs.

I am also very disappointed at the implications for criminal rackets and drug dealing. This Bill is basically telling people that it is all right to grow cannabis. The Government keeps saying that it is not legalising cannabis, but today it is illegal to grow cannabis, yet in two months time when this legislation is proclaimed, only people caught with more than two plants will be in trouble.

When I spoke about the undercover police officers, during which time the Leader of the House gagged the debate three times, it was not because I opposed that point but because I felt that it should be on the record. This Bill will give the Police Service and the Commissioner of Police the ability to sign up people as officers to act in this area. I would support anything that would lower the level of drug use in Western Australia. I am very disappointed, because this Bill will not do that; it will result in an increase in drug use. People will find out about this Bill. They will find out that if they are caught with a certain amount of cannabis, they will be able to pay a fine, go to court or attend an education session. The people who make money from these drugs will either

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pay a fine or, if the education session is a quick half-hour at a local health centre, go along to the education session.

I hope that the Government will reconsider this Bill. I hope that the debate on this Bill in the upper House will not be gagged in the way that it was in this House. I think it was gagged so much in this House because the minister was not prepared for the questions. I do not think that he knew the Bill or the answers. The Leader of the House used the gag to protect the minister. Those questions have now been put to the minister. The Government now has the opportunity to do its homework so that when this Bill goes to the upper House, those questions can be answered. On behalf of my community, I put on record my disappointment with this Bill and this Government. The Government will wear the results of this Bill.

MR B.K. MASTERS (Vasse) [5.52 am]: Like the member for Alfred Cove, I have found many aspects of the legislation and the way in which it has been handled by the Government very disappointing. One of the most disappointing aspects has been the basic lack of honesty in this debate over the past 48 hours or thereabouts. In my estimation, there has been an almost total failure to address some key issues, such as the link between cannabis use and mental illness, including suicide. The minister tried to portray our concerns in such a light as to make us appear ridiculous. I do not suggest that every person, young or old, who tries cannabis will end up with a mental illness or be tempted to commit suicide. However, the statistics and medical research show beyond doubt that a proportion of those who use cannabis have a significantly increased likelihood of developing a mental illness or of becoming depressed to the point of contemplating or attempting suicide. No-one is sure whether that is linked to a genetic or environmental factor, but the statistics show a clear link between cannabis use and mental illness, including suicide. This Government and this minister have failed to address the issue in a way that satisfies members on this side of the House. There has been a near total failure by the Government to address the clear link between cannabis and diseases of the human body, such as cardiovascular disease. I will quote later from an e-mail sent by Hon Christine Sharp to a constituent of mine in which she states that, in small quantities, cannabis is harmless or even beneficial. Based on my understanding of cannabis, when it is inhaled it contains a range of chemicals at least as complex and carcinogenic as a person is ever likely to find in tobacco smoke. It carries a far greater range of chemicals that are likely to cause cardiovascular disease, cancer, high blood pressure and a range of other problems. This Government, by pretending there is no link between cannabis use and the health of users, is being less than honest in dealing with the community of Western Australia on this issue.

There has been a failure to provide leadership, vision, hope and inspiration for young people at what is often a very vulnerable stage of their lives. In other words, as other members have said, this legislation tells young people that cannabis laws are not being softened or decriminalised in Western Australia but, nonetheless, a subtle message is going out that the risks of trying or using cannabis regularly are not as severe as members on this side of the House believe.

I have talked briefly about suicide. Young people experiment with a range of things in life, such as sex, tobacco and illegal drugs such as cannabis, from a very early age. It can be from eight to 10 years of age, but it is more commonly from 12 to 14 years of age or older. Those children need someone in their lives to provide leadership, vision, hope and inspiration to let them know they do not need to do drugs. They do not need to experiment with things that we, as adults and as people who should know better, know will cause problems for them in their lives and health further down the track. That sort of message has been totally ignored and left out of this debate to date.

It is disappointing that there is very little need for this legislation other than a determination and commitment by the Government to buy the support of special interest groups at the next election. I referred earlier to the e-mail sent by Hon Christine Sharp to a constituent. She gives her reasons for supporting the deregulation and decriminalisation of marijuana laws. She states -

If people grow their own dope it will remove huge income from crime, and lessen the contact of young people with dealers (who also push heavy drugs).

My understanding is that there is already so much cannabis available in the wider community that it is not as much a conduit to heavy drugs in this State as Hon Christine Sharp might have us believe. She goes on to state -

Lastly I believe that marijuana is less harmful than alcohol and tobacco.

...

In small quantities cannabis is harmless or even beneficial.

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I totally reject those statements from Hon Christine Sharp.

This Government believes - wrongly in my view - that it is beholden to the green movement for what happened at the last election just over two years ago and what it hopes will occur at the next election in 22 months. The Government will suffer a significant electoral backlash because it has misread the community.

I was also very disappointed by the shallowness and superficiality of many of the replies and explanations that were provided by the Minister for Health. He tried to bluster his way through the consideration in detail stage. The minister treated both the Opposition and this House with a certain amount of contempt by refusing to address the issues raised by members in this place who have concerns about or objections to various parts of this Bill.

I am also disappointed because some Labor members tried to bully, to some degree successfully, certain members on this side of the House. In particular, there were attempts to bully the member for Nedlands, who is a fairly strong character and was generally able to withstand those attacks. I also have no doubt that there were deliberate attempts to bully the member for Alfred Cove into keeping her peace and saying as little as possible. Whether members agree with what any member in this House says, the bottom line is that we are elected to represent our communities. Bullying the member for Alfred Cove into not saying what she wants to say is contrary to the processes that have been set up to ensure that this House delivers, as much as is possible, good government under the Westminster system of democracy.

I am very disappointed with the ridiculous sitting hours we have experienced over the past two days. I do not know what people on the other side of the House believe will happen once we adjourn, but I will go to my unit in Como and go to bed because there is no way that in my present state I will attempt a two-and-a-half hour drive down south. I certainly will not risk mixing with the holiday traffic. Many people will be travelling south to my electorate for a two, three or four-day holiday in the Margaret River and Busselton areas. These sitting hours are absolutely ridiculous. My productivity and, I suspect, the productivity of many members in this place has been significantly impaired by the stupidity of the way in which this debate has proceeded.

I am disappointed with the Leader of the House for his use of the guillotine. It was not necessary. Much better outcomes could have been negotiated with members on this side. However, he chose to be a bullyboy. He has the numbers, and he got away with it.

Dr J.M. Woollard: I am an Independent member in this House. You suggested that the Government used bully tactics. It can use whatever tactics it wants. I can hold my own in this House against the Government and against the Liberal Party.

Mr B.K. MASTERS: I certainly want the member to do exactly what she said. Nonetheless, I believe the Government tried to bully her into submission. I am disappointed for two more reasons. Most government members of Parliament sat on their backsides and said nothing during the debate. They made no contributions at all. I hope they will be accountable to their electorates, but as they failed to stand up and tell us what they think about some of the subtleties and complexities of this legislation and the concerns that I am sure they harbour about the legislation, I think they will suffer electorally at the next election.

Finally, my other disappointment is the failure of the Premier to be in this House to listen to this debate for more than a couple of minutes. The Premier is obviously a busy person; I do not argue with that. I am not concerned that he was not in the House for the entire debate. However, the fact that he was not in this House for more than a couple of minutes of the debate means that he, like other members opposite, treats this place with contempt, and I find that to be totally unacceptable.

Some of the issues that were raised in the debate need to be repeated. In Lambeth, 381 cautions were issued and the average amount of cannabis found in the possession of those 381 people was five grams; yet here we are about to pass legislation through this House allowing people who possess six times more than that to be subject to a caution. I consider the 30-gram level to be so close to the amount that should be considered to be dealing that it justifies far heavier action by the Government than that proposed in this legislation. I hope the member for Kimberley gets a copy of the newspaper article from New Zealand that refers to cultural genocide. So far I have heard no expressions of concern about the issue of Aboriginal people using marijuana, in addition to some of their other problems, including excessive alcohol use and the ingestion of inhalants. I hope that someone on that side of the House takes the issue seriously, because at the moment they are not.

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I also need to remind everyone that the Quit program, which is designed to reduce smoking in our society, is currently spending \$2.83 million a year. The breakdown of the major costs for a public education campaign associated with cannabis use is \$292 440, of which \$20 000 is for “self-help materials for stopping or cutting down on cannabis use”. It is an absolute pittance and a travesty that so little money is provided to try to get the “don’t do it” message out to the wider community.

I will conclude soon, but I will briefly touch on the benefits of this legislation. I have been able to come up with two benefits, one of which has not been mentioned at all in this debate; that is, the medical uses of cannabis. It is something I support, but the Government has not even thought about it and this legislation does not touch on it, so clearly the Government does not see the use of medically prescribed cannabis in certain restricted instances as a beneficial use, so let us forget about that. Instead, the only benefit of this legislation is that some people will not have a criminal record against their names if they are found with cannabis in their possession. I remind everyone here that that applies only to people who are 18 years or older. They will not have a criminal record if the police officer apprehending them chooses not to press charges but instead issues them with an infringement notice or gets them to go to an education centre. As the minister has pointed out, these 18-year-olds are already adults. The minister said that they become adults on their eighteenth birthday. What is the message that the Government is sending to these new adults? The message is about rights without responsibilities; that is, people have the right to smoke or otherwise use cannabis, but they should not worry because they will not have any criminal conviction or serious conviction recorded against their name if they are caught. They do not have to display any responsibility.

Returning to what I said earlier, the message that is being sent out to young people is one lacking in hope, inspiration and vision. These young people are at an age at which they are influenced by their peer groups and all the people in our society. This Government’s message is, “You have the right to smoke or otherwise use cannabis; and do not worry, we will remove some of those responsibilities from your shoulders. You will not get a criminal record if the police officer chooses not to take the matter further.”

The effect of this Bill is to decriminalise in a discriminatory manner, at the discretion of police officers, the possession of 30 grams or two plants of cannabis or both. That is what this Bill is all about. No where in the legislation is there any wording to indicate that we are decriminalising, weakening, softening or legalising marijuana. However, that is the effect of this legislation.

MR M.W. TRENORDEN (Avon - Leader of the National Party) [6.12 am]: This Bill reminds me of the ancient art of elephant mating. It started with lot of noise and a considerable amount of dust and has taken two years to deliver. This Government has delivered this Bill. This Government has the capacity to bring legislation into this place and pass it; it has every right to do that. It will now either win or lose depending on how the public see it.

The only point I will make about the debate is the total lack of response from the minister about resourcing the education program for regional areas. The minister is still silent on that matter. He was silent on it all through the debate. That probably means that the option for education will not be available to many regional people, which is of concern to the National Party. It will also mean that there will be a scantily resourced drug team in the central wheatbelt, and Northam will have a slightly harder and tougher life because of it.

Mr E.S. Ripper: Let me get this right. You want the educational option for regional people. You do not want them to be fined.

Mr M.W. TRENORDEN: This Government has passed the Bill, which is its right. The House having passed the Bill, I would like to think that this Government would do something about education. However, the minister made it clear that that will not happen. We will let the people of rural and regional Western Australia know that.

MR P.D. OMODEI (Warren-Blackwood) [6.13 am]: Due to the hour of the day, I will not take up much time. However, I want to take part in this final stage of debate, as I have in all other stages during the progression of this Bill. First, I thank the members for Kingsley and Nedlands for their contributions, which have been outstanding, at least during the past 18 hours of this session. They probably only had a couple of hours sleep between this 20-hour session and the previous one.

A highlight of the debate on this legislation has been the incompetence of the minister in his handling of it. He has adopted a completely adversarial, political approach to the legislation instead of debating it rationally. Another highlight has been the complete lack of attendance of the Premier and the Minister for Police in the

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whole of the debate, which is an absolute disgrace. The legislation will only increase the amount of marijuana made available for young people and people of all ages in Western Australia. This legislation is like a Swiss cheese - there are holes right through it.

As the Leader of the National Party said, we already have serious deficiencies in funding for health, particularly in the area of mental health, in regional Western Australia. The increase in the use of cannabis will only make that situation worse. It is at crisis levels in Western Australia today.

Finally, all we have achieved as a result of this legislation is to draw ridicule on ourselves as members of Parliament. I lay the blame for that fairly and squarely at the feet of the Leader of the House and of the Labor Party, in their obsession to get this legislation through. We must have a good, hard look at ourselves. What has the Leader of the House achieved? He has gained one week by sitting the way he has. We could have sat until a reasonable hour - midnight - last evening and tonight. The Leader of the House chose not to do that. What will the people of Western Australia say over Easter, as they sit around talking about what the Government of Western Australia has been doing in the past few months? They will say that the Government has passed legislation that will increase the availability of marijuana to vulnerable people in the State. They will say that the Government sat at ridiculous hours and that it placed staff and members at risk. I feel quite ashamed that after 15 years in this place members continue to sit around at all hours of the night dealing with this kind of legislation. I have respect for the advisers of the minister who sat in this place. I wondered from time to time what they thought of the legislation. To gag the legislation as well as guillotine it, added further insult to injury. That is just not good enough, Madam Deputy Speaker. We have gained a week. Ultimately the legislation must pass through the Legislative Council and must have in place regulations and education arrangements. I do not believe that we have achieved anything great for Western Australia as a result of this debate. All we have done is draw ridicule on ourselves as members of Parliament and on this institution.

MR R.F. JOHNSON (Hillarys) [6.16 am]: I will be brief. I do not normally take part in third reading debates. I normally make a contribution to the second reading debate and the consideration in detail stage. However, it is important to put on record the situation that has arisen in this place with this dreadful Bill that will be passed by the House. This Bill will be the shame of this House, the shame of this Labor Government, the shame of the minister who has carriage of the Bill, and the shame of the Premier, who everybody knows has not spent one minute in this Chamber during the debate. The Premier came into the Chamber three times: first, for a quorum; secondly, for a gag motion on the debate; and, thirdly, for the guillotine motion moved by the Leader of the House.

Members have said many things in this third reading debate. I want to put on record an offer that I made in good faith to the Leader of the House. In the past few months I have done my utmost to cooperate with the Leader of the House for the benefit of the House and members. I have cooperated with the Leader of the House to ensure that members did not speak for too long and did not filibuster. This House has produced a lot of Bills, which was because of goodwill. I took the Leader of the House on trust and I put some faith in his word.

I want it recorded that I said to the Leader of the House yesterday that we on this side of the House would be more than happy to sit until 11.30 pm on Tuesday while we were in the consideration in detail stage and that if we sat until then, I would guarantee that this side of the House would complete the consideration in detail stage of the Bill by four o'clock at the latest on Thursday. It is now Thursday. Members lose track of time in this place. We have sat so many hours and had so little sleep that the days have blurred into one. I gave the Leader of the House a guarantee that we would finish the consideration in detail stage by four o'clock on Thursday so that people could get away at a reasonable time to enjoy Easter. Everybody could go home for Easter feeling fairly refreshed. They would not be over tired, as they are now. I said we would deal with the third reading stage on the first day back after the recess, which is a Tuesday. I said to the Leader of the House that he could keep us here until we finished the third reading. Under those circumstances, there would have been no need whatsoever to use the gag or the guillotine, because opposition members would have been concise and fresh, and there would have been less bad feeling in this Chamber, and less animosity. This Bill could have been dealt with appropriately. We oppose it, the Government promotes it, but it could still have been dealt with appropriately, professionally and without the sort of animosity that has existed over all this period.

All members in this Chamber are exhausted. If they are not, they have not been doing their job properly. Members on this side of the House will be exhausted, because we have been doing the work, while the vegie patch on the other side can go off and sleep, and need only come in when the bells ring, when there is a division for a gag or whatever purpose. Members on this side of the House have done a lot of work, so we are very

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exhausted. I do not feel sorry for us, and I am not whingeing for us. I feel sorry for the staff in this House. I want to take this opportunity to put something on the record. I will not quote it verbatim, because it is uncorrected *Hansard*.

A government member: Is it a poem?

Mr R.F. JOHNSON: No, it is not a poem, but it could be. It is what the Leader of the House said in this House on Tuesday, in a brief ministerial statement on work-related injuries. I will paraphrase it. He said he was sure that every member of the House would agree that all workers have the right to return home each day from work fit and healthy. However, for far too many people in this State's work force, that is simply not the case. The seriousness of the problem is reflected in figures, and the Leader of the House goes on to tell us what the figures are. What total hypocrisy! Here we have the minister responsible for working people in this State going home fit and healthy, and what has he done? He has put every life in this Chamber, and every life in this building at risk because of the tremendous number of hours that people have had to work here. He is well aware that when he played this silly game many months ago, a staff member ran off the road in her car. It was not publicised, but he knows about it. I would have thought that just knowing about that fact would have given him a bit of a conscience, and the desire not to see it happen again. He says they can have a Cabcharge voucher to get a taxi to go home. They do not get one to come back again to pick up their cars.

Mr J.C. Kobelke: Yes, they do.

Mr R.F. JOHNSON: No, they do not. I suggest the minister obtain advice on that, but I can tell him they do not. They get the voucher one way, the same as members of Parliament can get a Cabcharge voucher one way. However, what is the good of that when it is necessary to pay for another taxi back to pick up their car?

The DEPUTY SPEAKER: I have allowed a fair bit of latitude during the third reading stage. However, that is about to come to an end, considering the time. The member for Hillarys has been in this place long enough to know what the third reading stage is meant to address; that is, the Bill as it now exists after consideration in detail. That is what I would ask members to address themselves to. It is not a free-ranging debate on sitting hours. The member for Hillarys might like to now turn his attention to the third reading of the Bill.

Mr R.F. JOHNSON: Yes, Madame Deputy Speaker, I certainly will. The third reading of the Bill reflects what has happened in the consideration in detail stage, I understand.

The DEPUTY SPEAKER: Yes, as it relates to the Bill.

Mr R.F. JOHNSON: It deals with what comes out of the Bill as a result of consideration in detail. Madam Deputy Speaker, I am not canvassing your ruling. I relate what happened in consideration in detail.

The DEPUTY SPEAKER: I am sure the member understands the ruling.

Mr R.F. JOHNSON: Absolutely. I was about to bring my remarks to a conclusion, but I was interrupted by some members in the vegie patch who took me off course a little.

Mr P.D. Omodei: They're hydroponically grown.

Mr R.F. JOHNSON: Yes. I want my comments on the record because they indicate a lack of cooperation in the consideration in detail stage.

The DEPUTY SPEAKER: I think you have done that.

Mr R.F. JOHNSON: I agree. The last words I say before I resume my seat are that, unfortunately, I have lost faith and trust in the Leader of the House. An agreement was made at one stage that we would finish at 4 o'clock on Thursday afternoon after a good night's sleep on Wednesday night. All this process has saved sitting for one day, not one week, as a member said earlier. One day has been saved on a significant Bill that will pass any minute now. Lives are to be put at risk. I say to the Leader of the House: was it worth it?

MR J.L. BRADSHAW (Murray-Wellington) [6.26 am]: Like many members, I do not normally speak on the third reading stage of Bills. However, I feel so passionate about the effects of this Bill that it is important I have a last word on it. I find it ironic that the Bill is handled by the Minister for Health because everybody knows the drastic effects of cannabis ingestion on people's health. I refer to the carcinogenic effects and the effects on babies. I refer also to hyperactivity, learning difficulties and cannabis use at school leading to addiction.

Extract from Hansard
[ASSEMBLY - Wednesday, 16 April 2003]
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Dr Janet Woollard; Mr Bob Kucera; Mr Matt Birney; Ms Sue Walker; Acting Speaker; Mr Bernie Masters; Mr John Kobelke; Deputy Speaker; Mr Dan Barron-Sullivan; Mr Phillip Pandal; Mr Brendon Grylls; Mr Paul Omodei; Speaker; Mr Rob Johnson; Mrs Cheryl Edwardes; Mr Tony McRae; Ms Katie Hodson-Thomas; Mr Colin Barnett; Mr Terry Waldron; Mr Max Trenorden; Mrs Michelle Roberts; Mr Mark McGowan; Mr Barnett; Mr Mick Murray; Mr Jeremy Edwards; Mr John Bradshaw; Mr Alan Carpenter; Mr Arthur Marshall

Labor Party members think they are doing the right thing in introducing the measure, but they are misguided in their beliefs about what it will achieve. I am offended by comments by members opposite that coalition members are acting for political reasons. I assure them that I act for genuine reasons; namely, because the ill-effects of the legislation will permeate throughout the community and have more drastic effects than the Labor Party believes. The Bill will relieve the onerous effects on young people who would otherwise have received a conviction for cannabis possession. Incentives are needed to keep people from paths of illegality. The legislation will take away the incentive to do the right thing.

I refer also to the effects on families. When kids are mixed up on drugs, it has drastic effects and can disrupt families. It is very bad. I outlined in my contribution to the second reading debate the research on the effects of marijuana on a foetus in the womb, and the effects on the child when born, not to mention the chances of deformity. It will be interesting to see the research results from an inquiry by a parliamentary committee into attention deficit hyperactivity disorder. I am certain many effects result from the ingestion of marijuana by the parent, be it the father or the mother, before the child is conceived.

Also, the effects of the Bill on hydroponic suppliers is a worry to me and to people selling hydroponic gear. It will put them under pressure. Police will talk to the hydroponic supplier if somebody caught growing marijuana happened to buy equipment from that supplier. It makes innocent people nervous when they are investigated by police.

I also believe that what the Leader of the House and the Government have done with regard to the sitting hours is disgraceful. It is not good for anyone. All those members who thought it was smart to sit all night will realise over Easter that they made a mistake. It will not take them a day to recover; it will take them several days. After 20 years as a member, I have had plenty of experience on the effects of sitting late for several nights. I oppose this Bill with a passion because it takes the State in the wrong direction and does not do the right thing for the people of Western Australia.

Question put and a division taken with the following result -

Ayes (26)

Mr P.W. Andrews	Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr M.P. Whitely
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (19)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr A.D. Marshall	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Ms K. Hodson-Thomas	Mr R.N. Sweetman	Mr J.L. Bradshaw (<i>Teller</i>)
Mr J.H.D. Day	Mr R.F. Johnson	Mr M.W. Trenorden	

Independent Pair

Dr E. Constable	Mr P.G. Pandal
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Question thus passed.

Bill read a third time and transmitted to the Council.