Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
1999

LEGISLATIVE COUNCIL

Wednesday, 8 December 1999

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 3.00 pm, and read prayers.

NUCLEAR WASTE DUMP

Petition

Hon Norm Kelly presented a petition, by delivery to the Clerk, from 459 persons opposing the proposal to locate a high level nuclear waste dump in Western Australia.

[See paper No 530.]

DERBY TIDAL POWER PROJECT

Motion, as Amended

Resumed from 25 November on the following motion, as amended, moved by Hon Tom Stephens (Leader of the Opposition) -

That this House -

(1) Welcomes the positive adjudication of the EPA's review assessment of the Derby tidal power project and the State Government's announced decision that would see further Cabinet consideration of the tidal energy's "best offer" and comparison with the final proposal from Energy Equity Woodside.

(2) Calls on the Leader of the House representing the Minister for Energy to -

(a) table all the papers and documents used by the Office of Energy in its selection of the gas power project and the demotion of tidal power to the reserve list;

(b) outline what specific weight has been given to regional economic and infrastructure development needs in arriving at the decision to select gas.

(3) Urges the State Government to work with the proponents of the Derby tidal power project, and the Derby-West Kimberley Shire Council, in a joint approach to the Federal Government to seek federal funding for the project.

(4) Calls on the Federal Government to allocate funds to the Derby tidal power project from the annual $66m that is to be spent on renewable energy power supplies for remote areas from the $360m renewable energy funds.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [3.03 pm]: Last week I commenced my comments on this motion that has been put forward by the Leader of the Opposition about the Derby tidal power project and I had reached the point of commenting on paragraph (4), which calls on the Federal Government to allocate funds to the project from the annual $66m that is to be spent on renewable energy power supplies for remote areas from the $360m renewable energy funds. The Government has requested of the Prime Minister an indication of the Federal Government's position on this matter. He has written to the Premier indicating that the Federal Government has some enthusiasm for the project but he gave no indication of the amount of dollars that might be provided. Subsequently, federal Liberal members of Parliament met with the Prime Minister to seek his support for the allocation of federal funding for this project. No formal request has been sent by the Prime Minister to the Western Australian Government. Press comments indicate that the Prime Minister would support a joint effort by the State and Federal Governments to assess whether tidal power is feasible in the context of the Commonwealth's renewable energy requirements. The State Government will await with some interest the Commonwealth's formal request on that matter, and a decision will be made at that time.

Hon Tom Stephens: What will the Commonwealth's formal request relate to?

Hon N.F. MOORE: We were advised in the media that a meeting had been held between the federal Liberal members of Parliament and the Prime Minister, and that out of that meeting a request would come from the Prime Minister to the State Government for a joint review of tidal power generally to see whether we should spend the dollars that have been made available for the provision of renewable energy in that way.

Hon Tom Stephens: Were you advised of that in the form of a media release from the federal member for Kalgoorlie?

Hon N.F. MOORE: I have not been advised by the federal member for Kalgoorlie. I am relating to the House the information that I read in the newspaper.

Hon N.D. Griffiths: Are you advised by *The West Australian*?

Hon N.F. MOORE: I get a lot of advice in *The West Australian*. I do not believe much of it. *The West Australian* provides a lot of advice to all of us. I do not know that many of us take any notice of what it tells us to do, but it spends a lot of time doing that. I guess that is why its staff get paid more than we do; they have a bigger job to do than we have.

Since then I have sought to find out whether any formal request has been made of the State Government to be part of a joint

commonwealth-state initiative in this area. I am advised that no formal request has yet been received. That is not to say it will not be received, but at this time, it has not been received. In the event that a request is forthcoming from the Prime Minister, the State Government will look at that and make a decision on its merits at the time.

This motion is like the curate's egg - some parts are good and some parts are bad. The motion puts me in a difficult position, as the Leader of the Opposition seeks to do from time to time. The Government can find reasons to support parts of the motion, and does not support other parts of it. The Leader of the Opposition is good at putting across stories that are not always strictly in accordance with the facts. During debate on this motion on another day, I mentioned that when Hon Tom Stephens was interviewed on the radio about Pangea Resources Australia, he told a real porky about the Liberal Party's position on it. I am concerned that if the Government does not vote for all four parts to the motion, the Leader of the Opposition will state on radio that the Government does not support tidal power. I do not support paragraph (2) of this motion. I hazard a guess that if Hon Tom Stephens were sitting here on behalf of the Government, he would have the same view, because he would be equally averse to tabling papers which are part of a process which is still in train. Having been here for 10 years, I remember when the Labor Party was in office that it regularly refused to table documents and to make information available. It used the argument that the information was commercially confidential. I suggest that the same applies on this occasion, and a degree of commercial confidentiality applies to the whole process of west Kimberley power supply arrangements; it is not appropriate to table papers, certainly ahead of a decision being made.

The Government agrees with paragraph (1) which welcomes the Environmental Protection Authority review. The Government does not agree with paragraph (2) and it is not necessary to pass paragraph (3), which urges us to work with the proponents and the Derby-West Kimberley Shire in a joint approach to the Federal Government. Although events are not happening strictly in accordance with the motion, they are happening.

The Government will also support paragraph (4). However, I do not know whether tidal power is the most suitable recipient of the sort of funds that the Australian Democrats squeezed out of the Federal Government during the goods and services tax debate. The Greens (WA) have already said they are opposed to this project on environmental grounds. I do not know whether they are correct; I am not sure whether there are other forms of renewable energy that would make better use of these funds. It is hard to determine whether we should allocate the funds to this project because I do not know whether it has been assessed in relation to all the other eligible projects.

That makes the situation awkward. I do not propose to amend the motion, because that will result in a longer debate than is necessary. The Government will not oppose the motion, which will mean that the Leader of the Opposition will not be able to tell the world that the Government is opposed to tidal power. However, some parts of it are not acceptable.

The Government has gone through the process of initiating the west Kimberley power project in a proper, open and accountable way. As I said the other day, the prime objective of this exercise is to provide the cheapest, most reliable energy we can to that part of Western Australia, which needs such an energy source. The proper tender and evaluation processes have been followed. At the conclusion of those processes, the tidal power proposal was not successful. Indeed, a gas supply has been deemed to be the preferred option.

The Government will now negotiate with the preferred proponent to get the best deal possible for Western Australia, and particularly the west Kimberley. Once that position is reached, the Government will know what is available to it through the proper processes. It has been guaranteed that once that is done, an itemised assessment of the gas proposal will be compared with the tidal power proposal to see whether all the information provided is accurate. As I said, a range of different "facts" has been provided by many people. One never knows until the end of the day what is correct and what is not.

The Government has gone through this process properly. It is important for people to understand that that is what one must do in government - one must go through a transparent and accountable process to reach a decision. It is not acceptable for Governments to change the process midstream because some people want to do something differently. They must have very good reasons to change the outcome of a proper tender process. The Government will look at what the tidal power deal can provide in the context of the alternatives. Many of us are excited at the prospect of a tidal power project, but it must stack up financially, environmentally and in an ongoing commercial and technical sense.

A lot of questions need to be answered and a lot of issues need to be addressed. If they can all be overcome, and the money found, and the project can proceed, then a lot of us will be very excited because it would be something new and visionary for Western Australia, and indeed, the world. We all look forward occasionally to new and unusual proposals being successful. Just as we were all excited about the Ord River dam, we can get excited about a tidal power plant in the Kimberley. The Government will support the motion but I indicate again that, whilst the motion calls for the tabling of papers in paragraph (2), the Government will not table those papers at present.

HON NORM KELLY (East Metropolitan) [3.15 pm]: The Australian Democrats have been informed and consulted on this project for the past few years. I remember having a meeting with the proponents after I was elected but before I took my seat in this place. They have kept my federal colleagues and me well informed since, and over the past few months they have kept my federal colleagues closely informed on their plans, especially on economic terms, for how they want to see the project proceed. Our position all along has been that we support the proposal as long as the environmental issues are adequately addressed. There is a lot of conjecture on these issues and I am not an expert on such issues. We have got a lot of conflicting information about the significance of the environmental issues surrounding the project. The three major issues relate to the geoheritage value of Doctors Creek, the mangrove depletion and the sedimentation that would occur if the project went ahead. We have received conflicting information on the geoheritage value of Doctors Creek, which is why it is important to check the credentials of those who give opinions on this issue.

Among the few references that I have here, one is from Professor Barry Wilson, chair of the Marine Parks and Reserves Authority. In a letter that he sent to the chairman of the Environmental Protection Authority last year about geoheritage values, he states -

> . . . the MPRA does not consider that the values of the site are "of such importance at State, national and international levels to warrant its preservation" at this time.
>
> . . . the Authority recognised that the site does have significant value in terms of its geological features and as a site of significant scientific research.

It goes on to state that the MPRA believes that it would not be appropriate for the process of establishing a statewide representative marine reserve system to be compromised by incidental proposals for reservation that have not been subjected to rigorous assessment in a regional context unless the grounds for reservation are truly outstanding, and that the authority is not convinced that the geological and scientific values of Doctors Creek are in that league. That is a clear indication that, although important, the geoheritage value is significant enough to warrant its protection purely on that ground.

I also have conflicting evidence from Dr Semeniuk, who has been consulted and done a great deal of research in this area. He takes the opposing view. In his appraisal of December 1997 to the Derby Residents Action Group he states -

> The International and heritage significance of Doctors Creek inlet should militate against any development in this area on *a priori* principles alone. The International and heritage significance of Doctors Creek is related to:
>
> its setting as a macrotidal tropical semi-arid mangrove coast,
>
> its erosional patterns,
>
> its tide-dominated deltaic estuarine setting, and
>
> the fractal laboratory therein.

He continues -

> . . . this area has become known internationally, and is of international geoheritage significance.

Dr Semeniuk goes on to underline the reasons for his position. We have two diametrically opposed opinions from two people whose views are highly regarded. That makes it difficult for people who are less knowledgable about these details to make an informed decision about whether either is correct or whether we must weigh the matter up on the balance of probabilities along with the other issues.

Hon Greg Smith: Or what priority you place on geoheritage.

Hon NORM KELLY: I am saying that it is all part of an equation which we must assess along with other environmental, social and economic factors. That is why it is good to see that in paragraph (2)(b) of the motion, Hon Tom Stephens has called for the Leader of the House representing the Minister for Energy to "outline what specific weight has been given to regional economic and infrastructure development needs". An important part of the equation is assessing not the direct benefits or drawbacks of the proposal, but the wider implications at a regional level of such a proposal going ahead.

Mangrove depletion is another important environmental issue. This is the most significant issue that the people I have spoken to and those within the Australian Democrats have considered. It is agreed on all sides that there will be a loss of 1 500 hectares of mangroves. That is not being questioned; everybody agrees on that. However, there is not agreement about the level of mangrove regeneration in the new intertidal zones which will be formed by the construction of the barrages for this project. In its bulletin No 942 of June this year the Environmental Protection Authority assessed the mangrove factor and stated -

> There exists a high degree of certainty about the loss of mangroves and a high degree of uncertainty as to the nature and extent of mangrove community re-establishment with this proposal.

It is because of this uncertainty that the EPA has called for further work to be done to truly assess the possibility of significant mangrove regeneration. In its response to that report the proponent, Tidal Energy Australia, has accepted that there will be that initial depletion. However, regarding recolonisation it stated -

> The new inter-tidal area extends over flat mud banks which appear to meet the criteria for mangrove colonisation. These include regular inundation, reduced salinity . . . climate, slope, and reduced water velocities.

The response stated further -

> Colonisation of new areas are expected to occur naturally. All the locations will be receiving regular inundation with sea water which contains propogules. However, advice given by Dr Eric Wolanski . . . confirms that mangroves can be propagated in tubes and mass plantings could be made if necessary.

If that natural recolonisation does not occur, the idea of transplanting mangrove seedlings into the area is seen as another way of establishing those mangroves. Hopefully, that will be sufficient to allow the mangroves to be self-sustaining. In this response to the EPA report, Tidal Energy has included some satellite images taken in 1975, 1986 and 1995 to show the formation of a mud bank island in Doctors Creek. The images show how over that time the island formed and was then invaded by mangroves to the point where the entire island is covered by mangroves. That is part of Tidal Energy's argument about ways to get natural growth of mangroves in new areas.

Once again, a possibility has been considered. The best possibility of regeneration would be to colonise 2 300 hectares with mangroves, which would result in an overall net increase of 800 hectares of mangroves. However, this is uncertain. As the Environmental Protection Authority indicated in its report, further research is necessary to determine with more certainty that regeneration will occur. The cost of replantings must be factored into the overall cost of the scheme.

The EPA has said that more information is required on sedimentation. The proponent has indicated that it is more than happy to undertake research in conjunction with the University of Western Australia to examine the science of this proposal and to test the effects of sedimentation once the barrages are constructed. The proponent does not see it as an environmental consideration because the EPA has indicated that sedimentation problems would be localised around the barrages and close to the inlet areas created for the turbines, and that the broader area of Doctors Creek would suffer minimal impact from sedimentation.

There is also the economic consideration. If dredging is required regularly, the cost of it should be factored in. Some of these environmental issues, such as artificial mangrove replanting and dredging for sedimentation, raise economic issues such as whether this project will be financially viable in years to come. This is important in the light of the proponents' desire to obtain government funding for the project. They have provided me with some figures and some of the sources from which it wishes to access that funding. A couple of those funding sources are the greenhouse gas abatement program and the remote area regeneration scheme, for both of which the Australian Democrats successfully secured significant funding from the Federal Government to be distributed for worthwhile projects. In conjunction with the Australian Greenhouse Office, my federal Australian Democrats colleagues are playing a significant role in deciding where that funding will be distributed. I have encouraged them to look favourably on this project and, if those environmental issues can be satisfactorily addressed, a certain amount of funding from those programs should be directed to it. The proponents have not asked for a grant as such. They are seeking funding more in the form of a loan with the proviso that they do not have to make repayments for a period of seven to 10 years. After that, they will be more than willing to repay the entire amount of government moneys provided to them.

That is why it is important to consider these environmental issues and whether the cost of addressing them will have an impact on the proponents' ability to repay moneys. We do not want to see this money provided to the proponents to establish this power project only to find in 10 or 15 years, when it is expected the sedimentation problems will begin to arise, that the extra costs of dredging will make it difficult for the proponent to make the repayments.

As I have said, there are other benefits, such as social benefits and the development of other industries in the Derby area, of which aquaculture and tourism, in particular, have been mentioned. One could argue about the extent to which they can develop in that area, but it is understandable that the people of Derby and its surrounding areas are so supportive of this project going ahead. They see it as a huge fillip to developing sustainable industries in those areas. The subsequent increase in population would cause economies of scale which so often are not possible in such remote or regional areas.

The proponents stated that they would build a transmission line of 400 kilometres or so in length, which could be easily accessed by Aboriginal communities and others in the area. I am not too sure whether that is the best solution for those communities. We would prefer to see self-sustaining power supplies to those communities and a greater use of renewable energy. If we are to use funds from the remote area generation scheme program, we must look to see whether this type of proposal is the best way to go. Could the funds be better utilised economically for greenhouse abatement through simple measures, such as subsidisation or providing rebates for solar powered units? That is one possibility that should be calculated when deciding on the best use of the money. The Australian Greenhouse Office is doing that at the moment when appraising the various projects that are being put to it for access to that funding. There is talk of other forms of tidal power which could be used, such as tidal stream power generation, which involves submerged turbines in a stream's current rather than using a barrage. I feel that is by far a better option. Whether it is commercially viable for this project is hard to say at this stage. However, if any money is to come from these federal schemes, we should make sure that Western Australia gets at least a certain proportion for that ongoing research and development for the better uses of renewable energy.

The Australian Democrats will be supporting this motion. We feel it is a well thought out motion. I will briefly go through the motion's parts. The first part asks for the consideration of the tidal proponents' best offer so that that can be compared with the final proposal of the gas powered option. We have wanted to see that all along so that we can compare like with like. The second part of the motion asks for the weighing of other social and regional economic considerations which need to be taken in the context of the bigger picture of this project and whether it should go ahead. We support the third and fourth parts of the motion. In Hon Tom Stephens' response I will be interested to hear whether the Australian Labor Party has a position on the level of funding which the Federal Government should be providing for this project and whether that call for funding would continue, given the possible outcome in which the Derby tidal power proponents are seen not to be as good as the alternative, gas proponents. The Australian Democrats support the motion. We hope that the debate that has been generated by the Derby tidal proposal will be a huge fillip for the development of other forms of renewable energy in this State.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.34 pm]: I welcome the expressions of support for this motion. I regret there has been some opposition to this motion from the party in this place that purports to have green preoccupations as its reason for being. I believe its response to this motion is ill-considered in the face of the many well-positioned arguments in support of the proposal and the environmental questions asked about it. I put to the House that it is wrong for people to leave environmental issues, which they are trying to position, hanging over many projects, almost as if we were left with the responsibility of being prohibitionists when it comes to worthwhile development strategies.

I note the comments made by Hon Greg Smith and, in turn, the more measured response of the Leader of the House in this

place representing the Government. The passage of this motion would have the House calling on the Government to table papers from the Office of Energy, which detail the selection process and the specific weight given to the regional, economic and infrastructure development needs. Despite that, I am sorry that in his speech the minister made it clear that he and the Government will not be tabling those documents. In listening to the speech of the Leader of the House, I was tempted to revert to the earlier form of my motion - to direct the minister to do that. The consequence would be that the Government presumably would not provide us with the opportunity of any further progress on this motion, which I believe is important. I hope it will be brought to resolution and understood for what it is, although somewhat begrudgingly supported by the Government, given its qualifications about some components of the motion.

Hon N.F. Moore: Tabling papers has nothing to do with tidal power.

Hon TOM STEPHENS: Nonetheless, I think it is important.

Hon N.F. Moore: You also gave me an assurance that you would not seek to direct the minister when I offered to change the motion last week.

Hon TOM STEPHENS: I cannot move the amendment now.

Hon N.F. Moore: You are the one who said that if I were to agree to change the words, it would be okay by you.

Hon TOM STEPHENS: Since I agreed to that, the Leader of the House told me that no matter what the House called for, the minister will not oblige.

Hon N.F. Moore: I told you why. You would not have done that either.

Hon TOM STEPHENS: I ask the minister, at least, to let me make the point that I do not think that is an acceptable response to the call of the House.

Hon N.F. Moore: We will see one day when you are a minister whether you agree with this arrangement. I can tell you now that you will do exactly what you did in government; that is, to say that, no, it is commercially confidential and that we should know better.

Hon TOM STEPHENS: All I say is that a difficulty comes from Governments that choose to hide behind those sorts of considerations and not allow information to come out.

Hon N.F. Moore: This process is not finished.

Hon Peter Foss: This is not the appropriate time.

The PRESIDENT: Order! I ask members to speak, one at a time. I am trying to listen to the Leader of the Opposition.

Hon TOM STEPHENS: There is always a difficulty when ministers succeed in snowing their cabinet colleagues and do not allow the flow of information to the public domain. It limits the opportunity for Governments to make good decisions on behalf of the people of Western Australia. Legitimate regional, economic and infrastructure development should be addressed in the decision-making processes for the provision of power to the people of Derby-west Kimberley. It is tragic that the documents that detail those issues are not being made available to the wider community so that the points that are contained in that documentation cannot, in turn, influence the decision-making process of the Government of the day. When the final decision on this project is made - we understand it will be a cabinet decision - it would be a tragedy if the Government did not have within its ranks people adequately advised by informed public debate. When the documents we have called for are released, debate can take place in the community and, in turn, can influence the Government's thinking before the decision is made. The Leader of the House displays a poor attitude to the Chamber when he indicates that, despite the carriage of this motion, and no matter what we say and no matter that we call for it, the documents will not be tabled, and if we had chosen to direct the Government, it would have prevented the consideration and resolution of the motion.

Hon N.F. Moore: That is because the process has not been completed. You refuse to listen to what I said. Documents are not tabled when a tender process is in operation.

Hon TOM STEPHENS: The tender process is completed.

Hon N.F. Moore: It is not completed. We are still negotiating with the final proponent. It has not been completed at all.

Hon TOM STEPHENS: Can members imagine how an argument could be constructed -

Hon Ken Travers: Will he table them when they are finished?

Hon TOM STEPHENS: I do not think we will get the minister to say even that. Let us ask him the question: Will the minister table them when it is finished?

Hon N.F. Moore: It is not for me to decide. I am not the responsible minister.

Hon TOM STEPHENS: We know the answer to that question; now for the second question. The Government is down to a single proponent who is no longer in competition with anyone on this project.

Hon N.F. Moore: With whom we are currently negotiating the final arrangements. The process is not finished.

Hon TOM STEPHENS: There is a single gas proponent.

Hon N.F. Moore: So what?

Hon TOM STEPHENS: Commercial confidentiality in terms of any competitive arrangement that the proponent might have with any other player is gone; it is finished. There is no justification for -

Hon N.F. Moore: It may be that an agreement cannot be reached with this proponent, in which case I presume we will start over again. It is not concluded yet. Until it is concluded, the process is confidential. You know that as well as I do.

Hon TOM STEPHENS: I would have thought that the processes normally in place are to protect competitive bids. There are no longer competitive bids in this process. The minister is left with the opportunity to table the papers and no longer has the opportunity to hide behind the claim of commercial confidentiality as though there were some competitive processes still afoot.

In reference to the question from Hon Norm Kelly about the attitude of the Labor Opposition to the funds which should be used, the proposal for the Derby tidal power proponents indicates that there is an opportunity to draw down $120m worth of federal funding, which would be on the basis of full recovery and full payment of that $120m to the Federal Government at the conclusion of a 10-year period. On behalf of the Labor Party, I am prepared to support the use of those federal funds in that way; that is, draw down on them and pay them back so that in perpetuity that $120m can be utilised for other projects suited for attracting funds from the reduction of greenhouse gas emissions and other renewable energy projects around the country.

Hon N.F. Moore: How do you know it will generate that sort of money in 10 years? Have the proponents told you?

Hon TOM STEPHENS: The proponents have confidently -

Hon N.F. Moore: You have done nothing, other than accept their word for it.

Hon TOM STEPHENS: I have never heard any suggestion that there is any risk that the project would -

Hon N.F. Moore: You have not asked anybody. All you have done is to listen to the proponents.

The PRESIDENT: Order! The Leader of the House has had an opportunity to speak. This is the summing-up of the debate. We seem to be going right back to basics and starting another debate across the Chamber.

Hon TOM STEPHENS: I will reiterate a point that I made during my opening remarks on this motion; that is, this proponent is not just any piddling proponent without some solid economic credentials. It is, after all, a project which has the support of the Australia and New Zealand Banking Group Ltd, which is -

Hon N.F. Moore: Which is doing what?

Hon TOM STEPHENS: It is part of this process which has come before government. It is the underwriter of the project. When a proposal is put before us which includes, first, Leighton Contractors Pty Ltd, which is not to be sneezed at -

Hon N.F. Moore: I am just asking whether you have asked for any advice, other than from the proponent? Have you asked anybody independent of it?

Hon TOM STEPHENS: I am telling the Leader of the House that I am prepared to accept at face value the legitimate credentials of the ANZ Bank, Leighton Contractors and Tidal Energy Australia.

Hon N.F. Moore: Is that why you accepted the Petrochemical Industries Co Ltd deal that your guys went into?

Hon TOM STEPHENS: The Leader of the House can hardly talk. He is currently part of a government that mucks around and still does business with banks that are taking down the taxpayers of Western Australia. He sits there while they walk all over the Government in the courts, and the Government still does business with them in its daily transactions. If the Leader of the House and the Government had any economic competence, they would be using not just the courts to argue the case on behalf of the taxpayers of Western Australia but the economic clout of the Government of Western Australia to make sure that they were not doing business with banks that are doing over the taxpayers on a daily basis in the courts of this country.

Hon N.F. Moore interjected.

The PRESIDENT: Order! I am trying to listen to the Leader of the Opposition. If the Leader of the House wants to restart the debate, let us move to suspend standing orders and we will all start again.

Hon N.F. Moore: I would like to start on the PICL project again.

The PRESIDENT: I do not think you will win that vote.

Hon TOM STEPHENS: Mr President, I apologise for being diverted from the debate and responding to the interjections from the Leader of the House. It is time that this motion was carried by this House.

Hon N.F. Moore: Sit down and let us get on with it. I learnt that from Hon Ljiljanna Ravlich.

The PRESIDENT: The Leader of the Opposition is trying to wind up.

Hon N.F. Moore: I was trying to help him.

Hon TOM STEPHENS: This motion deserves the support of all of the House. I hope that support will be forthcoming.

There is a real case for making sure that this project is available to the people of Western Australia. It is now time to make sure that this project has the support of this Parliament, of this Government and, in turn, of the Federal Government. It is inappropriate for this project to be left with a lot of bluster and no action on the part of the Government. Some steps need to be taken. Those steps include the Government putting its money where its mouth is in reference to the study with the Commonwealth Government and, in support of tidal energy, getting that study under way in double-quick time. I commend the motion to the House. I hope that it will be carried with the support of, if not all the House, as many members as possible.

Question (motion, as amended) put and passed.

HELM, HON TOM, ACCUSATION OF MISLEADING PARLIAMENT

Statement by Leader of the House

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [3.50 pm]: During the adjournment debate on 24 November 1999, Hon Tom Helm accused me of misleading Parliament through answers I gave to questions in November 1998 and June 1999 relating to evidence given in a Warden's Court hearing held in Kalgoorlie over five years ago.

The 20 September 1994 hearing involved two competing applications for prospecting licences over the same ground; one by Mr Ray Kean for prospecting licence 26/2510 and the other by Homestake Gold of Australia Ltd and Kalgoorlie Lake View Pty Ltd for prospecting licence 26/2458. The hearing also considered two additional applications by Mr Kean for prospecting licences 26/2471 and 26/2483 which affected ground already held under granted title by Homestake Gold and Gold Resources Pty Ltd. The four interrelated applications and the cross-objections by the competing parties were jointly listed for hearing by the warden in the presence of opposing legal counsel and witnesses, consistent with long-established practice. The hearing of all the evidence relating to these four applications extended into a number of sittings of the Warden's Court, including the hearing on 20 September 1994.

After hearing all the evidence relating to the four applications, the warden reserved his decision on the application for prospecting licence 26/2458. On 24 February 1995 the warden handed down his decision, which dismissed Mr Kean's objection and granted prospecting licence 26/2458 to Homestake Gold and Kalgoorlie Lake View Pty Ltd. Subsequent reserved decisions refused Mr Kean's three applications for prospecting licences 26/2471, 26/2483 and 26/2510. In his reserved decision of 24 February 1995, the warden expressed that the evidence given by a surveyor, Mr Keith Dyer, was a crucial factor in the decision to dismiss Mr Kean's objection and grant the competing application for prospecting licence 26/2458 to the two applicant companies.

Hon Tom Helm accused me of misleading Parliament by stating that Mr Dyer gave evidence at the hearing on 20 September 1994 exclusively for the application for prospecting licence 26/2458 when, according to Hon Tom Helm, Mr Dyer did not give evidence for that application; and that there was one hearing of the four applications on 20 September 1994 when, according to Hon Tom Helm, two hearings involving the applications were held.

I respond to these accusations. Mr Dyer did not give evidence specifically or exclusively "for" the application for prospecting licence 26/2458. Regardless of Hon Tom Helm's allegations to the contrary, I have never said that Mr Dyer gave evidence only for that application. In attempting to prove that I said something I did not, Hon Tom Helm chose to quote only the first paragraph of my answer to part (1) of question without notice 473 on 11 November 1998, which stated -

> Mr Keith Dyer gave evidence at the Warden's Court hearing on 20 September 1994 of applications for prospecting licences 26/2458, 26/2471, 26/2483 and 26/2510.

Selectively quoting only part of my answer fails to support Hon Tom Helm's allegation. It does precisely the opposite. It would be obvious to even a casual observer that the only meaning that could reasonably be construed from this answer is that Mr Dyer gave evidence on a particular occasion. That occasion happened to be a Warden's Court hearing of four prospecting licence applications. I did not attempt to describe the specific nature of Mr Dyer's evidence in that part of my answer. If that part of the answer is considered in isolation and in the context of the hearing, one can only guess at what aspects Mr Dyer gave evidence about.

Hon Tom Helm chose not to quote the third paragraph of my answer to part (1) of question without notice 473 on 11 November 1998, in which I described in some detail the nature of Mr Dyer's evidence, as follows -

> The nature of Mr Dyer's evidence - contained in pages 174 to 207 of the transcript of proceedings - related to the survey of general purpose lease 26/15, located in the immediate vicinity of application for prospecting licence 26/2458, and the position of former miscellaneous licence 26/20, which comprised part of the ground included in application for prospecting licence 26/2458.

That part of my answer does not state that Mr Dyer gave evidence exclusively "for" the application for prospecting licence 26/2458 and I therefore reject Hon Tom Helm's repeated allegations to that effect.

In this context it is interesting to note the warden's comments about Mr Dyer's evidence. In his reserved decision, which dismissed Mr Kean's objection and granted prospecting licence 26/2458 to the two applicant companies, the warden stated -

> Essentially this issue came down to the evidence given by the two experts, Mr Scanlon for the Objector Kean and that given by Mr Keith Dyer, the licensed surveyor who originally made the plan which was subsequently submitted to the Mines Department, accepted by the Department and worked upon for a considerable number of years.

While I have never said that Mr Dyer's evidence was given only for application for prospecting licence 26/2458, his evidence

clearly related to part of the ground comprised in that application and was considered of prime importance by the warden in his decision to grant this application and dismiss Mr Kean's objection. Therefore, it could be argued that the warden considered Mr Dyer's evidence to be "for", or at least supportive of, this application.

With regard to the Warden's Court hearing of these four applications on 20 September 1994, Hon Tom Helm has accused me of misleading Parliament by stating that there was one hearing on 20 September 1994 when, according to him, there were two hearings. I also reject this accusation for the following reasons. First, my answers in Parliament regarding Mr Dyer's evidence related only to the hearing on 20 September 1994. Second, my answers were entirely consistent with the face sheet of the transcript of proceedings for this hearing, which I will table later, which lists for hearing on 20 September 1994 these four applications and the cross-objections. Third, the Mining Registrar at Kalgoorlie has confirmed that there was one hearing on that day lasting some hours, during which evidence relating to the four applications was given. Fourth, while the substance of Mr Kean's objection against application for prospecting licence 26/2458 may have been tested in the earlier part of the hearing on 20 September 1994, all evidence given at that hearing must logically and reasonably be considered, in a global sense, to relate to all of the four applications listed for hearing in the presence of the warden and legal counsel appearing for the opposing parties. The warden clearly thought so.

At this point I will comment briefly on Hon Tom Helm's statement that if the warden's decision to grant prospecting licence 26/2458 was based on Mr Dyer's evidence which does not exist, we have a very serious matter on our hands. Hon Tom Helm's logic in raising this as even a possibility escapes me. Mr Keith Dyer's evidence certainly does exist. He gave extensive evidence at the hearing on 20 September 1994 - contained in pages 174 to 207 of the transcript of the hearing - which was cross-examined by the legal counsel for the opposing applicants in the presence of the warden. The fact that Mr Dyer's evidence was not given exclusively for application for prospecting licence 26/2458 but, rather, related indirectly to that application, was obviously of little consequence to the warden who, as the sole decision-making authority in this case at that time, found this evidence to be of prime importance in his decision to grant the application.

The bottom line in all of this is that the warden was the sole decision maker in all aspects of the hearing on 20 September 1994 and its outcome, including the relevance of all the evidence - including that given by Mr Dyer - to the final outcomes of the four listed applications. The Minister for Mines at that time had no authority in respect of the hearing or its outcome, and I now have no authority to intervene in any way in this matter

I am informed that there is no provision in the Mining Act 1978 under which an appeal could be made against a warden's decision to grant a prospecting licence to a competing party. Action to seek a review or the setting aside of such a decision would need to be commenced in the Supreme Court by prerogative writ. The time limit for commencing such an action is 12 months from the decision; however, if this time has expired the aggrieved party may apply to the Supreme Court for leave to commence an action out of time. It seems that more than five years after the hearing on 20 September 1994, Mr Ray Kean still considers himself an aggrieved party. If this is the case, he may wish to consider seeking redress through the Supreme Court as the only avenue available to him.

I conclude by reiterating my total rejection of Hon Tom Helm's unfounded accusations that I misled Parliament in matters relating to the Warden's Court hearing in Kalgoorlie on 20 September 1994. I will not attempt to speculate about his reasons for making these accusations, which have no basis in fact and which concern evidence and a judicial decision which only the Supreme Court now has the authority to review. I seek leave to table a copy of the face sheet of the transcript of proceedings for the Warden's Court hearing on 20 September 1994 in Kalgoorlie.

Leaves granted. [See paper No 531.]

CONSERVATION AND LAND MANAGEMENT AMENDMENT REGULATIONS 1999

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon Christine Sharp was moved pro forma on Tuesday, 9 November -

> That the Conservation and Land Management Amendment Regulations 1999, published in the *Gazette* on 15 October 1999 and tabled in the Legislative Council on Tuesday 26 October 1999 under the Conservation and Land Management Act 1984, be and are hereby disallowed.

HON CHRISTINE SHARP (South West) [3.59 pm]: I am pleased to propose to the House that this new regulation on the removal and forfeiture of unauthorised property on Department of Conservation and Land Management land be disallowed. The most important reason for making this suggestion is that my understanding through careful reading of the regulations is that they are not created for their stated purpose, which is the removal and forfeiture of unauthorised property and the subsequent ability for those to whom the property belongs to reclaim that property. These purport to be regulations for a lost property office, if one likes, for forest campers, which is very misleading. Clearly, these regulations do not seek to regulate the business of lost property in the forest. It is also unlikely that these regulations are motivated by the desire to clean up forest camps once people have moved on and left behind many belongings.

Moreover, these are not the regulations some people affiliated with the timber industry would like to see in place; that is, regulations to protect members of the timber industry in going about their lawful business or legally approved activity of forest logging. These regulations are not directed to protect lawful activity. The regulations do not need to do that as section 82B of the Police Act 1892 provides ample power by which the State can protect lawful and authorised logging activity in state forests. Therefore, if the purposes were simply to protect loggers in their right to go about their authorised business, they would be completely superfluous as the Police Act would best be used to that end.

The real intent of the new regulations for the removal and forfeiture of unauthorised property is to prevent the establishment of forest protest camps, which we all know have performed a significant role in the past two years in the protection of ecological values of the state forest in Western Australia. They have been very prominent. In many ways, these camps have held the ecological line against activities carried out on behalf of the State of which the majority of Western Australians disapprove.

In fact, in attempting to suppress protest camps, the regulations will suppress the right to lawful protest itself. The right to protest is protected under international law. Australia is a signatory to the United Nations International Covenant on Civil and Political Rights, article 19 of which reads -

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Therefore, we could include in that definition the right to express protest through camping -

Hon Mark Nevill: That is not a form of media.

Hon CHRISTINE SHARP: It can be a form of media as an expression. It is a powerful form of media in this case, and is such because protest camps take place in specific locations. They do not take place in a haphazard way. People do not say, "We will just camp here because this is a nice bit of forest". They take place to draw attention specifically to the logging activities that occur in areas of forest to which the protest is related.

If these regulations go ahead, we will stifle rightful protest and, as an unfortunate side effect, put the Department of Conservation and Land Management officers in an invidious position by their having to continue an ambiguous role that they have had to suffer for a long time; that is, being both the conservators of our forest and the organisers of the removal of that same forest for commercial gain. That conflict of interest is not just an abstraction for CALM officers; it is a very real challenge to their daily work. They have borne the brunt of that challenge year in, year out through the inadequacies of the current Conservation and Land Management Act. I do not doubt for a moment that many of those officers - most of them are very decent people - have suffered enormously from this ambiguous role. Now we want to give them the totally unnecessary role of breaking up protest camps by removing all the items that go to make up those camps. If the purpose of the regulation is to protect the lawful activity of the logging industry, let us use the powers that exist already under the Police Act. Let us use police officers to police this matter. Let us not put it into the hands of the Department of Conservation and Land Management. Let us not, as we try to sort out all these matters, impose upon what may become a new department the same old ambiguous role.

As members would be aware, last year the Department of Conservation and Land Management put forward similar regulations relating to protest camps. This House disallowed those regulations on the basis of the thirty-fifth report of the Joint Standing Committee on Delegated Legislation. Much of the argument in that report is just as relevant to the current regulations as it was to the previous regulations, in particular to the superfluous nature of the current regulations. As the thirty-fifth report points out, not only does section 82B of the Police Act protect lawful activity, but also numerous powers under the CALM Act are available for the department to use. These powers include section 106(c), which prohibits occupation of land controlled by CALM; section 108A, which gives CALM power to remove certain objects; and section 128D of the forest management regulations, which gives CALM the power to prohibit unauthorised camping.

This latter regulation, the power to prohibit unauthorised camping under section 128D of the forest management regulations, attracts a penalty of only $200. According to the 35th report, it appears that the regulation has failed to effectively prevent protesters from camping. For instance, one woman gave evidence to last year's inquiry that she had received 12 camping infringement notices but that that had not weakened her resolve to make her stand. Clearly this is a renewed effort to prevent people from taking a stand against all the appalling things that have been happening in the Western Australian native forests over a long period, and about which these protest camps have performed such an invaluable role on behalf of the community in standing up for what the majority of the community want to see happen and to ensure the protection of those old-growth forests. On top of that, the way that the regulation is worded, particularly in that it scopes specifically a tent or "other thing related to camping", is potentially draconian, and perhaps intentionally so.

I note in the thirty-fifth report of the Joint Standing Committee on Delegated Legislation last year that I have just been quoting, that it was pointed out to Department of Conservation and Land Management officers who gave evidence to that inquiry that those similar regulations could also be draconian. The CALM officers admitted that that was the case - that those regulations could indeed be draconian - but they said they would not dream of applying them in that spirit. A statement by an officer before a parliamentary inquiry is not sufficient proof that these regulations and the next round that we are considering today will not be applied in a draconian sense. How do we know they will not be so applied? The "other things related to camping" which will now be prohibited could include a range of simple but essential equipment that people use. It could include their mattresses, sleeping bags, spare clothing and underwear, cameras, food, mobile telephones, cooking gear, sunscreen, money, medicines they may be carrying and water bottles - anything that those people are using as part of their equipment to enable them to stay in the forest for a time. If these regulations were to be applied to the letter by a CALM officer who decided to take a heavy handed approach - let us face it, this could happen in the heat of the moment from time to time - they could potentially leave these people hungry, thirsty, without shelter, whatever the weather, possibly even ill, unable to record or inform other people of what is being done to them, and potentially destitute. Furthermore, people who are left in that predicament must go through a process to reclaim their personal gear, and that process would

involve some fairly serious requirements: First, it would mean admitting that the property the CALM officer had confiscated belonged to them, and that quite possibly he or she was present at an illegal camp, which is already an offence under the regulations and attracts a penalty of $200. In addition the person would have to provide CALM with a postal contact address. Obviously, it is unlikely that they will be able to provide the address of Wattle protest camp because there are not too many mail services to the Wattle protest camp.

Hon Norm Kelly: There should be.

Hon CHRISTINE SHARP: Yes, there should be.

It also means that they must attend some unspecified place to collect their property. The bottom line is that they will have to leave that protest site, whether any offence has been alleged to have been committed or has been committed. These harmless lost property regulations have the power to be extraordinarily damaging to individuals, to fine young people who have earned the respect of the majority of Western Australians. An awful lot of people are very proud of them. The timing of all this is unfortunate.

Hon Greg Smith interjected.

Hon CHRISTINE SHARP: Hon Greg Smith would be aware, as much as other members in this Chamber, of the difficulty with matters of forest management.

Hon Bob Thomas: I do not think so.

Hon CHRISTINE SHARP: Members of the Standing Committee on Ecologically Sustainable Development have tried to educate Hon Greg Smith, but it remains to be seen whether we have been successful.

This extraordinarily difficult debate has swept up virtually the whole community and has taken on an enormously high profile. Even the Government now admits that the perceived conflict of interest of the Department of Conservation and Land Management, as it is currently constituted, has given rise to the real problems both about forest management and about accountable government. I give credit to the Government for recently introducing amendments to the Conservation and Land Management Act in the other place. We are all part of the difficult task of trying our utmost to move this issue forward and to make protest camps unnecessary in the true sense of the word. When we succeed in protecting all those areas of forest which are of high conservation value in bringing down the cut in those areas of forest which continue to be of multiple use to genuinely ecologically sustainable levels, and putting in place a department which is fully transparent and accountable and does not have a blatant conflict of interest, it might be appropriate timing to say that it is the end of the era for protest camps. We have not got there yet, far from it. We are still waiting on the fate of many absolutely essential forest blocks. We are still uncertain whether Giblett block will stand, despite the months and months that people weathered it out in Giblett block, despite the winter storms and the difficult conditions

When we look at the whole issue of what I have described as holding the ecological line we can see examples like Wattle block. Wattle block had an elaborate system of protest camps. It was located on the South West Highway and attracted many visitors. It was a marvellous opportunity for these protesters to express their outrage at what was going on in the nearby forest. They were outraged because of the threat to Wattle block, which was the only part of Western Australian forests that was worthy of mention in an international heritage report on Australian forests. This block has been singled out as an outstanding piece of natural heritage and it performs an incredibly important link between the Franklin National Park and the Shannon National Park. That therefore makes the conservation role of those areas so much stronger and effective because they provide a bush corridor effect. CALM was saying that area was not worthy of protection when it was the only Western Australian forest singled out in a report on Australian forests. That same area was being clear-felled until the Government intervened, and it was also the site of rough protest camp vandalism some months ago.

The former executive director of CALM gave an undertaking to the Environmental Protection Authority at the beginning of this decade that Giblett forest would not be logged until the expiry of the current forest management plans in 2002. The EPA had some interest in the block because the entire area was recommended for heritage listing.

The PRESIDENT: I have been reading the regulations that the member has moved be disallowed. They refer to the removal and forfeiture of unauthorised property on CALM land. The scope of the debate is limited to matters pertinent to removal and forfeiture of unauthorised property, the actions of CALM officers and what might happened with certain unclaimed property. I raise that matter at this stage because I am aware there may be a number of speakers in this debate. This is not an opportunity to repeat the entire forest debate. What is said must be relevant to, bearing upon or touching upon the regulations. The member has given me the opportunity to raise that issue for all members.

Hon CHRISTINE SHARP: I have been waiting for this point to be raised.

If it had not been for "unauthorised property" left at Giblett block for a prolonged period, considerable parts of that block would now be razed to the ground. That is the connection I am trying to make between these seemingly harmless lost property regulations and their intent. We all know they are intended to prevent lawful protest.

Hon Derrick Tomlinson: We do not all know that; it is something you believe.

Hon CHRISTINE SHARP: The member is correct, I do believe that even Hon Derrick Tomlinson thinks they are designed to have such an effect.

Hon Derrick Tomlinson: I have not made up my mind; I am listening to the debate.

Hon CHRISTINE SHARP: I await with interest his interpretation of my view.

Hon Derrick Tomlinson: I do not have an opinion; I am listening to the debate.

Hon J.A. Cowdell: He is sharing and caring.

The PRESIDENT: Order!

Hon CHRISTINE SHARP: Hon John Cowdell's time will come.

So be it if members are not allowed to stray into broader issues relating to the forest, the Regional Forest Agreement and the fact that the so-called scientific process that was supposed to make protest unnecessary because our forests were being well managed has been exposed as a sham. Even the minister suffered the embarrassment of being able to get only 220 of the 500 scientists to declare their identity. We then discovered that of those 220 scientists, 142 of them worked for government departments.

Mr President, if you deem that these matters are irrelevant to the motion to disallow the forfeiture of property within the forest, we will not discuss them except to simply remind the House that whatever members may feel about protest camps and about what has been going on in the forests, I think that no-one doubts the recent survey of four months ago, when 400 people in the wider Western Australian community were surveyed by Quantum Harris in September. The survey found that 92 per cent of Western Australians disapprove of using old-growth forests for woodchipping. The fact that we are no longer using or are phasing out the use of old-growth karri and tingle forests for woodchipping is largely thanks to these same protest camps that these regulations would seek to suppress. The Government should not be proud of that; in fact it should be proud of the protest camps.

The PRESIDENT: Before I call the Minister for Finance I indicate that Hon Christine Sharp clearly observed my earlier direction that members speak within the scope of the motion for disallowance. I want other members to observe that direction as well. This debate is not a re-treading of the RFA debate; it is a question of whether the House agrees with regulations in respect of the removal and forfeiture of certain unauthorised property on CALM land, and nothing more.

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.28 pm]: The regulations deal only with removing property that impedes the lawful activities within the forests and have nothing to do with protest groups, banners, pamphlets or anything else like that. It is to allow the removal of impediments to lawful movement in the forest. People must realise that some quite large items have been left in the forests and they could one day impede the progress of fire trucks or people undertaking their normal work. I know that the recent protesters did not want people to go about their normal work. I presume that if it were private land a regulation would not be needed - the owner could just take a bulldozer through; he could give the driver a carton of beer and he would just move the blockages. It seems strange that the Government is in a different position from that of a private landowner because they both own the land. Rubbish and everything else should not be just left in the forest. This debate is about removing property that should not be there.

The Governor in Executive Council approved the making forest management amendment regulations in August 1998. The regulations were disallowed by the Legislative Council following a report by the Joint Standing Committee on Delegated Legislation. The committee's report considered that the regulations were unduly broad, particularly in the definition of a structure. That is what gets me in this game. We spend so much time looking at wording that we never get anywhere. I have often said that if some of the big companies like Wesfarmers or Bunnings had to pass regulations to take over companies, open a new bank account or change their product mix, they would never get on with business. We can become too pedantic about things like the definition of the word "structure".

The Joint Standing Committee on Delegated Legislation also recognised that the Department of Conservation and Land Management may have some problems with enforcing existing provisions of the Conservation and Land Management Act and the Forest Management Regulations on illegal camping. Hon Christine Sharp has referred already to whether these people can be forced out and whether their personal effects can be taken away if they are on this land illegally. If their effects are taken away and the owners need to plead for them, they then have to prove they were on the land illegally. It is a catch-22 situation. However, they would not have any problems at all if they had not been there in the first place. We are dealing with the gear which is left in these places.

This regulation is quite simple and it has been amended. It is a good working regulation which any fair minded person should be only too pleased to support. I ask the Labor Party to look closely at this. We are trying to have an orderly society with certain rules and regulations and not to push the law to the limits as the member did today. In her own words she pushed the rules of the House to the limit before coming back to the regulations. That made the debate fairly short. People choose to push the law. These people need to come into line and we need some commonsense in the whole thing. Hon Mark Nevill wants the regulations toughened up. If I were down there, I would put a bulldozer through. We need to get things cleared up and get on with the game, although it might not be quite as easy as that.

The 1998 regulations proposed penalties for persons erecting structures on CALM-managed land. The 1999 regulations do not prescribe penalties for persons - only for unauthorised property placed on CALM-managed land. That is a big backdown. The regulations now apply only to property left on this land. The new regulations define property as a vehicle, caravan, platform, tent, locking device et cetera. A CALM officer may request a person in possession of such property to remove it from the land. Whether it is government or private land, the officer responsible for that land - and a certain department must be responsible for every bit of land, whether it is Homeswest, CALM or the Department of Land Administration - should be able to take action to remove that which should not be there, property which has been left behind. The officer can request a person in possession of property to remove it from the land and if he does not, the officer can take some other action. That is what is provided for under this regulation.

CALM has drafted a protocol for the implementation of the proposed new regulations. The protocol identifies two circumstances when lawful activity - for example, logging - is hindered and when it is not hindered. The aim of the protocol is to achieve voluntary removal of property with enforcement action being the last resort. If these people do not want to remove this property, somebody should be able to move it. This is government land. In other places such as parking areas cars can be towed away if they are there illegally. Therefore, why should the same rules not apply to government land. The draft protocol has been circulated to stakeholder groups, such as conservation groups, industry groups, shires and the Police Service, for comment. The non-government parties have also been provided with a copy of the draft protocol. CALM has received comments from some stakeholders and members of Parliament and will amend the draft protocol accordingly. CALM is bending over backwards to make this thing work and get these forests cleared up so it can get on with the business with which most people agree.

When enforcement action is required, the Police Service will coordinate it. Property owners will be given every opportunity to remove their property. That is the only way to do this. Someone must be given that power and it will be given to the police. Hon Christine Sharp talked about the police and their powers. She is worried about their overreacting. It all depends; the harder one pushes, the harder someone pushes back and that is probably what happens. Where lawful activity is not hindered, it is proposed that a consultative process will take place over a longer time to arrange voluntary removal of the property. Police Service or shire council representatives will facilitate the consultative process to ensure that there can be no suggestion of CALM selectively applying the regulations. I do not think anything can be fairer than that. CALM has drafted a reasonable consultation process between the police and the shires and the people who own the equipment. Sometimes CALM may not know who owns the property which is left behind and it will be removed.

This is a fair process which should be accepted by the House rather than being disallowed. The Government needs to get on and do certain things. We are disallowing many regulations and I sometimes wonder whether members have looked at them or whether they are making political mileage out of a process like this to show their electorates what a good job they are doing.

On behalf of the Government and the Department of Conservation and Land Management I am pleading for CALM to be allowed to get on with looking after the forests the way they should be looked after. The minister and CALM have agreed, if necessary, to amend the protocols so that rubbish left in the forests can be disposed of in a responsible way.

HON MARK NEVILL (Mining and Pastoral) [4.35 pm]: The regulations which the motion seeks to disallow have very little substance. We could almost not be blamed for thinking there was a conspiracy between the Minister for the Environment and the Greens, through Hon Christine Sharp, in the drafting of these regulations. They are toothless. The Government is trying to give the impression it is dealing with forest protesters, who are unlawfully hindering the activity of the logging operations in the forest, but at the same time the minister is making these regulations toothless. At the end of the day they will make very little difference. It is almost like getting a slice of bread instead of a loaf of bread.

I have read the regulations carefully and they do not impinge on the right to protest as long as it does not hinder lawful activity. In the forests over the past 12 to 18 months there has been one law for protesters and one for everybody else. I strongly support the right of people to protest in the forest; it is legitimate. I also strongly support their establishing information bays in the parking bays along the highway. That is part of democracy. However, when people take actions that go beyond that to hinder that which is legitimate under the laws of the land, they are testing the patience of those involved. The issues eventually come back to be resolved in this Parliament. At the end of the day we will make a decision about what part of our forests is to be reserved and what part of them is to be set aside for the timber industry to harvest in a sustainable way.

I do not want to get into endless arguments about what is a sustainable cut and what is not. The sustainable-cut theory is that the areas set aside will be harvested in a sustainable manner with the best silvicultural practices we know.

The PRESIDENT: Order! I advised Hon Christine Sharp that this is not a debate on sustainability, so to speak. It is a debate on whether certain property should be able to be removed and forfeited from CALM land. If we stick to that there will not be any arguments.

Hon MARK NEVILL: Thank you for your advice Mr President. When we decide what part of the forest is available for the timber industry, the people involved will need that part of the forest to pursue their lawful activities without being hindered and without having their safety and the safety of the protesters compromised. We are talking about the balance.

These regulations are wishy-washy. They contain no penalties. I have seen some of the protesters' camps. At the end of the day the protesters do not have to remove any of their property; CALM must do that. The regulations do not contain time lines. I do not think they will have much effect. It appears they have been drafted because the minister is bent on shifting the line in the sand and appeasing the demands of environmentalists. At the end of the day we end up with no timber industry. It is already a basket case. The job of this minister is at least to defend the Government's policy, whatever that is. Over the past six months or so we have seen vacillation and inaction.

I have covered most of the points in this debate. I do not want to digress from the motion. However, 71 per cent of our old growth forest is locked up in reserves, which exceeds the 60 per cent national target. I am one of those people who believe that we can have a sustainable timber industry. Our silviculture practices are of a very high standard, although there is always room for improvement. At the end of the day we need to decide where the balance is, and when that is decided we should protect those people who want to get ahead and develop the timber industry and increase its value, as has happened over the past 15 years.

These regulations are not draconian; they are weak and insipid and will not have very much effect on the activities of protesters. I will be opposing the disallowance.

HON J.A. COWDELL (South West) [4.42 pm]: One question needs to be asked of this additional power regulation: Is the additional power really needed? I note that the thirty-fourth report of the Joint Standing Committee on Delegated Legislation details the powers that are already in place. Members will be aware of section 82B of the Police Act which refers to unlawfully remaining on premises. It states -

> (1) A person shall not, without lawful authority, remain on any premises after being warned to leave those premises -
>
> (a) in the case of premises occupied by the Crown or a public authority, by a person in charge of the premises or by a member of the Police Force . . .
>
> Penalty: $500 or 6 months' imprisonment.

The definition of premises includes any land. In addition to the Police Act, section 106(c) of the Conservation and Land Management Act prohibits the occupation of land. Section 108A of the CALM Act refers to the power to remove certain objects. Section 128D of the Forest Management Regulations gives power to prohibit unauthorised camping. The latter of course attracts a penalty of only $200. This seems to be a problem in the view of the Government because it appears that more punitive measures are sought.

The problem of extending those powers along the lines indicated in this regulation has already been pointed out. The view of the Australian Labor Party is that those powers should not be extended. Hon Christine Sharp has already pointed out the problem of the extension of those powers in CALM's regulations; that is, giving an increasing policing role to officers of CALM, who might soon be officers of a Department of Conservation. The Government seems intent on introducing a new set of regulations which are clearly aimed at the current protest movement.

These regulations are the Government's second attempt to stop conservationists taking their peaceful protests into native forests. Last year the Government was forced to withdraw regulations which sought to impose a $2 000 fine on anyone erecting a structure in state forests. The Joint Standing Committee on Delegated Legislation recommended that the regulations be redrafted, and they were withdrawn after the non-government parties in this Chamber voted to disallow them. Although apparently not as punitive, an inspection of the latest regulations reveals that in some respects they are more savage. Under the new regulations, officers of the Department of Conservation and Land Management will be authorised to seize and remove property, including caravans and cars from CALM land. As has been pointed out, caravans are used essentially as portable information booths for conservation groups; therefore, the targeting of these vehicles aims at the heart of peaceful protest. The introduction of these regulations at this time is a highly provocative move.

We believe the regulations are unnecessary, particularly as the Minister for the Environment already has the power to prohibit entry to forests by creating a temporary control area. This power has already been used on a number of occasions to exclude people from forests. In gazetting these regulations, once again the Government has demonstrated its failure to address or manage public consultation properly. If the Government does not want people protesting in our forests, it should address the cause of the problem, rather than the symptoms; that is, the government forest policy for saving old-growth native forests. I note the comments of Hon Mark Nevill in this regard. He takes a contrary view and has pointed out that these regulations before us are toothless, weak and incipient.

Hon Mark Nevill: Insipid.

Hon J.A. COWDELL: They are very similar words! The regulations will make very little difference. We come at it from different perspectives, but appear to have arrived at the same conclusion - although no doubt I may be wrong on this; I merely followed the member's speech in that regard - that these regulations should be disallowed. Direct action at the moment is the only mirror of the mind of the Western Australian public on the forests issue. In its current form, Parliament does not mirror the public mind on this matter, and members of the public must be allowed to express their opinion directly.

[Interruption from the gallery.]

The PRESIDENT: Order! Firstly, I will just say a few words to the members of the public in the gallery. I am delighted to see them here, and I am sure all members join with me in welcoming them to Parliament House; however, there are standing orders in this place which must be obeyed by not only the members of this place, but also members of the community. One of those standing orders is that speaking is done only from the floor of the House, and speaking includes clapping and making signs. I am sure that is something that some of the people in the gallery have overlooked, but I ask them to obey the standing orders so that the gallery can remain open, because others may wish to come here later tonight or tomorrow or the next day. As I say, members of the community are welcome to be here, but they must listen, as I do, in silence.

HON BARRY HOUSE (South West) [4.49 pm]: I support the regulations and will not support the disallowance motion. Although there is an argument to say that they do not go far enough, we must acknowledge that it has become necessary only because there has been a protracted period of illegal camping in the state forests. That protracted period of illegal camping in the state forests has seen a clear perception gather in the community that one group of people is being treated differently from another group of people. That protracted period of illegal camping has resulted in people losing income and jobs. It has certainly seen some provocative actions - that word was used some time ago - in terms of protest contraptions being rigged up to interfere with logging operations and to put people in the forest, both protesters and workers, in severe danger

on certain occasions. It has seen the erection of caravans, tents and dwellings of various sorts. The position is that an individual would be moved on very quickly if he or she attempted to go onto a piece of land controlled by the Department of Conservation and Land Management, whether it be a national park or a state forest, and attempted to camp out in that manner. Because of some irregularities, very little was done to move some of these people on from their illegal pursuits. That was brought to a head recently when a group of people, whose very livelihoods were placed at stake because of the extended debate over the forest issue, took the law into their own hands. They have now suffered the consequences by being charged on various accounts. However, they were so disillusioned and frustrated by the process that they elected to remove certain protesters, their caravan and associated other possessions from an area of forest so they could go about their legal business. That legal business is clearly established by due process, and that is the real essence of this whole argument. It is not surprising to me that Hon Christine Sharp would introduce this motion for disallowance because, as I have mentioned before in debates, although their expertise in and commitment to certain environmental issues is freely acknowledged, the Greens (WA) will never accept due process. Whether that is in this Chamber or in the wider community, it is the same. They will never compromise to accept a position when a Government must accept a position to govern for all people. The Government must take responsibility. The word "rights" was mentioned. The right to protest is an interesting concept. I support the right to protest, but absolutely in a legal way. Whenever the word "rights" is used, it must also be matched with responsibilities. Nobody in this world has any rights unless they are matched with responsibilities. The right to protest means that a person has a right, but he or she has a responsibility to undertake that protest in a legitimate and legal manner.

It has also been mentioned that CALM officers will be put in a difficult position as a result of these regulations. That is a totally ludicrous statement, because, for a long time, the Department of Conservation and Land Management officers and their contracted loggers have been in an invidious position because of these protests in the forests. They have been placed in danger, they have been placed in a position in which there has been deliberate sabotage on occasions, and they have been placed in a situation which has cost them an enormous amount of money in some cases. One logging contractor for whom I can speak claims that it has cost his business up to $725 000.

These regulations attempt to level the playing field only a little by giving CALM officers some powers to enable them to undertake the job that they must do. The powers are similar to those given to other government officers in this State, such as Fisheries WA officers, officers of the Police Force - we are discussing that matter in another debate that is currently ongoing in this Chamber - soil and land conservation officers and so on. CALM officers have a duty under their charter to undertake certain operations, one of which is to conduct logging activities in Western Australia. They are prevented from doing that by illegal protests. If these regulations level the playing field somewhat and allow CALM officers to remove some of the unnecessary and illegitimate operations that prevent them going about their legal duty, they deserve our support.

HON NORM KELLY (East Metropolitan) [4.56 pm]: The Australian Democrats will support this disallowance motion, primarily because the Government has failed to address the underlying reasons for ongoing protests in our southern forests. I will not go into those underlying reasons in great detail, but, briefly, they include the disempowerment of people to have their legitimate views adequately heard during the Regional Forest Agreement process. By the Government's own admission, the RFA process was flawed. The RFA was to be a 20-year agreement, yet it failed to last for even two months before changes had to be made. I mention that matter because we must understand why this remains a significant issue and why there is the potential for serious, ongoing conflict in our south west forests unless there is a greater degree of consultation and cooperation on logging in those forests.

CALM's first attempt at regulating the forest protests last year, which included a $2 000 penalty basically for having a tent peg in the ground, was justifiably slammed as being draconian. A similar offence in existing forest regulations attracted a $50 penalty, yet last year CALM wanted to come in over the top with that $2 000 penalty. At the time, those regulations were slammed by all the non-government parties. Finally, the Minister for the Environment sought their repeal, and this House supported the motion that I moved for the disallowance of those regulations last year.

These regulations appear to be a vast improvement on last year's version - I suppose anything would be seen as a vast improvement. However, they still contain very strong powers which, if not used with due consideration, could be easily abused by CALM officers in the south west. Such potential for abuse should be minimised. The initial contacts between protesters and people in authority, such as CALM officers, shire officers and police officers, can either defuse a situation and bring about an amicable agreement or escalate and inflame a situation.

It is also disappointing that the Government has again failed in its claim to provide, and engage in, adequate consultation about these matters. I received a letter from the Minister for the Environment dated 27 October 1998, the day before the disallowance motion was debated.

[Questions without notice taken.]

Hon NORM KELLY: Before question time I was talking about the Government's failure once again to engage in proper consultation when it comes to the formulation of these types of regulations. I refer to a letter I received from the Minister for the Environment dated 27 October 1998, which was the day before the motion for disallowance was debated in this Chamber. In the letter the minister refers to her intention to seek the repeal of the regulations. In regards to consultation she states -

> I have asked the Department of Conservation and Land Management to urgently review the report of the Joint Standing Committee on Delegated Legislation. This review will specifically address those areas of concern where the Committee believe there are grounds for disallowance.

She then states, and this is a very important part of the letter -

> Any decision to seek to replace the repealed regulations will be dependent on the outcome of that review, and you will be consulted amongst others in respect to replacement regulations.

This is the same indication that the minister gave to other members and to relevant groups such as the WA Forest Alliance. This consultation in respect of replacement regulations first occurred on 14 October 1999 at the end of a meeting I was involved in with the minister in regard to the upcoming restructure of CALM. At the end of that meeting I think Hon Christine Sharp and several other people rose to leave when the minister mentioned in passing that she had agreed to new regulations which would be gazetted the next day. That was the Government's version of consultation on the implementation of regulations. It is disappointing. If the Government wants to seek the support of the often diverse parties in these sorts of issues, it is about time it started to engage in proper consultation. The Government leaves itself wide open to the conflict which inevitably results when regulations are introduced without the Government fully appreciating some of the matters which can be raised by other groups and individuals in a review of what is intended to be gazetted. It is disappointing that it appears that the minister has not learnt her lesson from last year when her first version of regulations were so unceremoniously dumped by Parliament. A year later she still cannot manage to engage in proper consultation.

The powers contained in these regulations can be quite strong if used incorrectly. Regulation 23 relates to the seizure powers and could have a huge impact on the individuals concerned, especially if it was used without adequate warning or notice. It gives the Department of Conservation and Land Management the power to take all possessions, most importantly including shelter for people who may be camped many kilometres from appropriate alternative accommodation. It is important that these powers are used wisely and with due process and adequate warning.

Regulation 25 relates to forfeiture powers. It is also a significant power but fortunately only relates to property which has not been claimed after a six-month period.

Hon Mark Nevill: What period would you suggest should be considered reasonable under regulation 23?

Hon NORM KELLY: I raised that matter with CALM. That regulation is more to do with deciding whether the property should be on the land. I think what Hon Mark Nevill is referring to comes a little later.

Hon Mark Nevill: Regulation 23(2)(a).

Hon NORM KELLY: Regulation 23(2) states -

> If -
>
> (a) a person does not comply with a request under subregulation (1) within a period that the conservation and land management officer considers reasonable . . .

I raised the question of what is a reasonable period with CALM management. I refer to the draft provisions which have been prepared by CALM. They set out a time line for certain circumstances so a reasonable period is made clear to the people involved.

I am also concerned about regulation 26. Under the heading of "Compensation not payable" it states -

> No compensation is payable to a person in relation to any property that is seized, removed, destroyed, sold or otherwise disposed of under this Part.

Bearing in mind the fact that CALM officers may seek the assistance of others to remove property, we are concerned that, depending on how that property is dealt with, serious damage or destruction could occur to that property. If some timber workers are called in with heavy machinery to remove a caravan, depending on their attitude to the protesters, unnecessary and significant damage could be done to that property. Regulation 26 appears to waive any responsibility for the Department of Conservation and Land Management to pay compensation for possible wilful damage to property.

Returning to the time lines for the removal of property and the like, CALM provided me and others with a draft procedure for implementation of the Conservation and Land Management Amendment Regulations 1999. These draft procedures describe two types of circumstances. The first is when the placement of property does not hinder lawful activity. The second concerns a situation in which the placement of property may hinder lawful activity. There would probably be less tension in the first situation because there would be no immediate threat of interruption to logging operations or the like and there is a detailed negotiation process to arrange for the removal of the property.

The process goes through various steps in which the Department of Conservation and Land Management regional manager is required to prepare a forest note information sheet which outlines property to be removed. The forest note is circulated to identified stakeholders, including the people present on site or responsible for the property, the shire council, the police, the Western Australian Forest Alliance, the Forest Industries Federation, and the Forest Protection Society, or whatever it calls itself these days, and other stakeholders as required. A requirement is that there be a time line of at least seven days' notice before a meeting is held between the stakeholders to discuss the removal of the property. The meeting is to be chaired by the local police officer or a representative of the shire council. Matters to be discussed include the further time line for the removal of the property, assistance which may be required in removing the property and standards for the cleanup of the site, if necessary. A time line is to be agreed for when the structures or materials need to be removed. The draft states that is not to be more than 10 days. If that step is not adhered to, the guidelines indicate the subsequent steps which are to be taken. They are not a repeat of the initial process but similar in that a subsequent meeting needs to be called and so on. It is therefore quite a lengthy process which encourages proper consultation with all parties.

What would be more contentious is the second circumstance in which the placement of property may hinder lawful activity.

In such circumstances there would be a much greater sense of urgency to allow lawful activities such as logging to proceed and there would be much more tension. Unfortunately, these guidelines lack designated time lines for the removal of property. In the heat of the situation, this lack of time lines could escalate tension between forest workers and protestors. We would like to see more definite minimum and maximum time lines for the removal of property in those circumstances.

In my discussions with Alan Walker, CALM's regional director, I was very encouraged by his attitude of trying to negotiate the best set of procedures possible to avoid confrontation at all steps of the processes. I raised with him some of my concerns that the time lines were not always suitable because the guidelines referred to a maximum of 10 days before structures are to be removed. I said that there should be a minimum time so that people can know that they will have at least three days or whatever to remove structures. That would allow them time to get their gear and remove property if there is agreement. In that discussion I think we agreed that having a time line of seven to 14 days to remove material would be adequate. I also said that to include bodies such as the Forest Protection Society and the Forest Industries Federation could possibly inflame the situation. Why bring together opponents to negotiate some sort of agreement? CALM is looking at putting in place a new first step to the process, so that there is more of a direct consultation between people directly involved in the forest and CALM before all the other groups are brought in to potentially inflame the situation.

I am encouraged by the likelihood that despite the best efforts of trying to have these regulations disallowed, it looks likely the motion will be defeated and the regulations will remain on the statutes. It is important to see that these regulations are dealt with and administered as fairly and reasonably as possible. We will continue to work to ensure that occurs. In times of tension and conflict in the south west - unfortunately I believe they will occur - following the restructure of the Department of Conservation and Land Management, the new Department of Conservation will work to develop a new culture of consultation, rather than confrontation. I have the utmost confidence in people, such as Alan Walker, to develop that new culture for the management of our forests of the south west.

HON GIZ WATSON (North Metropolitan) [5.45 pm]: I support this disallowance motion. Hon Max Evans suggested that the regulations are simply about clearing up rubbish from the forests and getting on with business. If that is case, why do the regulations specify things, such as locks and locking devices? It is patently obvious that these regulations are all about frustrating and impeding the civil disobedience campaign which has been so effective in our -

Hon Simon O'Brien: It is about frustrating and impeding unlawful activity.

The PRESIDENT: Order! We are talking about the regulations.

Hon GIZ WATSON: The point has already been made that the police have existing powers that they can, and do, use in the case of forest protests. The timing of the introduction of these regulations is particularly unfortunate. It is a retrograde step: Currently there are some signs of positive outcomes for resolving the long-term issues in our forests, and the introduction of regulations, such as these, at this time will add to the level of distrust and will put at risk the more cooperative mood that is present.

Members must be aware of one of the interesting things about applying these regulations. We are talking about "our" state forests, about regulations in public state forests. It is very interesting to speculate whether the regulations will be applied even-handedly. I am aware of a previous attempt to curtail forest activists in the south west, the Walpole area, which involved some attempts to close some roads or certain areas. When the Department of Conservation and Land Management officers proceeded to enforce the regulations, the people whom they caught illegally in those areas were locals going marron fishing, including some of the local councillors. It will be interesting to see whether these regulations to collect camping property from the forests will also be applied to people who are on fishing trips and pig hunters who also spend nights in the forest, or whether they will be aimed specifically at those who are embarking on a civil disobedience campaign in our forests.

The fact that this Government is resorting to the introduction of these regulations deliberately to frustrate that campaign is a tribute to its extraordinary success, to the persistence, the articulateness, and the innovative, dedicated and brave actions of those forest rescuers who have the support of the majority of Western Australians. Furthermore, these attempts to frustrate the protesters in our forests will fail.

I draw on my experience in carrying out a campaign of civil disobedience. My experience is related to protesting against nuclear weapons and I will digress slightly. The sorts of regulations and laws which were brought into existence and continually used in those types of campaigns only serve to harden people's resolve to continue those actions. In the case of Greenham Common they did exactly these sorts of things; they confiscated people's means of shelter and possessions. In fact, it reached the point at which people were camping out in the snow with no tents. Despite that, the camp continued for 15 years until the Government finally removed the nuclear weapons from Greenham Common. This campaign in our forests is equally dedicated and committed and will not be deterred by these sorts of attempts to frustrate the legitimate expression of public outrage about what is happening in our forests. It will put further strain on those dedicated people who are continuing to campaign for our forests. It will put strain on those people who often do not have many possessions and who, because of their dedication to the protection of our old-growth forests, have chosen not to have many possessions and to spend their time protecting those forests rather than displaying the kind of emphasis that many people in our community put on progressing their profit and self-interest. I cannot emphasise enough the selfless contribution these people are making to the protection of our forests.

One point that was made in the debate on this regulation was that there is an issue about pushing the law. I thoroughly support the necessity when the issue is of such importance that pushing the law is a legitimate part of a civil society. Higher values and principles are at stake. We would never have had the abolition of slavery and the improvements in civil rights

in America and we would never have ended whaling in our waters if people had not chosen to challenge laws which they thought were unjust. It is a legitimate right for the community to challenge laws, especially when we know the overwhelming majority of Western Australians support the end to old-growth logging and support the actions of those who are carrying on a civil disobedience campaign in our forests. In fact, there is a higher obligation to challenge those laws when the issue is one of principle and of protecting our heritage. This regulation should be disallowed. It is a further attempt to frustrate the voice of the majority of Western Australians in wanting to protect our old-growth forests, and I will be supporting the disallowance.

Question put and a division taken with the following result -

Ayes (12)

Hon Kim Chance	Hon N.D. Griffiths	Hon Norm Kelly	Hon Ken Travers
Hon J.A. Cowdell	Hon John Halden	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Christine Sharp	Hon Bob Thomas *(Teller)*

Noes (13)

Hon M.J. Criddle	Hon Barry House	Hon Mark Nevill	Hon W.N. Stretch
Hon Max Evans	Hon Murray Montgomery	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Peter Foss	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan			

Pairs

Hon Tom Helm	Hon B.K. Donaldson
Hon Tom Stephens	Hon M.D. Nixon
Hon E.R.J. Dermer	Hon Dexter Davies
Hon J.A. Scott	Hon Simon O'Brien

Question thus negatived.

PROSTITUTION BILL 1999

Second Reading

Resumed from 7 December.

HON PETER FOSS (East Metropolitan - Attorney General) [5.57 pm]: When debate was adjourned last night, I was saying that the legislation relating to prostitution is not moral legislation. One thing that has plagued enactment in this area is that as soon as this question is discussed, people start to raise the fact that any tinkering with the legislation is likely to lead to moral issues. As I said, none of the legislation to date is based on morality; it is based on public order.

Hon Ken Travers: We are waiting for the legislation that deals with the moral issues. You have not yet brought it in.

Hon PETER FOSS: I hope that we never have legislation that is based on morality, because we are here to govern. One of the important things that we must do is bring in legislation that deals with the issues that we have. It concerns me that any suggestion of whether we regulate or do not regulate prostitution as a moral issue is clouding the matter.

Hon Ken Travers: Why is there not legislation in the Chamber to do that?

Hon PETER FOSS: Does the member want to hear anything?

Hon Ken Travers: Yes, I do.

Hon PETER FOSS: Right. Just listen.

Hon Bob Thomas interjected.

Hon PETER FOSS: No, just listen.

The PRESIDENT: Order! Members may not wish to listen, but I do.

Hon PETER FOSS: As I said, the people who turn it into legislation based on morality are those who will stop legislation from being enacted. To hear the Opposition ask why it has not seen the legislation is rather interesting. It has been nearly 100 years since there has been any legislation on prostitution in this Chamber. There certainly was not any legislation during the 10 years of the Labor Government.

Hon N.F. Moore: It promised it several times but found it was too hard.

Hon PETER FOSS: Yes, many promises were made. The most extraordinary thing is that we have heard nothing but support for this legislation from the Labor Party in the lower House, and we still have that support. We have the utmost assurances from the Labor people in the other place that they support this legislation. However, when it gets through to this House, we suddenly find a different view. One wonders why there may be difficulties in bringing legislation forward. The Labor Party cannot even agree between the two Houses.

Sitting suspended from 6.00 to 7.30 pm

Hon PETER FOSS: Before the suspension I said that it is rather curious to hear criticisms of the delay in bringing forward the legislation when Labor Party members are having difficulty agreeing amongst themselves even now. The Government has heard from members in the other place that they are still very supportive of the legislation - they certainly were very supportive when it passed through that House - and yet members in this House have concerns.

Hon Ljiljanna Ravlich: We are saying that we are supportive of the legislation, subject to amendments.

Hon PETER FOSS: No, there was no such qualification in the other place. Nor is there any such qualification from the Labor Party's shadow spokesperson. It is strange to hear criticism of a delay when it is clear that the Labor Party itself is having considerable difficulty dealing with this rather limited legislation. The fact remains that it is one of those areas that leads to a degree of -

Hon Ljiljanna Ravlich: How long did the Labor Party have to address this issue down there? It was on the Table for 24 hours and then rammed through and you know that. There was insufficient time to properly analyse it.

Hon PETER FOSS: It was not rammed through. I do not know that it is relevant, but I make the point that the legislation is still supported by Labor members in the other place. It was not rammed through.

Hon N.D. Griffiths: Stop alluding to debate in another place.

Hon PETER FOSS: I am trying not to. Not only did the Bill not have any opposition -

Point of Order

Hon N.D. GRIFFITHS: I understand we have a standing order about alluding to debate in another place, and the Attorney General is picking up a copy of *Hansard* and off he goes.

Hon PETER FOSS: I have not alluded to it yet.

The PRESIDENT: Order! That is the point I make to Hon Nick Griffiths. At the moment all I can see is the Attorney General holding an open copy of *Hansard*. The Attorney General knows the standing order that precludes any member from alluding to debates in the Legislative Assembly, and I am sure he will observe that standing order.

Debate Resumed

Hon PETER FOSS: I certainly will. The point which I was trying to make, and which Hon Ljiljanna Ravlich seems to want to provoke me into continuing, is that the Bill was not rammed through and it was given enthusiastic bipartisan support. The Government has been informed that the Bill continues to have that bipartisan support. The point I make is that the criticism that it has taken some time to bring forward the legislation is hardly justifiable, when it is so obvious from the dissension within the Labor Party's ranks that they are having difficulty grasping some of the issues.

Several members interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich has spoken in the second reading debate, and her further questions and other comments must wait until the committee stage. The Attorney General is now replying to the second reading debate.

Hon PETER FOSS: What I have said is on the record, and I do not need to say it again. One of the problems is that some people have come to this debate very late. The classic example was the statement by Hon Ljiljanna Ravlich, who almost admitted during her speech that she started her research that afternoon and was, therefore, a full bottle and able to give a most learned commentary on the whole matter. That is what she does on every issue. She informed us that streetwalking was a problem because the police were not trying -

Hon Ljiljanna Ravlich: They obviously are not trying hard enough; otherwise, they would have fixed it.

Hon PETER FOSS: The member said it again! Her logic is that streetwalking is a problem because the police are not trying to solve it. I tell Hon Ljiljanna Ravlich that the police have been trying, but the difficulty is that over the years the approach taken by the courts regarding soliciting has changed considerably. Once upon a time, it was sufficient merely to show the behaviour of a person as observed in the street to convict a person of soliciting. A person being seen in the street approaching a number of males in succession was enough to convict. The courts have said over time that one must show much more as evidence, and it is now almost impossible for the police to show what is required.

I will not tell the House the full benefit of the briefing I received from the police in outlining the difficulties they have in obtaining the evidence upon which the courts now insist.

Hon N.D. Griffiths: Did you not know that beforehand?

Hon PETER FOSS: What?

Hon N.D. Griffiths: Did you not previously know about the problem of evidence - that about which you know now?

Hon PETER FOSS: I knew about the problem, but I went with the police and they showed me in more detail the problems they confront. I heard it directly, not only through hearsay.

Hon Norm Kelly: Did they tell you about the problems they have with resources as well?

Hon PETER FOSS: No, they did not. They told me the single problem they had in obtaining convictions was with the courts. They made that point clear.

Hon N.D. Griffiths: Police always say that, of course.

Hon PETER FOSS: That is true, but they gave evidence outlining why that was the case. The member knows that the requirements of the courts have changed. A number of cases have made that provision of evidence very difficult.

Hon N.D. Griffiths: The reality, as you know, is that when Parliament was made aware of the difficulty in an area, the police started enforcing the law and the problem was resolved in that area.

Hon PETER FOSS: It was not resolved in that area - it moved on. The police still cannot get convictions.

Hon N.D. Griffiths: Yes, they did.

The PRESIDENT: Order! We do not need a running commentary from Hon Nick Griffiths. He will have an opportunity in committee to say what he wants, as many times as he requires, to which the Attorney General will respond. The Attorney General is currently answering questions on issues raised in the second reading debate. I do not want to keep interrupting as I am starting to bore myself. The honourable member should do me a favour and stop interjecting.

Hon PETER FOSS: It is not a simple matter of merely saying that the police are not trying. The law has changed over the years. An interesting aspect of this Bill - and to some extent this has been the subject of complaint - is its intent to restore the evidentiary provision which used to exist. It is not a matter of changing the onus of proof so people must prove their innocence. People must prove a set of circumstances which were the circumstances which had to be proved in the past to establish the offence. That was before the courts changed the law. Strangely, courts can change the law because somebody makes a decision. However, Parliament does not seem to be able to change the law back because as soon as the courts change law it becomes sacrosanct. It has been suggested by those people who oppose the Bill that we cannot restore the former situation. It seems that when judges change the law it becomes sacrosanct, but it is not sacrosanct when Parliament seeks to do so. We must learn that it is far better to have a system of law in which significant policy changes are made by Parliament rather than by the courts.

Hon Mark Nevill: Who has suggested that it should be otherwise?

Hon PETER FOSS: As soon as we try to return the law to the way it was, it is as though the judicial change is holy writ. Hon Norm Kelly virtually suggested that what we were doing was something that no Parliament should ever contemplate doing, whereas it was the law before the courts started to change it. The Government is saying that it does not like the changes that the courts have made and it wants to take the law back to what it was before, because then it was much easier for the police to enforce the law. Changes in the law made by courts should be easily reversible by Parliament. That is one of the things that Parliament should be able to do. It should not be a matter that, because judges have changed the law, we cannot. It should be the reverse and if judges change the law and we do not like it, we should put it back as it was. I do not see why members are so upset about it.

Hon N.D. Griffiths: We are upset about the abuse of civil liberties.

Hon PETER FOSS: It is not an abuse of civil liberties.

Hon N.D. Griffiths: You should read your Bill.

Hon PETER FOSS: I have read it.

Several members interjected.

The PRESIDENT: Order! Members asked the questions that the Attorney General is now offering to answer. They should just listen.

Hon PETER FOSS: We will get into the detail of the Bill during the committee stage. I am making the statement - it is an important statement - that this Bill seeks to change the law back to the evidentiary situation that existed prior to the courts insisting on what I believe is an unreasonable standard of proof for the type of offence about which we are talking.

A representation has been made that the changes in the law are changes across the whole range of police powers. However, if one reads the Bill carefully, the changes relate to particular offences that are contained in the Bill. The Bill comprises four areas, but members need to be aware of two major areas about which the public are currently concerned. The first area is street soliciting, and the offences that relate to street soliciting. Many of those offences are no more severe than they were before. The important point about the Bill is that it draws all of those offences into one Bill. Some of the criticisms of this Bill have been about provisions which are already in the law. Strangely enough, other people have criticised them because they are already in the law. I cannot understand when people say that they do not like this provision because they find it draconian, and other people say, "We already have this provision in law so why are we enacting it?" We have good reasons. We have drawn into this Bill, which will become an Act of Parliament, all of the provisions that are relevant to the offences with which the public has concern about public order, and we have given the police power in respect of those offences. The police will not have this power for every offence in the criminal statutes or in the Police Act. The police will have these powers for a particular set of offences, and those offences need to be addressed as a matter of public order at this stage. I would like members to reflect on what those offences are. Street soliciting has become a major public order issue. It always was banned on the basis of public order, and not on the basis of morality. One of the important things that we have done is to increase the penalty so far as the clients are concerned. Why is that? Member saw what happened in Palmerston Street when the police moved people on. All that happened was that they moved elsewhere. That does not get rid of the demand for those services. The people who are creating the public order problem are the kerb crawlers. I have spoken to people in Glendower Street who say that the biggest problem is not so much the girls but the clients. They not only turn the

place into a major thoroughfare because there are trucks coming through and people passing by on their way to the tip on Saturday afternoon but also harass the women who live in the area. A woman who gets off a bus and walks to her home in Glendower Street is propositioned every inch of the way by clients.

Hon Ken Travers: That has been going on for two years; we agree with you.

Hon PETER FOSS: Good, I hope members of the Labor Party support the Bill and the evidentiary provisions that are required to achieve prosecutions. There is no point in our passing draconian provisions to deal with the issue if it is not possible to get a conviction. If members opposite remove the guts from the legislation, as it appears is suggested, they will simply be doing what Parliaments have been inclined to do from time to time thinking they will solve the problem. They pass laws saying it will not happen because it is illegal, but they do not deal with the problem of how someone will be convicted.

The aim is to include the important matters in one Bill and to deal with it as a matter of public order. In the process we will provide the evidentiary provisions which go with those offences and which are related to that Bill. In addition, we will give powers to the police related to the offences in that Bill. That process will contain the issue and work on the problems. It is a public order Bill.

Strictly speaking, the people we are talking about are the streetwalkers. The police have made it clear that they will target the clients. If we cut off the demand, it makes it hard to provide the supply. In fact, if we cut off the demand, women walking up the street are not the major problem. The public order problem today is the importuning of respectable citizens by kerb crawlers, and this Bill deals with that issue. It includes a serious offence and evidentiary provisions to enable people to be prosecuted despite the changes in the law that have occurred since the original public order offences were created in the Police Act.

If those provisions are removed, the efficacy of the Bill will be removed. People criticise it because they are ignorant of the fact that the law already exists, but without the penalties that the Government has included, or because it already exists. I do not know which way to turn. Perhaps the two groups of critics should get together and agree whether it is a drastic new law or the old law with increased penalties.

Hon Ljiljanna Ravlich: Perhaps it is just a mess.

Hon PETER FOSS: It is not a mess. The biggest mess is the fact that members of the Labor Party cannot get their heads around the issue and agree to an approach. The Labor Party has a police spokesperson who supports the legislation, lower House members who have supported it throughout and upper House members who appear to have gone out to lunch.

As I said, one of the issues being dealt with is street soliciting. Another major issue being dealt with is child prostitution. I do not know what we would need to find as an offence before we said that it was sufficiently serious that it justified the exercise of significant powers. I think we all agree that some terrible offences are committed, and exploiting children for the purpose of prostitution would have to rate pretty high on that list. If members were asked to produce a priority list of offences that they find most detestable, using children as prostitutes would be one of the first on the list. To me it is more drastic than many other offences which have been used to justify some of the powers that have been given. We have allowed stop, detain and search powers for the misuse of drugs and weapons. However, horror is expressed when we talk about it being used to prevent child prostitution. For example, the police were called recently by the father of a child who was engaged in prostitution. He had information that indicated that the child was engaged in prostitution in particular premises. The police, acting on the information, obtained a warrant. As one knows, obtaining a warrant takes time. By the time they arrived at the premises the child had left. I ask the members: Is it not appropriate, when information is received from a parent that his or her child is being exploited for prostitution in certain premises, that the police go directly into the premises and arrest the people?

Frankly, if I had to compile a list I would certainly put it before fisheries and chicken meat offences and I think I would put it before the misuse of drugs and weapons. That is one of the areas in which we are providing that right. Yet it is being suggested by the Opposition that it is not appropriate. I will give the House another example which was given to me by the police. We are seeking to ensure that children are not on premises while prostitution takes place. In this instance, a prostitute was engaged with a client and the client offered the prostitute an extra $1 000 for a 12-year-old child to join them on the bed, which happened. Unfortunately, the police have had some difficulty in prosecuting that offence but that is the sort of circumstance that makes it necessary for children to not be on premises. We do not believe that the police should have to chase around for evidence after the event. They should be able to enter premises as soon as information is received. If a child is present while prostitution is taking place, it should be an offence and it is the sort of offence that one does not wait to do something about until a warrant is obtained. I do not know how long some members take for sex but I will bet them that it would take less time for them to complete the act than it would take to get a warrant. Members of the Opposition can boast about taking a long time for sex. However, I can assure the House that by the time one gets information, in most cases the sex would have concluded. The fact is that when one gets this sort of information one has to move quickly.

Hon N.D. Griffiths: This is a House of Parliament and I wish that you would speak with some dignity.

Hon PETER FOSS: Hon Nick Griffiths wants me to speak with some dignity but the fact is he has been making these statements without considering the reality of what the Bill is dealing with. He suggests that child prostitution is such an insignificant crime that it does not warrant the opportunity to go into premises and deal with it.

Hon Ken Travers: You can enter premises without a warrant.

Hon PETER FOSS: How?

Hon Ken Travers: If there is reasonable suspicion of a crime being committed.

Hon PETER FOSS: The member reckons so, does he? He should try doing it and see how far he gets. I know it can be done when there is belief a crime is being committed. However, no-one has the right to enter premises without a warrant when it is suspected that a crime is being committed. There has to be reasonable cause to believe that it is actually taking place. I believe it should be sufficient if one suspects it. The member knows the practicalities of that. If the member thinks there is no difference between the two then what is the objection? If the member thinks that what exists currently is the same as what we have, what is the member's objection to it being put in the legislation in respect of child prostitution? If the member does not think it is the same, I am not quite sure why he is objecting to it.

Hon N.D. Griffiths: Did you draft it?

Hon PETER FOSS: I did not draft the legislation.

Hon Norm Kelly: Why duplicate it?

Hon PETER FOSS: It is not duplicated. It gives greater power to enter than currently exists.

The Government has been asked why it has not legalised prostitution. The Government has no intention of legalising prostitution at any time. It has never been suggested that the Government would legalise prostitution. It has always been the Government's intention to deal with the problems by regulation or the creation of other offences.

We are also dealing with the health issues. Interestingly enough, when this legislation was announced, the Australian Medical Association sent a letter to the Government congratulating it for its intention to deal with these issues. The sexual health provisions were written in consultation with the Health Department and the Executive Director of Public Health.

Hon Giz Watson also suggested that street soliciting was a victimless crime. I am sorry, we have just been through that; street soliciting is not a victimless crime. It leads to many victims who tend not so much to be the kerb crawlers but the people affected by them. It is fairly cynical to suggest that streetwalking is a victimless crime. Members should talk to the people in North Perth and ask them if they think it is a victimless crime. I am sure they would disagree with that statement.

Hon N.D. Griffiths: I don't think you have talked to them.

Hon PETER FOSS: I have talked to them. I regularly walk through North Perth and talk to these people.

Hon Norm Kelly interjected.

Hon PETER FOSS: No, I walk through rapidly on my way to work in the morning.

Several members interjected.

Hon PETER FOSS: I must say I find it rather difficult because there do not seem to be any of them around in the early hours of the morning. I have never seen one. I probably would not recognise one.

Hon Ken Travers: Do you get propositioned?

Hon PETER FOSS: I have never been propositioned at that hour of the morning.

Several members interjected.

Hon PETER FOSS: This probably indicates the Opposition's attitude. Members opposite seem to think that what the people of North Perth are putting up with - being propositioned - is something to laugh about. If members talked to those people, they would find that they consider it to be a considerable public nuisance, as it is.

Hon N.D. Griffiths: Your own back bench was laughing.

Hon PETER FOSS: No, they were not.

Several members interjected.

The PRESIDENT: Order! We are trying to deal with the Bill. If it is such a joke, we might as well move on to the next bit of legislation and forget about this. All members have had the opportunity to speak; some took that opportunity and others did not. The second reading chance has passed. Members should wait until we get into committee to crack their jokes.

Hon PETER FOSS: I was concerned that in the contribution of Hon Cheryl Davenport we appeared to get an extensive quotation from Miss Kenworthy. We should consult some people and we have consulted them. However, there are other people to whom we do not need to pay a considerable degree of attention. One such group is brothel owners. We can have sympathy for prostitutes. There are all sorts of reasons why women end up in prostitution. It may be that not all such women deserve sympathy; they may have made the choice willingly. However, generally speaking, many of the women who end up working as prostitutes do not necessarily do so by choice. We cannot say the same thing about madams. There is no altruistic interest which we should be following there. The last people who should be consulted are the madams.

Hon Mark Nevill: You obviously have not met Sally.

Hon PETER FOSS: No, I have not met Sally. Is Hon Mark Nevill suggesting she is altruistic?

Hon Mark Nevill: At times, yes.

Hon PETER FOSS: Good. However, being a madam is not a form of altruism. I am sorry about that. Although I can accept that one can have considerable sympathy for a person working as a prostitute, one can have no sympathy whatsoever for the person who has ended up as a brothel madam.

Hon Norm Kelly: Surely if you are serious about regulating the brothels you would still consult the madams on their views.

Hon PETER FOSS: Not necessarily. That would only be if one wished to make sure that they did not avoid the law. In the same way, I do not go to Casuarina Prison to check with the murderers, rapists and robbers what would be an effective method of amending the Criminal Code. It may be that I should be doing so according to Hon Norm Kelly.

Hon Norm Kelly interjected.

Hon PETER FOSS: What is the member talking about? We are not talking about regulating, but this legislation. I do not believe that this legislation, which creates criminal offences, should be checked out with criminals prior to bringing it in. If that is what the member is suggesting, he may, as a logical extension, say that we should ask murderers, rapists and robbers when we next amend the Criminal Code to make certain that we are not causing them any inconvenience. It is almost like those people who suggest we should have a Criminal Code right throughout Australia for the convenience of criminals, so that when they move from State to State, they do not have to find out what the new laws are. I have always found it rather strange that whenever we talk about a model Criminal Code, people say that we should have a uniform Criminal Code.

Hon Ljiljanna Ravlich queried whether there are any other powers to stop, detain and search in existing legislation. There are many. Some examples are the Misuse of Drugs Act, the Fisheries Act, section 49 of the Police Act and the Weapons Act. The power is usually for particular purposes. Here it is for the particular purpose of dealing with offences under this proposed Act. I notice on the Supplementary Notice Paper an amendment to add the words "under this Act" at various places after the word "offence". That wording is not necessary because all offences relate to offences under this proposed Act.

I note also the concerns that Hon Norm Kelly had with medical check-ups. I do not necessarily agree with his concerns but I have put on the Supplementary Notice Paper an amendment which I hope will address those concerns. If there is any validity in the concerns he expressed, I trust the amendment will deal with them. We spoke to prostitutes at quite an early stage about the question of medical checks. All prostitutes have medical checks. One of their requests was not to make medical checks compulsory because they like to get their money back under Medicare. Once the State Government makes a medical check compulsory, it ceases to be reimburseable under Medicare.

Hon Mark Nevill: It becomes health screening.

Hon PETER FOSS: Yes.

Hon Norm Kelly: It should be a state cost if the State is imposing it.

Hon PETER FOSS: We are not making it compulsory. The prostitutes had other objections to medical checks and said that they had them any way. One of the justifications they gave was that they would have to pay for the checks if we made them compulsory. We are not suggesting that they be made compulsory but I am prepared to put into the Bill an amendment which gives them greater exemption if they do undergo medical checks.

Concerns were expressed about offences relating to being a prostitute while having a communicable disease. It would certainly be a massive imposition on ordinary members of the public if we were to say that while they had a communicable disease they could not have sex if there were some method by which another person could be protected from that disease if they acted consensually and knew the risk. We have criminal offences relating to intentionally infecting people with disease. However, the reason we have a provision here is that there is a difference with people who act as part of their way of earning money and not as part of a consensual relationship in which people enter into an arrangement knowing what the situation is and with full understanding. It is just unacceptable to have people who are infected with such diseases. That is the current rule. If we are trying to get best practice in the industry, that is the way to do it. When people have a communicable disease, they do not have sex. That is the way best practice works. All we are saying is that those who observe best practice have nothing to fear from the legislation. For those who do not, it will now be an offence.

Hon Norm Kelly interjected.

Hon PETER FOSS: I think it would be unduly bureaucratic and complicated. The member is thinking that people who have HIV AIDS can have sex only with other people with HIV AIDS. That is an interesting proposition.

Hon Norm Kelly: In many ways that would not exacerbate the spread of the disease.

Hon PETER FOSS: If the member is prepared to move an amendment, I am prepared to consider it. It is an interesting point.

Hon N.D. Griffiths: I think you would need a French correspondent to draft it for you!

Hon PETER FOSS: I thank the member for that! A suggestion was made about the allegation that the police abused powers, and that there had been no complaints of the police abusing powers because they have control over the area. The interesting aspect is that they have no control over a very large part of the sex industry. One of the current problems is the containment policy, which has totally broken down. Some brothels operate as being contained, but the majority do not. There is no power over escort agencies or massage parlours. There is no form of police control over them. The suggestion that there have not been complaints of corruption because they have some form of control is incorrect. I see no reason to make a distinction.

The complaints are said to be on the basis that the police have control over the drugs and seek to exercise control over the drug industry. I specifically asked the Anti-Corruption Commission whether it had any complaints. It had only one complaint in this area. The ACC certainly did not see it as a problem area. People can make an anonymous complaint; there are all sorts ways to get a complaint to the ACC. I find it rather hard to believe that the member can say there are problems, when there has not been a raft of complaints, in the same way as there has been in other areas of police operations.

Hon Norm Kelly: You are saying that the police have no control over brothels and massage parlours, yet the Government still is not taking any action to give them control. It is slightly hypocritical to say that we must bring in the legislation to give police control over one aspect of the industry, but will not bring it in to control the rest.

Hon PETER FOSS: Nobody has ever suggested that legislation has been brought down that handles absolutely everything that must be dealt with in prostitution. I look forward to the day someone comes in with perfect legislation that works. We have looked at the legislation in practically every -

Hon Norm Kelly: There is pretty good legislation floating around in the east.

Hon PETER FOSS: There is some pretty bad legislation floating around. Let us take the example in Victoria when it introduced brothel legislation. There were two very undesirable effects of that legislation, which was supposed to legalise prostitution: First, organised crime came into the ownership of brothels, which the previous containment process had kept out; secondly, because is was so difficult to obtain local government approval, which was necessary for a legalised brothel, most of them were closed, and most of the prostitutes were thrown out onto the street. Victoria went through a period in which the number of street prostitutes skyrocketed. All the women who had previously been in contained brothels ended up on the street. I have yet to find anywhere any legislation which people can say has done all the things which it intended to do. Generally speaking, the legislation might do one or two things that it intended to do and at least as many that it did not intend to do. If members can show me some prostitution legislation that is working brilliantly, and if they ask people details about it and cannot find a lot of unintended consequences, I would be very surprised. People have told me that I must look at the Australian Capital Territory legislation. The ACT has other problems which are considerable. Every piece of legislation that has been written has some positive aspects, but it also has some negative aspects. We have never said that we would be the first nation on earth to come up with satisfactory legislation which deals with all the problems of prostitution. Prostitution is not the oldest profession without reason. It is something that will always be there and it will always cause problems. What we can do is seek to regulate it and to deal with those problems that, at any particular time, are identified as significant problems. There is no doubt that the two most significant problems at the moment are child prostitution and streetwalking. I do not think anybody would deny that they are the two most significant problems and must be addressed most urgently. Perfection takes a little longer, but we believe we can address the problems. I do not think anybody in this House would suggest that we should not be addressing at least child prostitution.

Hon Ljiljanna Ravlich: How many children are involved in prostitution?

Hon PETER FOSS: The Minister for Police has given me some figures, but I do not know how accurate they are. Perhaps we should wait until the committee stage.

Hon Ljiljanna Ravlich: What did he tell you?

Hon PETER FOSS: I have been told there are between 12 and 30 child prostitutes, but that is purely an estimate. Even one is too many.

Hon Ljiljanna Ravlich: Absolutely.

The PRESIDENT: If the Attorney General addresses me, other members who clearly want to ask questions will not interject. I feel that I am being unfair to some members by letting a chitchat show go on.

Hon PETER FOSS: The issues which are dealt with in this Bill include street soliciting, which is a current public order problem; child prostitution, which we agree is a matter of concern to all members in this House; and health issues. We believe some brothels observe the rules that are contained in this Bill. However, others do not have that sort of control. We believe there should be a punishment for those brothels which do not observe best practice and there should be no punishment for those which do observe best practice.

The fourth part of this Bill, and it is an important one, is the provisions which will allow the police to prosecute. Without those provisions, the rest of the Bill is a waste of time. In a large measure, to one degree or another, some of the offences are there, but they cannot be dealt with effectively because of the change in the way evidentiary provisions are now dealt with by the courts. It is also difficult for police to gain entry to places to which they could previously gain entry, and that is a concern, particularly in the area of child prostitution. We have placed the offences in one Bill because that has the effect of limiting and containing those extra provisions. We believe that by putting them in one Bill, it will be appreciated by the Parliament. By limiting those powers dealing with the offences in this Bill, Parliament is not giving open slather to the police but is saying that when dealing with these matters, the police can use these powers.

Some strong statements have been made which are not justified by the Bill, and I hope when we get to the examination of the Bill they will be seen to be not justified. I realise that there can be different views, and the fact that there are extremely different views within the Labor Party is an indication of that. As we work through the clauses of this Bill, we will be able to come up with a satisfactory result that deals with these issues which are of considerable concern to the people of Western Australia and which should not be dealt with lightly.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon N.D. GRIFFITHS: The Attorney General made an interesting comment earlier today about my delaying the House by occasionally speaking for half an hour. I note what time we have moved into the committee stage on this Bill.

Clause put and passed.

Clause 2: Commencement -

Hon NORM KELLY: It is felt that this Bill has been rushed into the Parliament in an attempt to rush it through because of the concerns of certain Perth residents. I am sure those residents would be interested to know when this Bill is likely to be proclaimed. I would also like to know how much time will be needed for police training and to set up police procedures so that the provisions in this Bill can be used.

Hon PETER FOSS: Some matters are obviously dependent on what happens to the Bill in its passage through Parliament. Some processes have been already put in train, but the ultimate determinations cannot be made until we know what the law will be and the regulations we will be capable of making. If we assume that the Bill passes without major amendments, it will be in place by Christmas.

Hon N.D. Griffiths: What year?

Hon PETER FOSS: It will be Christmas 1999, although it will take longer if major amendments are made.

Hon NORM KELLY: Assuming that the other place will not sit until 21 December, the police must already be putting in place procedures in anticipation of the Bill's enactment. I imagine that this would definitely satisfy people's concerns.

Hon PETER FOSS: It depends upon what will happen to the Bill in its passage. I assume it will pass in a form acceptable to the Government, and that it will pass through the other House. We will proceed on the basis that it will pass the other House. If changes are made, establishement will depend upon the training required. A squad of people will be trained, not the entire Police Force. The drafting of notices and matters of that nature have started, but this may need to start again if big changes are made. If things go as expected, we hope it will be in place by Christmas.

Clause put and passed.

Clause 3: Definitions -

Hon NORM KELLY: The definitions of "client", "prostitution" and "prostitute" each have slightly different wording. Perhaps the wording could be changed in the other place to make them consistent. I move -

Page 2, line 26 to page 3, line 10 - To delete the lines and substitute -

"public place" has the meaning given to that term by section 3 of the *Health Act 1911*.

The Australian Democrats believe that the Bill's current definition of "public place" is far too broad, particularly paragraph (c). Our legal advice indicates that it would extend this Bill into brothels, massage parlours and the like. We propose that a public place be given meaning by section 3 of the Health Act 1911, which states -

"Public place" includes every place to which the public ordinarily have access, whether by payment of fee or not.

We have the option of incorporating that wording into the Bill or making that reference to the Health Act - it is much of a muchness. Given that the Democrats believe that this legislation should be covered by the Health Act and the Minister for Health rather than the Police portfolio, it is workable to use the Health Act definition. In light of some concerns raised about the operation of houses in Kalgoorlie, the definition may need to be extended slightly. However, changing the definition to that found in the Health Act covers difficulties with paragraphs (a) and (c) and will get rid of (c), which is beyond what is necessary in this Bill.

Hon PETER FOSS: When various amendments were placed on the Notice Paper, I sat down to see whether I could produce something to satisfy the needs of prosecution and the concerns notified by way of the foreshadowed amendments. I have noted those concerns. For example, Hon Nick Griffiths was concerned about paragraph (c) in the definition of "public place". I go through the definition's various parts. Hon Nick Griffiths accepts paragraphs (a) and (c) as appropriate places where soliciting should not take place. Paragraph (c) was included because of places called squats. People are squatting in areas of East Perth which are currently unoccupied and operating as prostitutes. Paragraph (c) in the definition of "public place" specifically deals with squats. However, I could see difficulties with that and I propose to move an amendment to (c) which, first of all, makes (c)(i) a little clearer. It refers to a privately owned place that is unoccupied or is occupied by a person who is not the owner and who does not have the authority of the owner. That picks up squats and takes out (c)(ii) altogether, which most people have a concern with. One of the difficulties of bringing in the Police Act definition of soliciting is that it deals not only with public places but places that are within the view or hearing of a public place. For instance, if we were to take out the definition, as suggested by Hon Nick Griffiths, and leave the offence as it is, a person could completely escape the law by soliciting from just inside somebody's front garden. I suspect that the people of North Perth would be upset if prostitutes stood in their front gardens and solicited, thereby avoiding the law altogether, because we deleted the Police Act offence and created an offence that did not pick up matters of this nature.

The other concern that was expressed related to the Kalgoorlie starting stalls, which are illegal, but the law is not enforced at the moment because they are not within view or hearing of a public place.

Hon Mark Nevill: Like two-up, the stalls are a part of our heritage.

Hon PETER FOSS: Hon Mark Nevill pointed out that like two-up they are part of our national heritage and to take action against them would not only be unwise but also in breach of some heritage legislation. Hon Nick Griffiths has also placed an amendment on the Notice Paper, which may have meant to deal with that issue; that is, a public place was not a public place if it had been defined by regulations as not a public place. I consulted with parliamentary counsel in the light of the other proposed amendment to the offence, which refers to a place which is in view of a public place. The suggestion is that it be placed in a regulation-making power. The last amendment I will move is to insert new clause 64(3) -

> The regulations may exempt a place described in the regulations from being a place that is or is in the view of a public place for the purposes of this Act or for any particular purpose.

I have tried to account for everybody's objections, and at the same time make sure that we do not end up liberalising the law and encouraging starting stalls in Perth. The starting stalls in Hay Street, Kalgoorlie may have an acceptance in the local area, so that they are no longer considered a public nuisance, but to start them in Hay Street, Perth might not gain quite the same acceptance from the local population. It is important that we maintain the capacity to deal with soliciting that is taking place off the public way but within view of the public way. I propose to adopt to some extent the amendment foreshadowed by Hon Nick Griffiths, but to insert instead a new paragraph (c) which picks up squats. On Supplementary Notice Paper 21-4 amendments 73/5 and 74/6 will add the words "or in the view of" and finally amendment 76/64 will insert the exemption power. I hope that those amendments have dealt with the objections that each person has made, but at the same time does not liberalise the law, and will be enforceable.

Hon MARK NEVILL: I intended to support Hon Norm Kelly's proposed amendment. However, I will support the Attorney General's amendment if he can guarantee that the regulation-making power contained in proposed amendment 76/64 to insert new clause 64(3) will exempt the three houses in Hay Street, Kalgoorlie.

Hon PETER FOSS: I have discussed this with the Minister for Police and it is his intention that, and I undertake on behalf of the Government, the regulations will exempt "as a place in view of a public place" the Kalgoorlie starting stalls. In other words, they would not be able to go on to the street outside.

Hon Mark Nevill: Or the footpath.

Hon PETER FOSS: I can give that assurance.

Hon NORM KELLY: I refer members to the possibility of street workers being able to operate within the front fence of a property. Section 81A of the Police Act relates to penalties imposed on persons trespassing on enclosed land and section 82B relates to unlawfully remaining on premises. The police already have powers to act in those instances. It is not directly related to soliciting as such, but those powers can lessen the chance of that being used as a loophole.

Squats in East Perth may be a legitimate concern, but surely that is beyond what we are dealing with here. The issue is why people are accessing those unoccupied houses. It is not necessary to have that provision for what is an extremely minor part of an already minor part of the overall industry.

The establishment of starting stalls in Perth brothels or houses is remote. If that were to occur, we already have provisions preventing the keeping of houses. If the police had proof of offences -

Hon Peter Foss: Individual prostitutes would be entitled to do it. We are not intending to loosen the law but to tighten it. If you did this, an individual prostitute could sit in the equivalent of a Kalgoorlie starting stall and solicit.

Hon NORM KELLY: That may not be a bad thing. At least they would be out of the way. I do not know whether this Government has looked at other possibilities. It condones the maintenance of brothels and regulates them through the containment policy.

Hon Peter Foss: It need not be a brothel.

Hon NORM KELLY: We could have private individual workers operating out of premises.

The provision for making exemptions by regulation is probably worthwhile but it is also limiting until the Government assures members about the exemptions that will be allowed. Those assurances are necessary before the Bill is passed.

Hon PETER FOSS: I am horrified at the suggestion made by the Australian Democrats that they intend to liberalise the law relating to streetwalking.

Hon Norm Kelly: I did not say that.

Hon PETER FOSS: The member said it might not be a bad thing.

Hon Norm Kelly: I was talking about addressing the laws relating to the industry.

Hon PETER FOSS: The current law provides that a person may not solicit in a public place or within sight or hearing of a public place. If we remove those words from the definition and we do not amend the offence, the net effect will be that someone will be able to solicit from a front lawn. One may be able to charge the person with being unlawfully on the curtilage, but that is another offence. We are trying to deal with the offence of soliciting and we do not want to encourage

people to do it from people's front lawns, because it is a different offence with a different penalty. The last thing we want to do is to encourage people to go onto other people's front lawns.

The other suggestion was that it would not be a bad idea to have starting stalls with single operators.

Hon Norm Kelly: I did not say that.

Hon PETER FOSS: The member said it might not be a bad idea.

Hon Norm Kelly: I said I wondered whether the Government had considered it.

Hon PETER FOSS: I can say that we have considered it and we would not agree to have starting stalls for individual prostitutes in Hay Street, Perth. That is the possibility that the member is opening up. It does not take to long to consider that. I can give the answer right now: We are against it. The fact is that it is not illegal to be a single prostitute but it is illegal for a prostitute to solicit for business within view or hearing of a public place. I can just imagine it - one could be a single operator, open up in Hay Street, Perth, buy a nice loudspeaker like those available in some of the $2 shops, sit in the window in a negligee and say, "Come on and get it!" - all courtesy of an amendment by the Australian Democrats. The Democrats would certainly get an awful lot of party funds because there would be an enormous amount of support by the single prostitute industry. Single-handedly the Democrats would set it up in business. If Hon Norm Kelly wants to know whether the Government has considered it, I considered it just then and I have rejected it. I am trying to address the member's problem and I understand the problems that both Hon Nick Griffiths and Hon Norm Kelly raised. I am trying to address them without creating new ones. I want at least to be able to say the offence is no less than it was before, because if we do not do that I think we have a problem.

Hon NORM KELLY: The difficulties the Australian Democrats have with this definition, and will have continually, with the Bill is that we are addressing only a small part of the sex industry and sometimes it can be difficult working with limited legislation without having unintended consequences on the greater part of the industry.

Hon N.D. GRIFFITHS: I do not want to speak at length on this matter, particularly with respect to the amendment that has been moved by Hon Norm Kelly, but I note what a public place is said to be under the Health Act, excepting Part IX B, which relates to smoking regulations that were brought in last year. A public place "includes every place to which the public ordinarily have access, whether by payment of fee or not". I look at that definition and compare it with that of a public place as defined in the Bill before us in paragraph (a). I am interested in the definition of a public place if it were to be restricted to paragraph (a) with either the amendments I propose subsequent to that or the amendments the Attorney General proposes subsequent to that; or if none of those is successful and we compare paragraph (a) with what Hon Norm Kelly proposes, I would like to hear from Hon Norm Kelly briefly as to why what he suggests does the job better than paragraph (a).

Hon NORM KELLY: I believe it is a better definition if one reads paragraphs (a) and (b) in conjunction so that the definition under the Health Act embraces paragraphs (a) and (b) of the definition contained in this Bill.

Amendment put and negatived.

Hon N.D. GRIFFITHS: I move -

Page 3, lines 4 to 10 - To delete the lines.

I note what is proposed to follow from that. There is no inconsistency; this amendment will make matters clear and I do not propose to delay the House. However, in the interests of speeding matters up because we are getting bogged down on this clause, and noting the current statute law under section 59 of the Police Act, if, as the Attorney General stated, he proceeds with his amendment on page 11 of Supplementary Notice Paper 21-4, I will not proceed with the amendment I foreshadowed; namely, to enable the minister by regulation to exempt any public place. The Attorney General's foreshadowed amendment picks up that and as we are interested in being bipartisan on this important issue, the Labor Party will accommodate that amendment. Although we are not dealing with it yet, I am not sure that with amendment No 72/3 on proposed new subclause (c), we need to extend the law given what is already in the Police Act. Before we vote on that amendment, and we can deal with that in a moment, I would like to hear from the Attorney General on where the Police Act is deficient in that regard.

Hon PETER FOSS: I support the amendment. However, is my and Hon Nick Griffiths' assumption correct that we can move to amendment No 72/3 without any inconsistency?

Hon N.D. GRIFFITHS: I do not want to mislead the Attorney General in any way. I have moved an amendment and the Labor Party will be voting for my amendment. However, I have not agreed to the new subclause (c) proposed in amendment 72/3. I am not proposing any recommittal but I want to hear from the Attorney General when we reach that amendment.

Hon Peter Foss: That is okay. I just did not want to go to recommittal.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 3, lines 4 to 10 - To insert the following lines -

(c) a privately owned place that is unoccupied or is occupied by a person who is not the owner and does not have the authority of the owner;

We are trying to assemble in one place all laws relating prostitution and to use this Bill as a means of enforcing the law against prostitution rather than using laws which are not related to prostitution. There are a number of good reasons for that. There is a lot to be said for having all the provisions in one Bill for everybody concerned. Also, we will then have consistency in the application of penalties. The penalty under the Police Act for being unlawfully under curtilage is not very much.

Hon Norm Kelly: It is $100.

Hon PETER FOSS: It does not have the necessary seriousness. Another important thing is the offence has some technicalities related to it. It is not an offence to be on the curtilage but only an offence when someone is told to leave the curtilage and does not go. It would not be a soliciting offence. If someone is soliciting on a curtilage and a policeman comes along, the only way in which that person would be liable to any form of penalty is if the person was told to leave and did not leave. The person would not be capable of being prosecuted for the soliciting that took place beforehand. It does not deal with the situation that we would have, because we would have a person soliciting on the curtilage, a policeman coming along and saying to the person to get off, and provided the person got off, as soon as the policeman left, the person could go back to soliciting on the curtilage again. I believe that enforcement would be impossible because as long as a person moved on when told to, a policeman would not be able to apprehend that person for soliciting on the curtilage. Even if the person refused to move off and consummated that offence, it would only result in a $100 fine.

Hon N.D. GRIFFITHS: I note that the relevant current law is section 82B of the Police Act. It has been some time since I have had anything to do with a complaint in respect of someone being unlawfully on the curtilage. The word "curtilage" does not arise section 82B of the Police Act.

Hon Peter Foss: It is an old-fashioned word.

Hon N.D. GRIFFITHS: It is a lovely word. It was used when complaints were drawn up when I had cause to look at them. Save for the efforts of defence counsel at the time, the police had no difficulty in dealing with it. Are the police experiencing difficulty in prosecuting people under section 82B of the Police Act? I would be very surprised if they are. On the face of it, I would have thought that section 82B would be fair enough. People engaged in soliciting are behaving in an unlawful way. Why not warn them off? We do not want to clog up the courts, and the name of the game is to discourage people.

Hon Peter Foss: They can keep doing it.

Hon N.D. GRIFFITHS: Other provisions would deal with that. Section 82B of the Police Act, in the absence of something stronger from the Attorney General, seems to deliver the goods. On the face of it, I do not think it is necessary or desirable to extend the power in the way the Attorney is proposing. We have the full resources of the State bringing this before the Parliament. I will not allude to the debate in another place. This amendment is on the Supplementary Notice Paper. This is the sort of provision I would want to reflect on over a greater time than has been given.

Hon Peter Foss: It is only on the Supplementary Notice Paper because of your amendment.

Hon N.D. GRIFFITHS: Section 82B on the face of it seems to deliver the goods. What is wrong with a police officer saying, "Come on, it seems to me that you are behaving unlawfully. Go away." We do not want to tie up the Police Force with a provision which in the normal course of events would apply to unoccupied properties, such as a squat, which is something pretty minor in the general scheme of things. Unless the Attorney can demonstrate unequivocally that section 82B of the Police Act is not delivering the goods, the Australian Labor Party will oppose that amendment.

Hon PETER FOSS: One thing one can guarantee in this world is that if it is not a big problem, as soon as we pass this law and leave a loophole, it will become a big problem.

Hon N.D. Griffiths: It is not a problem now.

Hon PETER FOSS: It is a problem although not the biggest of problems. I can guarantee that the moment we pass this legislation and leave that loophole, it will be exploited. I am happy to stay with what we had before. I am doing this to deal with members' concerns. None of the amendments is a late thought on my part to change what was originally proposed. I am seeking to address the concerns indicated by the Opposition and the Australian Democrats in their amendments. It is not my preferred position. It is there to try to meet those problems and address their concerns. They should not accuse me of its being a late addition to the Supplementary Notice Paper. It is there because I got the amendments of those opposite, and I could move them. I would hate to think I will be accused of hastiness because I have responded to the concerns being expressed by the Opposition.

Hon N.D. Griffiths: It is not a matter of overreacting. If the Labor Party is to support it, it must be demonstrated to us that, without equivocation, section 82B of the Act is not working, and so far the Attorney General has not done so.

Hon PETER FOSS: Section 82B says that a person shall not, without lawful authority, remain on any premises after being warned to leave those premises. It cannot be used until people are warned off. All they have to do is move on to the next place. It does not mean we can stop prostitution taking place in the squats. They are becoming a problem in East Perth and will become an even bigger problem, and we will be back here with more legislation. I ask Hon Nick Griffiths to look at what the Labor Party said in the other House.

Hon N.D. Griffiths: I do not allude to those debates in the other place.

Hon PETER FOSS: I ask the member to think about what his party said on the matter. As I understand it, there is a bipartisan attitude to our tackling the identified problems; that is, squats.

Hon Mark Nevill: That is simplifying it a little.

Hon PETER FOSS: If they are a problem now and if, in these measures, we leave out the squats, I can assure members that squats will become an even bigger problem. We have told those opposite that the police are concerned that squats are becoming a serious problem. I can guarantee that if they are left out of the legislation, they will become a more serious problem. Section 82B is not an answer. It is not an offence for people to be on a squat. The police must go there and warn them off. These people can keep coming back as often as they like. They do not have to leave there and then, so there is no offence. They can go to another squat. It only frustrates the police because they have to keep going back time and again in the hope that one of these days someone will refuse to leave the squat. Then the police can prosecute.

Hon N.D. Griffiths: The job of the police is to keep public order. They have done that by having people move on. Their job is not to throw the people inside.

Hon PETER FOSS: It is up to the Labor Party. It can tell the public why it has decided squats are a good idea and that there are other ways of dealing with it. It will be interesting to see the result of that.

Hon NORM KELLY: The decision we must make here is whether the Government is willing to address why these squats are a problem. It is a choice of whether the Government is willing to say that the police should use section 82B of the Police Act to give people a warning, to move them on; or whether it wants to capture them under the provisions of this Bill and lock them up for a couple of years. Those are the choices people face under this legislation. We are trying to avoid at all costs having people locked up for those sorts of offences. Here we are potentially creating a mechanism through which the police are seen to be effective because they arrest a lot of people for the offences contained in this Bill. It does not address the underlying reasons for street prostitution being a problem.

The penalty under section 82B of the Police Act, $500 or six months' imprisonment, is quite substantial. It is simply a matter of a police officer or even a person in charge of the premises giving a warning, and if the person decides to remain on those premises, that person can then be charged under section 82B. That is a preferable outcome if those people complain of being harassed by police. If they are continually asked to move on, they will quickly get the idea that it is not worthwhile for their work to remain in the area. If they move onto public land, they are automatically covered under the provisions already existing in the Bill. I would be very wary of supporting such an amendment when this Government is doing nothing about addressing the underlying reasons why these squats may be a problem in the first place.

Hon LJILJANNA RAVLICH: I seek some clarification from the Attorney General about the legal implication of ownership in the event, for example, that somebody owned a property that became a squat and the implications of that private property being defined as a public place under this Bill. Is there any implication as a result of that?

Hon PETER FOSS: It is a public place only for the purposes of this Bill. That means that a person who carries out prostitution there is carrying it out in a public place and, therefore, would be caught under the Act.

Amendment put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle	Hon Barry House	Hon Simon O'Brien	Hon W.N. Stretch
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan			

Noes (12)

Hon Kim Chance	Hon N.D. Griffiths	Hon Norm Kelly	Hon Ken Travers
Hon J.A. Cowdell	Hon John Halden	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Christine Sharp	Hon Bob Thomas *(Teller)*

Pairs

Hon B.K. Donaldson	Hon Tom Helm
Hon M.D. Nixon	Hon Tom Stephens
Hon Dexter Davies	Hon J.A. Scott
Hon Murray Montgomery	Hon E.R.J. Dermer

Amendment thus passed.

Hon N.D. GRIFFITHS: The next amendment on the Supplementary Notice Paper under my name is to insert paragraph (d) -

> but does not include any public place which the Minister responsible for the administration of the *Police Act 1892* may, by regulation, exempt

The Attorney General has said he will move an amendment to clause 65 of the Bill to include a new subclause (3) -

> The regulations may exempt a place described in the regulations from being a place that is or is in the view of a public place for the purposes of this Act or for any particular purpose.

That being the case, I will not move that amendment because the Attorney's proposal deals with the matter, having particular regard for what is contained in the Police Act. I move -

Page 3, lines 11 to 15 - To delete the lines.

This covers the definition of "sexually transmissible infection". There are two aspects to it. One is a sexually transmissible life threatening infection, and as one reads the Bill the relevance of that becomes apparent. The Criminal Code has the offence of grievous bodily harm. The second aspect of this definition is -

> any other infection that is prescribed by regulations to be a sexually transmissible infection for the purposes of this Act;

There are public health considerations which have been dealt with in the second reading debate. There is also the very offensive characteristic of this part of the clause, particularly paragraph (b), whereby an offence can potentially result in a maximum penalty of 20 years and the substance of the provision is to be contained in a regulation. For those reasons, I have moved my amendment.

Hon PETER FOSS: I agree with Hon Nick Griffiths that the matters in contention have been dealt with in the second reading debate. However, one aspect - the penalties - can be dealt with when we get to the offence; that is, if there is concern about the size of the penalties. The Government argues that this definition should be included to provide that offence, because it is best practice within the industry at the moment. The difference is that those who observe best practice will not be caught by this, and those who do not observe best practice will be caught. The other amendments I foreshadowed in items 68/55 and 69/55 on the Supplementary Notice Paper deal with the other concerns raised.

Hon NORM KELLY: As members can see from the Supplementary Notice Paper, I also listed an amendment to delete these lines. As I said last night, the Australian Democrats do not believe any of these provisions in the Bill relating to sexually transmissible infections should be included. However, if the expressed desire of the non-government parties remains consistent as we progress through this Bill, and if a provision is retained in the Bill relating to sexually transmissible infections, I wonder whether it will be more appropriate to delete these two definitions as a consequence of actions taken on later clauses of the Bill, rather than delete the definitions prior to addressing the reasons for the definitions in the first place. It seems that we may be doing this arse about, to use a colloquialism.

The CHAIRMAN: Members will be aware that standing orders allow them to move deferral of consideration of certain clauses if they wish to do so.

Hon PETER FOSS: If we were to move the amendment and then delete the subclauses later, we would need to recommit. I would rather we dealt with it here and moved on.

Hon GIZ WATSON: The Greens (WA) also support the removal of these definitions, and the removal of "sexually transmittable infections" from this Bill, which should appropriately be dealt with as a health issue. My attention was drawn to the problem of using the term "life threatening infection". In correspondence from the Australasian College of Sexual Health Physicians, Heather Lyttle pointed out to me that the terminology of "life threatening" is misleading and problematic. She states -

> Medication now means that HIV positive patients can live healthier and longer lives. Alternatively, syphilis, hepatitis A, hepatitis C . . . if left untreated can cause complications resulting in death.

A fundamental problem arises in trying to define a disease as life threatening in a medical sense. The Bill poses a problem as it stands.

Hon PETER FOSS: That is why it is referred to as being prescribed by regulation. A life threatening status depends to a large extent on the state of medical skill at any time. If something is life threatening, it will be prescribed as such. If not, the other part of the provision will apply. We currently know that a large number of venereal diseases are categorised in that way. However, that does not mean that the list is closed as they change from time to time as new sexually transmitted diseases come along and we need to prescribe more diseases. The consequences of a sexually transmitted disease can change as a consequence of what we learn, and what we can do, about it.

Most importantly, the regulation making power in clause 64(2) outlines that it can only be prescribed in those terms on the recommendation of the executive director of public health.

Hon NORM KELLY: The Attorney General spoke last night about the need to consolidate similar provisions into one statute. It is handy for the Attorney to look at section 310 of the Health Act as an example of a measure addressing diseases and prostitutes. Section 310(2) refers to a women who is a prostitute in relation to venereal diseases.

Hon N.D. Griffiths: It is also in the code; it has it covered.

Hon NORM KELLY: There are other examples. I do not say that section 310 addresses what the Government is trying to achieve with this Bill, but many examples can be found of why such issues should be addressed in health legislation rather than in the Bill before us.

Amendment put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon John Halden	Hon Mark Nevill	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Cheryl Davenport	Hon Norm Kelly	Hon Christine Sharp	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths			

Noes (12)

Hon M.J. Criddle	Hon Ray Halligan	Hon Simon O'Brien	Hon W.N. Stretch
Hon Max Evans	Hon Barry House	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Peter Foss	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*

Pairs

Hon Tom Helm	Hon B.K. Donaldson
Hon E.R.J. Dermer	Hon M.D. Nixon
Hon Tom Stephens	Hon Dexter Davies
Hon J.A. Scott	Hon Murray Montgomery

Amendment thus passed.

Hon N.D. GRIFFITHS: I move -

Page 3, lines 16 to 19 - To delete the lines.

Those lines define "a sexually transmissible life threatening infection" to mean an infection that is prescribed by regulations to be a sexually transmissible life threatening infection for the purposes of this Act. I have referred to reasons for the amendment in the course of the second reading debate, and what I have said about the previous amendment also has relevance to this motion.

Hon PETER FOSS: I am disturbed by the concept that virtually says that it is all right for prostitutes to have diseases.

Hon N.D. Griffiths: No, we are not saying that. It is covered in the Health Act.

Hon PETER FOSS: No, this amendment says it is all right for prostitutes to have diseases while they are engaged in prostitution. At the moment that is not understood by the sex industry to be the case. We are now about to send them a wrong message that they can even have a sexually transmissible life threatening disease. It seems extraordinary that we should be contemplating that.

Hon NORM KELLY: The Attorney General has not perhaps thought about the fact that Perth has the lowest rate of STDs in the sex industry anywhere in Australia. That is a result of the development of programs over the past 10 or 15 years which have encouraged voluntary testing and encouraged public health services and outreach services to assist sex industry workers. Unfortunately, the Government does not adequately acknowledge the work that has been done. I am not saying it is okay for sex workers to have STDs. However, the Government is not acknowledging the way this is already dealt with on a voluntary basis.

Amendment put and passed.

Hon NORM KELLY: I refer again to the definition of "public place". Would a van parked in a public street, but with the interior not visible from outside, be regarded as a public place or would other provisions capture the possibility of people working in such a situation?

Hon PETER FOSS: The rule applies that if the public cannot enter, it is not a public place. We will be dealing with the view of it shortly. If a person is in a vehicle and the public cannot enter, it would not be a public place.

Clause, as amended, put and passed.

Clause 4: Prostitution -

Hon NORM KELLY: I refer to the extent to which prostitution can go under this definition. Would this apply to, for example, skimpies working in the public bar of a hotel? Customers often place a $5 note in the worker's knickers. Does the definition also cover people indulging in sadism and masochism?

Hon PETER FOSS: The intent of the definition is to draw a distinction between voyeurism and physical contact to stimulate the client. There would be some interesting case law on how far one would go. However, skimpies are not covered and it would not cover the booth to which we referred because there would be no physical contact. It does pick up massage parlours, in which there is sexual stimulation, and any services in brothels such as bondage. It is a wide-ranging definition, but it is not intended to pick up voyeurism. Obviously there would be situations leading from voyeurism to some form of physical stimulation. That would be an interesting definition.

Clause put and passed.

Clause 5: Seeking prostitute in public place -

Hon PETER FOSS: I move-

Page 4, line 4 - To insert after "in" the words "or in the view of".

Due to the changes we have made to the definition of "public place" we now need this amendment so that we do not lose the offence we previously had under the Police Act.

Hon N.D. GRIFFITHS: Labor Party members propose to vote with the Government on this to be consistent with what we have done and what has been promised down the track.

Hon NORM KELLY: The Attorney General mentioned earlier about addressing the scenario of a vehicle in a street. I was not sure whether he meant he would address it now that we are talking about people being in the view of a public place.

Hon PETER FOSS: Yes, it would. A person in view in a kerb-crawling car would be caught by this.

Hon MARK NEVILL: I think that a term of imprisonment for two years for seeking a prostitute in a public place is really going over the top. For what one might call a normal first offence, what would the Attorney General think would be an adequate penalty? Certainly I would think a fine or perhaps a warning to move on would be appropriate. Could the Attorney General give us an idea, for the benefit of someone reading the debate, as I think two years for a first offence is over the top.

Hon PETER FOSS: It is obviously up to the magistrate involved, but the statistics show that even for repeat offences the penalties tend to be a quarter of the maximum. I would not expect anyone to get two years unless the person had done something considerably aggravating, even for subsequent offences. Normally if a person shows good character, it is a first offence, he did not realise the impact of kerb crawling, and will not do it again - all the usual excuses - I would expect he would get a section 669 dismissal or probably a spent conviction and may be ordered to pay costs and so forth. It would depend on the attitude adopted and whether the offence occurred in the early days of the legislation or later. Take the situation of there being a lot of kerb crawlers in a particular area and people get prosecuted and kerb crawling still continues; in that situation I think we would find that the penalty would start to creep up because the warning had been given, the public had been notified and the offence had continued. A first offender would certainly not be sent to jail.

Hon N.D. GRIFFITHS: Where does the period of two years come from, noting that, under the Police Act, for many of these types of misbehaviour the penalty is six months' imprisonment? It has now been put up to two years at a time when Western Australia has the highest imprisonment rate in the country. The Government has decided that the maximum should be increased in general terms from six months to two years. I am not dealing with the crime aspect but with the simple offence. What is so magical about two years? Why was it not left at six months to have consistency between this and the Police Act? Are we looking at the growth area of our economy being prison building?

Hon PETER FOSS: Under the Police Act the penalty is six months. We considered that the public concern was such that a higher penalty was justified for a prostitute, so we increased that penalty from six months to one year. We thought it was most important to indicate clearly - and this is definitely the area which is intended to be enforced - that the client was more of a problem. A better method of dealing with the problem is to deal with the clients rather than the prostitutes. We must have a penalty and it must be significant but we believe working on the clients and taking away the demand is a more effective way of dealing with the problem. The penalty was originally six months and we have increased that and doubled the penalty for the client over what it was for the prostitute.

Hon MARK NEVILL: I would like the Attorney General to comment on whether it is the intention of Parliament for this section to be used when streetwalking is a public nuisance or if there is some intention to use it in a wider sense by putting an undercover prostitute outside a pub at 10 past 10 at night to catch some rather lonely intoxicated young lad wandering around. Will it be directed only at the areas where streetwalking is a public nuisance or in other areas as well?

Hon PETER FOSS: Obviously this is a matter of policing policy but the intention is to address the problem where it is. We are responding to the fact that a public nuisance is being created. For that reason, we also decided the better way was to prosecute the clients rather than the prostitutes. We think that is a more effective method of doing it and one which deals with the more concerning area of public nuisance. However, we also intend to ensure that if, after being effectively prosecuted in one area, these people move into another area, the police move rapidly into that new area and deal with the problem where it arises rather than wait until it gets to the stage that people are so aggravated that they are saying something must be done. The policing policy would be to attack the areas where there is currently a problem, and if it appears that a problem will emerge somewhere else, the provisions will be used there. It is not intended to be used by police to wander around looking for people who are streetwalking when there is not a public nuisance problem. The Government sees this legislation as being public order legislation, dealing with matters which can be of concern to the public if allowed to go unchecked.

Hon LJILJANNA RAVLICH: My interpretation of clause 5(3) is that if an individual is a public nuisance and is deemed to be so because he is seeking another person to act as a prostitute -

The CHAIRMAN: Order! Now that the member has raised the point, I took a liberal view of the amendment currently before the Chair which is at page 4, line 4. We should consider that before we get to other more general matters, given that the member has identified another specific clause. There will be an opportunity to comment on that matter shortly.

Amendment put and passed.

Hon LJILJANNA RAVLICH: I have some concerns about clause 5(3) because my interpretation of it is that a person in a public place or in view of a public place who seeks another person to act as a prostitute commits an offence, and the penalty for a simple offence is up to two years' imprisonment. I am interested in how we would define the crime. My interpretation is if the person has proceeded and participated in a sex act, he is likely be charged and face the possibility of being imprisoned for seven years.

Hon Peter Foss: That is only the child.

Hon LJILJANNA RAVLICH: That is the clarification I sought.

Hon NORM KELLY: The terminology of subclause (4)(b) and clause 6(3)(b) states "loiters in or frequents a place for the purpose, or with the intention of". Is there any difference between "for the purpose of" and "with the intention of" or do they mean the same thing?

Hon PETER FOSS: We are not quite sure what the difference is but the wording has the benefit of having been used frequently and being understood, so rather than having the risk that it will make a difference, we have left the wording as currently stated.

Clause, as amended, put and passed.

Clause 6: Seeking client in public place -

Hon PETER FOSS: I move -

Page 5, line 7 - To insert after "in" the words "or in the view of".

I move this amendment for the same reason.

Amendment put and passed.

Hon NORM KELLY: I move -

Page 5, line 13 - To delete "child" and substitute "person whose age is less than 16 years".

Members need to consider the next three amendments to this clause which are standing in my name. Subclause (2)(a) refers to the prostitute's client. We believe that the seeking of a person of the age of 16 or 17 years to be a client of a prostitute is not worthy of such a heavy penalty. This should not be confused with other provisions in this Bill relating to child prostitution because that is not what this clause refers to. The clause refers to clients who are legally deemed to be children. We want to specify that we have no problems with maintaining offences for those people under the age of 16 but we want more of a differentiation between people below the age of 16, those people who are legally old enough to have sex at the age of 16 and 17 and those who are legally adults. If members look at the three amendments we are seeking to put into this Bill, they will see that we are proposing an adequate range of penalties commensurate with a client's age.

Hon N.D. GRIFFITHS: My reading of this clause is that we are talking about people who are pimping children.

Hon Norm Kelly: No.

Hon MARK NEVILL: No. I support the amendment. As I said earlier, I do not think that any registered prostitute should be under 21 years of age. It is very different when a woman might find a young male of 16 or 17 years. A lot of these kids carry forged identities to get into pubs and other places. I do not know how someone will determine whether someone is 16, 17, 18 or 19 years of age. If a person is aged 15 years, it is bad luck for the prostitute. Under this Bill, 16 year olds and 17 year olds will run a terrible risk of facing three years' imprisonment. It is absurd. I would be happy if the other amendment were carried for a penalty of $2 000. The definition of a child in the Bill is a person aged less than 18 years. In this case, 16 years for a client is realistic and gives some protection to a woman who, under this draconian Bill, would get up to three years' jail. I support the amendment.

Hon PETER FOSS: We have some confusion as to what we are doing!

Hon N.D. Griffiths: It seems to me that we have somebody going out there and introducing a prospective client to a child.

Hon Norm Kelly: Not necessarily.

Hon N.D. Griffiths: No, the offender is involving a child in prostitution, but for the purposes of this legislation, the child is under 18 years.

Hon PETER FOSS: We have tried to keep children off any place where prostitution will take place. We will get to that provision later. A real concern I have relates to young male prostitutes. One of the realities is that male prostitutes tend to be young; whereas we may get female prostitutes to a reasonable age. In talking about child prostitution, we are concerned about young male prostitutes. I am a little concerned that we will never find a young male prostitute; that we will always find a young male client. This will always be the excuse: I am not a prostitute; I am a client on the premises. We must be consistent in our view of whether we do, or do not, have a concept that children should not be associated with prostitution. That is the premise on which this is based. Some people may say that we should take a young bloke out to the brothels and make him a man by doing so. I regard that as being an old-fashioned and inappropriate attitude.

Children should not be associated with prostitution in any way. We have tried to make it that there is no excuse for children - that is, those under the age of 18 years - to be on premises where prostitution is to take place; whether they are there as innocent bystanders, in which case they get prosecuted, or when the excuse is offered of their being there as a client. I realise it is difficult. A person who, in a public place, seeks another person to be a prostitute's client commits an offence under this proposed section.

Hon N.D. Griffiths: The person can be a pimp, a child.

Hon PETER FOSS: That is right.

Hon N.D. Griffiths: The person may say, "Child, come along; I have a prostitute for you."

Hon PETER FOSS: That is right.

Hon N.D. Griffiths: It is a pimping clause.

Hon PETER FOSS: Yes. I certainly do not think we want to encourage young pimps.

Hon Mark Nevill: Is my interpretation of this clause wrong?

Hon PETER FOSS: This clause has nothing to do with the prostitute.

Hon Norm Kelly: It is not about the age of the pimp.

The CHAIRMAN: Order! This is not a general discussion.

Hon NORM KELLY: It is something members must read slowly. I may have confused the issue by asking members to look at the following amendments. Looking at the person who commits the offence of seeking another person to be a prostitute's client can confuse the issue. Clause 6(2) states -

> A person who commits an offence under subsection (1) is liable -
>
> (a) if the person whom the offender seeks to be a prostitute's client . . .

We are talking not about the offender, but about the person who is to be the prostitute's client; that is, a person younger than 16 years of age rather than a child. If the prospective prostitute's client is 16 or 17 years of age, we feel that is more reasonable and should carry a lesser penalty. It is not pimping; it is talking about the client.

Hon Peter Foss: It is.

Hon Ljiljanna Ravlich: No, it is the person who is the pimp.

Hon PETER FOSS: If a pimp gets a person who is a child, he receives the big penalty. If the pimp has a client who is over 18 years of age, he receives the smaller penalty. Hon Norm Kelly's change would mean that if a pimp gets a 16 year old, he would receive the lesser penalty; however, if he gets a 15 year old, he receives the higher penalty. I do not think it is appropriate for pimps to actively seek young boys or girls to be the clients of prostitutes.

Hon N.D. Griffiths: It is school children for the most part.

Hon PETER FOSS: That is right. It is not the prostitute who is caught by this; it is the pimp.

Hon Norm Kelly: The prostitute can be caught by this.

Hon PETER FOSS: If the prostitute solicits a person, he or she would get caught; that is if the prostitute actively seeks people, but we do not want prostitutes to seek people.

Hon MARK NEVILL: The Attorney General has amended subclause 6(1) by inserting the words "or in the view of". I thought he was putting that in the Bill for the Kalgoorlie situation. I thought he would be referring to the woman soliciting a person on the streets. I am confused by it all.

Hon PETER FOSS: We must be careful. Although Kalgoorlie can be caught, it does not mean that Kalgoorlie is all that is caught. We do not want people pimping or soliciting just off the main street but in view of it. Moving from Kalgoorlie to Perth, we do not want somebody in the mall soliciting people or pimping for them from just off a public place. For a particular purpose, we can say that Kalgoorlie does not get caught as a place which is affected by this. We can even deal with it selectively with regard to the purpose of that amendment.

Hon NORM KELLY: I do not want members to be confused about our position on pimping. Ideally, we do not want pimping to occur at all. However, we are drawing a demarcation on the age of the clients. We feel that the demarcation should be at the legal age to have sex. If members look at our further amendment, they will see that we want to hand out to pimps a custodial sentence as a penalty; whereas if the offender - the prostitute - is caught by this clause, it is a non-custodial penalty. That is what we are trying to achieve. First, we are trying to have a demarcation on the age of people who are being sought as clients.

Hon N.D. Griffiths: That is the first issue.

Hon NORM KELLY: That is the first issue in the first amendment. We then look at the issue of pimps and prostitutes in the later amendment. This first amendment is purely about penalties relating to the age of the client. For example, a guy may pull up in his car and there is no way of the street worker knowing whether he is 18 or 17 years of age. Under the clause in its present form, the street worker would be subject to a maximum penalty of three years' imprisonment if that person was only 17 years of age. That is my understanding of the clause. If the person is 17 years of age, I believe the penalty should be reduced to one year's imprisonment, but it should be a monetary penalty if the offence relates to the prostitute. The Democrats do not believe that the difference between the custodial sentence and the monetary penalty should be related to whether the client is 17 years of age or 18 years of age. That is the crux of the matter.

Hon LJILJANNA RAVLICH: I have read this clause five times and it is no clearer to me. I am stuck at subclause (1), because it could refer to the pimp or the prostitute. That is where Hon Mark Nevill is as confused as the rest of us. That would impact on the comments made by Hon Norm Kelly about whether we are dealing with the actions of the pimp or the prostitute. I seek clarification from the Attorney General about the intent of this clause because it is as clear as mud.

Hon PETER FOSS: The Government's intent is clear; but other people's intent is harder to discern. The Government certainly intended to pick up pimps, but made no distinction between pimps and prostitutes when they are soliciting clients.

It is not to be compared with people sitting in a brothel when someone comes in; it relates to people on the streets trying to get people to become prostitutes. We do not believe anyone, whether a pimp or a prostitute, should be allowed to approach school aged children. I accept that it may pose a practical operating difficulty for prostitutes when soliciting in the streets, but we do not believe that the public policy means we must go away from the basic intent that prostitutes and pimps should not solicit children. The provision does not pick up a prostitute in a situation in which a person of legal age to have sex, but still a child, walks into a brothel and says he wants sex. However, we do not believe that anyone should pimp or solicit children. Without this provision, children walking along the street, perhaps in school uniform, could be solicited by a prostitute, and the lesser penalty would apply. We do not believe it is a problem.

Hon LJILJANNA RAVLICH: Reference is made to imprisonment for three years.

Hon Peter Foss: It is not compulsory.

Hon LJILJANNA RAVLICH: Is that penalty for the pimp, the prostitute or the child?

Hon PETER FOSS: The person who seeks another person to be a prostitute's client commits an offence. It certainly picks up the pimp and the prostitute. Importantly, we are dealing with soliciting, not a circumstance in which a person wanders in off the street and says, "I want a prostitute."

Hon Norm Kelly: That is dealt with in other later clauses.

Hon PETER FOSS: Yes. A penalty of three years' imprisonment applies for the two more serious matters, and this is where the courts come into effect. If the offence is that a child aged 16 and a half years in a school uniform walking along the street was approached by a prostitute and a pimp and was solicited, and then picked up by the police and arrested, he or she would go before the magistrate. If a child aged 17 years, 11 months and 29 days in his vroom, vroom wagon pulled up alongside a woman in the street and was solicited by her, and he was picked up by the police, he would go before the magistrate. He would be picked up anyway, regardless of age. The magistrate may then take a slightly different view as far as the pimp and prostitute are concerned if the person involved was aged nearly 18 years and had all the appearances of a mature and adult person, as opposed to a person aged 16 and a half years. That is why we have courts, and we set maximum sentences and not minimum mandatory sentences.

Hon N.D. Griffiths: Not too often, anyway.

Hon PETER FOSS: Yes, not too often. The problems we worry about today are the little matters for which the judicial system adjusts. Parliament should set policy. I reiterate that I do not believe that people should be soliciting or pimping children for prostitutes. A wide variety of things will be covered by that notion. The principle to be set by Parliament is clear: We believe that pimping and the soliciting of children is of a different character from pimping or soliciting people aged 18 years or over.

Hon NORM KELLY: At least everyone is becoming clearer about this matter. The Attorney referred to a person aged 17 years and 11 months and another person aged 16 years. One must also consider the penalty to apply to a person aged 18 years and one day. It is erroneous to consider only one side of the equation. The offence relating to a person aged 17 years would still carry the far higher maximum penalty. Also, it was a little misleading to talk about a 17 year old walking into a brothel as he would be caught up in later provisions of the Bill.

Amendment put and negatived.

HON NORM KELLY: I move -

Page 5, line 14 - To delete the words "in any other case" and substitute -

if the offender is not the prospective prostitute

Page 5, after line 14 - To insert the following -

(c) in any other case, to a penalty of $2 000.

We have the first amendment out of the way and I now put the case for the next two amendments on the Supplementary Notice Paper, which go together. The Australian Democrats simply wish to differentiate between a pimp and a prostitute. We do not necessarily want to give the prostitute this custodial sentence. If a prostitute is soliciting a person aged 16 or 17 years, he or she would still be subject to three years' imprisonment. We have agreed that that is fair enough. These amendments will ensure that the pimp will receive a heavier penalty than will the prostitute. It is wrong, as the Bill stands, to provide the same penalty for the pimp and the prostitute as this would send out the wrong message. The pimp should have a heavier penalty than the prostitute, not a heavier penalty than is already provided. By differentiating between pimp and prostitute we will effectively reduce the penalty for the prostitute and will maintain the penalty for the pimp. The next amendment will reduce the penalty if that person is a prostitute.

Progress reported, pursuant to standing orders.

House adjourned at 9.56 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

236. Hon LJILJANNA RAVLICH to the Minister for Tourism:

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

(1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -

(a) Chief Executive Officers;
(b) Senior Executive Service; and
(c) Level 1-8?

(2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?

(3) What are the names of the external agencies that were utilised?

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

Hon N.F. MOORE replied:

WA TOURISM COMMISSION

(1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management - Please refer to the answer given in response to question on notice 52.

(b) 1997/98 – None.
1998/99 – None.

(c) 1997/98 – 25
1998/99 – 27

(2) 1997/98 – 21 Internal, 04 External; 1998/99 – 25 Internal, 02 External

(3) Lyncroft Consulting, Times Personnel and Hays Accountancy People.

(4)

	1997/98	1998/99	Total
Lyncroft Consulting	$16 035	$15 539	$31 574
Times Personnel	$ 1 337	$ -	$ 1 337
Hays Accountancy People	$ 4 823	$ -	$ 4 823
	$22 195	$15 539	$37 734

ROTTNEST ISLAND AUTHORITY

(1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management - Please refer to the answer given in response to question on notice 52.

(b) 1997/98 – None.
1998/99 – None.

(c) 1997/98 – 46
1998/99 – 39

(2) 1997/98 - 45 Internal, 01 External; 1998/99 - 39 Internal, None External

(3) Deloitte Touche Tohmatsu.

(4) 1997/98 - $9 955.62
1998/99 - None.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

239. Hon LJILJANNA RAVLICH to the Minister for Finance:

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

(1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -

(a) Chief Executive Officers;
(b) Senior Executive Service; and
(c) Level 1-8?

(2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?

(3) What are the names of the external agencies that were utilised?

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

Hon MAX EVANS replied:

State Revenue Department

(1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.

(b) 1997/98 Nil.
1998/99 Nil.

(c) 1997/98 25
1998/99 32

(2) 1997/98 Internally 24
Externally 1

1998/99 Internally 32
Externally Nil.

(3) 1997/98 Integrity Staffing.
1998/99 Not applicable.

(4) 1997/98 $1,500.00
1998/99 Nil.

Valuer General's Office

(1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.

(b) 1997/98 Nil.
1998/99 Nil.

(c) 1997/98 21 *
1998/99 21 *

(2) 1997/98 Nil.
1998/99 Nil.

(3)-(4) Not applicable.

*These figures are for recruitments new to the Office. If the figures are to include internal promotions as a result of advertising vacancies, the figures are:

(1) (c) 1997/98 44
1998/99 36

Government Employees Superannuation Board

(1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.

(b) 1997/98 Nil.
1998/99 Nil.

(c) 1997/98 7
1998/99 5

(2) 1997/98 7
1998/99 5

(3) Interim Solutions and Morgan & Banks.

(4) $6,412 – 1998/99 only.

Insurance Commission of W A

(1) (a) 1997/98 and 1998/99 Nil.

(b) 1997/98 and 1998/99 Nil.

(c) 1997/98 39
1998/99 38

(2) 1997/98 Internally 38
Externally 1

1998/99 Internally 30
Externally 8

(3) Shelton Partners
Group Dynamics Consulting (Superstaff)
Niche Placements

Implicor
Liddell Career Management
Lyncroft Consulting Group

(4) 1997/98 Total $3,250.00
1998/99 Total $19,565.98

WESTRAIL, SALE OF THE "FISH PONDS", ALBANY

446. Hon BOB THOMAS to the Minister for Finance representing the Minister for the Environment:

(1) Is the Minister for the Environment aware of the reserve in Albany known as the “fish ponds”?

(2) Does the site have any heritage significance or importance?

(3) If so, please specify?

(4) Is the Minister aware that Westrail plans to sell the reserve for private development?

(5) Does the Minister have any concerns about the proposed sale of this historic site?

(6) Will the Minister give a commitment that a heritage survey of the sit will be undertaken and the results made publicly available before the proposed sale of the site proceeds any further?

(7) If not, why not?

Hon MAX EVANS replied:

(1)-(7) Please refer to the response given to question on notice 445 of 8 September 1999, which is an identical question.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

471. Hon TOM STEPHENS to the Minister for Mines:

(1) Have any departments or agencies under the Minister for Mines’ portfolio awarded any contracts to -

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

since January 1, 1999?

(2) If yes, can the Minister state -

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

Hon N.F. MOORE replied:

(1) (a)-(b) Nil.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, PUBLIC RELATIONS-MEDIA CONSULTANTS

801. Hon KEN TRAVERS to the Attorney General representing the Minister for Planning:

(1) On how many occasions did each department under the Minister for Planning’s responsibility use the services of a public relations/media consultancy in 1998 and during the current year?

(2) For each occasion what was the -

(a) nature of the occasion/event/project;
(b) name of the contractor/consultancy; and
(c) cost of the contract/consultancy?

Hon PETER FOSS replied:

(1)-(2) The member would be aware six monthly reports are tabled in Parliament that provide information on consultants engaged by Government agencies. The member should access these reports to obtain information on public relations and media consultancies.

GOVERNMENT DEPARTMENTS AND AGENCIES, PUBLIC RELATIONS-MEDIA CONSULTANTS

802. Hon KEN TRAVERS to the Attorney General representing the Minister for Heritage:

(1) On how many occasions did each department under the Minister for Heritage’s responsibility use the services of a public relations/media consultancy in 1998 and during the current year?

(2) For each occasion what was the -

(a) nature of the occasion/event/project;
(b) name of the contractor/consultancy; and
(c) cost of the contract/consultancy?

Hon PETER FOSS replied:

(1)-(2) The member would be aware six monthly reports are tabled in Parliament that provide information on consultants engaged by Government agencies. The member should access these reports to obtain information on public relations and media consultancies.

OPTIMUM RESOURCES, TAILINGS DAM

839. Hon TOM HELM to the Minister for Mines:

I refer to question on notice 420 of September 7 1999 -

(1) Can the Minister for Mines check his answer for part (1) and advise whether he still stands by the answer provided?

(2) If the Minister still stands by his answer can the Minister explain why "these statements were general in nature ...." particularly when the Minister has previously stated "The bottom line is that Kalgoorlie Consolidated Gold Mines will not pay the sort of money that they asked for in the first place" and "I can give him the numbers and even tell him ...."?

(3) If not, why not?

Hon N.F. MOORE replied:

(1) Yes.

(2) The statements were general in nature because they did not disclose precise details about these matters.

(3) Not applicable.

OSBORNE PARK HOSPITAL, EXPENDITURE

902. Hon E.R.J. DERMER to the Minister for Finance representing the Minister for Health:

(1) What was the actual recurrent expenditure at Osborne Park Hospital in the 1998/99 financial year?

(2) What was the actual capital expenditure at Osborne Park Hospital in the 1998/99 financial year?

(3) How many patients were treated at Osborne Park Hospital in the 1998/99 financial year?

(4) How many patients were treated at Osborne Park Hospital in the 1998/99 financial year in each of the following health service categories -

(a) medical;
(b) surgical;
(c) obstetrics; and
(d) paediatrics?

(5) How many medical FTE's were employed at Osborne Park Hospital in the 1998/99 financial year?

(6) How many non-medical FTE's were employed at Osborne Park Hospital in the 1998/99 financial year?

(7) How many FTE's were employed at Osborne Park Hospital in the 1998/99 financial year in each of the following categories -

(a) nursing;
(b) medical;
(c) medical support;
(d) administration/technical support;
(e) hotel services; and
(f) maintenance?

Hon MAX EVANS replied:

FOR THE NORTH METROPOLITAN HEALTH SERVICE

(1) $24,968,000

(2) $442,400

(3) 9,179

(4) (a) 3237
(b) 3794
(c) 1815
(d) 333 (plus 1455 neonates)

(5) 260.3 fte

(6) 148.9 fte

(7)
(a)	188.6 fte
(b)	17.3 fte
(c)	54.4 fte
(d)	68.7 fte
(e)	65.5 fte
(f)	14.7 fte

MINING, WARDENS COURT EVIDENCE

921. Hon TOM HELM to the Minister for Mines:

I refer to a fax of 6 pages from Mr Bob Stevens, Minister for Mines office to Mr Roy Burton dated October 30 1998 "Subject - Warden's Court Evidence" -

(1) Can the Minister state who and what Mr Bob Stevens is referring to when he has stated - "PS- Note Min's comments on our "friends""?

(2) If not, why not?

(3) Can the Minister state for what reason(s) and purpose Mr Bob Stevens from the Ministers office is drawing to the attention of Mr Roy Burton to note the "Min's comments on our friends"?

(4) If not, why not?

Hon N.F. MOORE replied:

(1)-(2) Mr Stevens was referring to Messrs Ray and Steve Kean of Kalgoorlie and my comments in Parliament on 29 October 1998 about their numerous rude and abusive letters to me and the Department of Minerals and Energy. In referring to the Keans as "our friends", Mr Stevens was resorting to an almost despairing irony born from the scores of unfounded allegations made by the Keans against him and the Department over the previous five years. Virtually all of these allegations have been found to be unsubstantiated after time consuming investigations which consumed significant staff resources.

(3)-(4) Mr Stevens wished to draw to the attention of Mr Roy Burton (and by extension the department) my comments regarding the letters referred to in (1)-(2) above.

RADIOACTIVE MATERIAL, TRANSPORT

937. Hon GIZ WATSON to the Minister for Finance representing the Minister for Health:

With reference to the transport of radioactive material and answers to the questions without notice of Tuesday November 11 1999. Can the Minister for Health identify -

(1) How many times was such material transported during 1998/99?

(2) On what dates was the material transported?

Hon MAX EVANS replied:

(1) Twice in the two year period 1998/1999.

(2) In view of the concern, the Company was contacted and the dates were ascertained to be March 1998 and 26 October 1999. The 1999 transport arrived at Kintyre on Friday 29 October 1999

STATE BUDGET, SPECIFIC PURPOSE GRANTS

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

I refer to your answer to question without notice 553 of November 16 1999 and ask, what are the changes to specific purpose grants giving an increase of $9m?

Hon MAX EVANS replied:

Changes to specific purpose grants, giving an increase of $9 million since 1999/2000 budget estimates comprise:

an increase of $2.3 million in Commonwealth funding for the Australian Health Care Agreement due to population estimates changes in the Commonwealth funding model; and

Commonwealth funding of +$6.6 million for RFA arrangements. (Forest Industry Structural Adjustment Program).

QUESTIONS WITHOUT NOTICE

GANTHEAUME POINT DEVELOPMENT, DUE DILIGENCE PHASE

694. Hon TOM STEPHENS to the minister representing the Minister for Lands:

(1) When will the due diligence phase of the development of Gantheaume Point by Pearl Bay Resort Developments Pty Ltd be initiated, given that the memorandum of understanding was signed on 26 August 1999?

(2) What deadline exists by which Pearl Bay Resort Developments must have initiated the due diligence phase and paid the $10m bond?

(3) What residual due diligence issues remain to be resolved which are currently preventing the initiation of this phase?

Hon MAX EVANS replied:

It is the same question, different direction. I thank the member for some notice of this question.

(1) The due diligence phase will be initiated once the memorandum of understanding becomes operational; that is, on provision of the performance bond.

(2) No deadline has been set.

(3) The remaining issue is the provision of the $10m performance bond.

EAST KIMBERLEY POWER SUPPLY, REVIEW

695. Hon TOM STEPHENS to the minister representing the Minister for Energy:

(1) Will the Minister for Energy table the Western Power report of November 1999, entitled "Review of Power Supply Reliability for the East Kimberley", written by Sinclair Knight Merz Pty Ltd?

(2) When does the minister expect that the recommendations contained within that review will be implemented?

(3) Is the township of Wyndham scheduled to be without power again in the near future? If so, for what period and for what reason?

(4) What advance notice have residents received regarding the proposed power shutdown?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) No, it is a working document.

(2) The Sinclair Knight Merz Pty Ltd review identified that although Western Power's east Kimberley system reliability is below the national average, it is comparable with systems in similar climatic conditions, including the Northern Territory. Therefore, it is considered acceptable. However, Western Power is committed to introducing measures to reduce the duration of the power supply interruptions experienced by Wyndham residents as a consequence of the town's distance from the regional town of Kununurra and the harshness of the surrounding terrain. Western Power is considering the recommendations contained in the review in consultation with key interest groups.

(3) Power supplies to Wyndham will be disrupted between 6.00 am and 9.00 am on Tuesday, 14 December. Western Power, in consultation with local communities, is exploring options for the planned interruption to occur over the weekend to minimise inconvenience to local businesses. During the supply interruption, Western Power will be connecting two new customers and carrying out line maintenance as part of the corporation's ongoing maintenance program to increase the reliability of supply to Wyndham residents.

(4) A letter advising customers of the planned supply interruption was provided to all customers on 4 December. The local post office was engaged to deliver the notice to all Wyndham customers.

PROSTITUTION ADVERTISING, CODE OF CONDUCT

696. Hon N.D. GRIFFITHS to the minister representing the Minister for Police:

(1) Over what period was the code of conduct to limit the content of advertising for the purpose of prostitution developed?

(2) What media organisations were involved and who represented them?

(3) Will the minister table the code of conduct? If not, why not?

(4) Why was the Parliament not informed of this consultation prior to 23 November 1999?

(5) Is there also a code of conduct for brothel owners and, if so, will the minister table that? If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The code of conduct was developed over several weeks.

(2) West Australian Newspapers Ltd, the *Sunday Times* and the Community Newspaper Group were involved.

(3) Yes. I seek leave to table the voluntary code of conduct.

Leave granted. [See paper No 532.]

(4) There is no requirement to inform the House of this consultation.

(5) No and not applicable.

APIARY PERMIT SITES

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

This question relates to question without notice asked on 20 October.

(1) How many apiary permit sites have had hives placed in them in the last beekeeping season?

(2) How many available site-days were utilised by beekeepers over the season?

Hon MAX EVANS replied:

I thank the member for some notice of this question dated 25 November 1999.

(1)-(2) This data can be provided only by undertaking an analysis of records held at the district offices of the Department of Conservation and Land Management. Furthermore, CALM has advised that some beekeepers may not be fully complying with the condition of their permit to notify CALM district offices when hives are placed on or removed from sites. The department is actively working with the beekeeping industry to improve record keeping and compliance with permit conditions.

EAST PERTH REDEVELOPMENT AUTHORITY, NORTHBRIDGE RENEWAL PROJECT

698. Hon NORM KELLY to the Attorney General representing the Minister for Planning:

With regard to extending the powers of the East Perth Redevelopment Authority to take over the Northbridge renewal project from the Western Australian Planning Commission, will the minister inform the House -

(1) Is this decision supported by -

(a) The Western Australian Planning Commission;

(b) the Ministry for Planning; and

(c) the Northbridge community?

(2) What interests, both financial and otherwise, relating to the Northbridge renewal project, are held by the Chairman of the East Perth Redevelopment Authority?

(3) How will the Western Australian Planning Commission be compensated for its considerable landholding within the Northbridge redevelopment area?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) (a)-(b) Yes, subject to satisfactory financial arrangements; and

(c) Consultation between the minister and the community has occurred through press advertisement, as required by the East Perth Redevelopment Authority Act 1991. There were six submissions, with only one wholly negative response received from St John's Lutheran Church. Others were positive or offered partial support.

(2) The Chairman of the East Perth Redevelopment Authority does not hold any financial or other interests relating to the Northbridge renewal project.

(3) All moneys generated above and beyond development and administration costs will be returned to the relevant agencies as previous owners.

NEW YEAR'S EVE, POLICE AND EMERGENCY SERVICE PERSONNEL

699. Hon MURIEL PATTERSON to the Attorney General representing the Minister for Police; and Emergency Services:

Will the minister confirm that the Government will ensure over the new year break that sufficient police and emergency service personnel will be available in the south west to cover any foreseeable eventualities?

Hon PETER FOSS replied:

I thank the member for some notice of this question. With regard to the police, the simple answer to the question is yes. Operational plans for policing in the new year period have been completed by police districts and subdistricts within the south west and are being coordinated by the operations coordinator of the southern region police command. Planning has been aligned to the Metropolitan Region's New Year's Eve 1999 Operations Order.

To enable the public to receive adequate policing during this period, sufficient police personnel have been rostered throughout the south west to enable adequate coverage of any contingency that could arise. Support services from the south west area include local district support groups, mobile police facilities, tactical information groups, local detectives and staff from other stations. Additional support is available from outside the south west area from the independent patrol group, traffic operations group, major incident section and dog section, which have been rostered for duty in the Dunsborough police subdistrict to assist local police during this period. Further support is also available from other regions and districts with personnel and resources to be utilised as required.

The Fire and Emergency Services Authority comprises the Fire and Rescue Service, Bush Fire Service, State Emergency Service and Volunteer Marine Rescue Service. The FRS permanent fire stations at Albany and Bunbury will operate on normal rostered shift except on new year's eve, when an additional officer will be on duty. Volunteers from the FRS, BFS, SES and VMRS throughout the south west will operate on a normal duty roster-on call basis to respond as required.

LOGGING, HESTER COUPES

700. Hon J.A. COWDELL to the minister representing the Minister for the Environment:

(1) Does the Department of Conservation and Land Management have any plans to commence logging in Hester 4 or Hester 7 coupes in the next six months?

(2) If yes, when will logging commence in each coupe?

(3) Will the Minister guarantee that there will be no logging in either Hester 4 or 7 in the next six months?

Hon MAX EVANS replied:

I thank the member for some notice of the question, but I apologise that it is not possible to provide the information in the time required. The answer has been overdue for some time; I have been chasing it up and I do not know why it is not available.

PEARLING INDUSTRY, NATIONAL COMPETITION POLICY REVIEW

701. Hon KIM CHANCE to the minister representing the Minister for Fisheries:

(1) Has the Minister for Fisheries received a report from consultants which deals with the national competition policy review of the pearling industry?

(2) If so, will the minister now table that report?

Hon M.J. CRIDDLE replied:

(1)-(2) No. However, the Minister for Fisheries is aware that Fisheries WA has recently received a consultants' report on the review of the Western Australian Pearling Act 1990 under the national competition policy legislation review guidelines outlined by the Western Australian Treasury. The Minister for Fisheries has indicated that he will consider tabling the report once the Government has received and considered it.

REMOTE AREA ABORIGINES, FINES

702. Hon MARK NEVILL to the Attorney General:

(1) In the spirit of the end of the second millennium of Christ's birth, will the Attorney General consider writing off the fines owed by many Aborigines in remote areas of Western Australia who have not committed an offence in the past year?

(2) Will the Attorney General consider introducing some system by which the penalty for people in remote communities is applied shortly after the offence, rather than applying 12 or 18 months after the offence occurred when people often do not know to what the penalty relates?

Hon PETER FOSS replied:

(1)-(2) With regard to the second part of the question, I draw the member's attention to Order of the Day No 20 on the Notice Paper, the Acts Amendment (Fines Enforcement) Bill 1999, which will do what he suggests. If every member in this House could guarantee that we could pass that measure in a short time, we could knock it off before Christmas.

Hon N.F. Moore: In seven minutes.

Hon PETER FOSS: If members can guarantee to get it through in seven minutes, it would be knocked off before Christmas!

Hon N.D. Griffiths: You've sat on it for nine months!

Hon PETER FOSS: One reason for that situation is that we know that whenever we bring on a matter, the member stands up for half an hour to tell us how long it has been in coming. Hon Nick Griffiths is the biggest cause of delay in this House. If the member can guarantee not to speak at all, we would pass the Bill quickly.

Several members interjected.

The PRESIDENT: Order! I am the one meant to call order by knocking on the table, not the Attorney General. I am waiting for everyone to stop interjecting so the Attorney General can complete his answer.

Hon PETER FOSS: Regarding the first part of the question, we have written off a number of fines in accordance with the Auditor General's recommendations. I am reluctant to write them off generally simply because we have had a remarkable collection of fines in the Central Desert area at Warburton. If Hon Mark Nevill has visited Warburton recently, I think he would agree that it is in line for entry in the Tidy Town WA competition. It is looking like an incredibly good community, which is partly as a result of much community development program work combined with work and development orders. We have collected nearly $1m worth of fines which have been outstanding for some considerable time. It is unsatisfactory for fines to be left for a long time. A reason for that situation is that the only way to collect fines under the old system was to issue a warrant of commitment.

Hon Mark Nevill: I did not ask you to write them off generally, but to do so for people who have not committed another offence.

Hon PETER FOSS: I understand the member's point. The difficulty is that I do not know how many people would qualify - I suspect it would be only a couple of people. I understand the member's sentiment, although I am not wildly keen on the idea. I am putting in place a system, wherever I can, to collect fines in a way which strongly benefits the local community. Warburton is a classic example - it is a real credit to the community - of this positive development. A small number of people do not offend again in the time referred to. Generally speaking, the answer is no.

PERTH REGION, AIR TOXICS

703. Hon J.A. SCOTT to the minister representing the Minister for the Environment:

I refer to the answer to question on notice asked on 21 April 1999 in which the minister stated that the report of the baseline study of air toxics in the Perth region was being prepared for publication in the Department of Environmental Protection's technical report series, and to the answer to question on notice 349 of 20 October 1999 in which the minister revealed that the levels of benzene, toluene and xylene were 17.6, 30.0 and 22.6 parts per billion respectively.

(1) Is the Minister for the Environment aware that these levels are many times higher than the accepted standards outlined in the United Kingdom pollutant standards and objectives?

(2) Why has the minister taken so long to release this report when these toxic substances far exceed levels acceptable for human health in the UK?

(3) What levels of these substances are acceptable to the Department of Environmental Protection?

(4) Does the Minister for the Environment intend to significantly alter the air toxics report and, if so, will she table a copy of the original draft report?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The levels of benzene, toluene and xylene reported in the answer to question on notice 349, that is 17.6, 30.0 and 22.6 respectively, were the maximum measure 24-hour average concentrations. These concentrations are well below international standards, including those in the United Kingdom. International standards for benzene are set as annual average concentrations, not 24-hour averages. The UK annual average guideline for benzene is 5 ppb. The equivalent annual average concentration derived from measurements in Perth is 1.4 ppb, well below the UK guideline.

Hon J.A. Scott: No, it is not.

Hon MAX EVANS: Have I not got the correct answer to the question? I am sorry.

For toluene there is a World Health Organisation guideline for a one week average of 63.2 ppb, and for xylene there is a WHO 24-hour guideline of 1013 ppb. The concentrations measured in Perth are clearly well below these guideline levels.

(2) The report's release has awaited an extensive peer review to ensure that its findings are accurate and unambiguously presented. In this instance, peer review has been conducted by a senior officer of the Victorian Environment Protection Authority and by a senior officer in the WA Health Department. The peer review process has only recently been completed. As the maximum concentrations reported are well below acceptable levels, this has not been a factor in the time taken for its release.

(3) The acceptable levels that the DEP has adopted are the WHO guidelines for toluene and xylene and the UK's annual guideline for benzene.

(4) The report has required no alteration from the original draft in respect of the concentrations measured and reported for Perth. It is normal professional scientific practice to peer review technical reports to ensure that data are measured and reported accurately and that any conclusions derived from the data are valid. The final report is the one which has completed that peer review process and one which will be released.

TAXI DRIVERS, MAXIMUM LEASE FEE INCREASE

704. Hon TOM STEPHENS to the Minister for Transport:

On 19 November 1999, the Taxi Industry Board wrote to the Director General of Transport indicating support for an increase in the maximum lease fee chargeable to drivers. I ask -

(1) In view of the findings of the national competition policy taxi review concerning high lease fees and low returns to drivers, will the minister categorically rule out any further increase in lease fees chargeable to these drivers?

(2) If not, what increase is the minister considering and when will a decision be made?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(2) Taxi drivers are the most important component of the industry. They are the direct interface with the consumers. Good customer service is provided by drivers who have a commitment to the industry. This Government wants drivers in our taxi industry who regard the taxi industry as a career, not something to do before they find another occupation.

In order to attract and keep the good drivers in the industry, appropriate remuneration is important. This Government will not be involved in taking action that adversely impacts on the quality of drivers in the industry or persons who are attracted to the industry as drivers.

One of the major issues raised by BSD Consultants Pty Ltd is that driver income is significantly impacted upon by the extent of lease rates that must be paid by drivers. In its report, BSD Consultants noted that lease rates were set late in 1998 at $380 per week. This represents a cost of approximately $20 000 per annum per plate or approximately 27 per cent of the gross income of each plate. For industry as a whole, this represents a $20m expense per annum.

In acknowledgment of this issue, this Government took action last year to cap lease rates. This provides a higher level of economic protection for drivers than was previously the case. I am aware that there has been an approach by the Taxi Industry Board to increase lease rates. I expect the director general to shortly make a decision on this matter. I am conscious, however, that in the past five years, fare increases have been in excess of the transport component of the consumer price index for Perth. I am also aware that increasing lease fees without a subsequent increase in fares would result in a decrease in driver income. I would not support that course of action.

NATIVE TITLE ACT, SECTION 214

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

(1) Has the Government sought legal advice on the constitutional validity of section 214 of the Native Title Act?

(2) If so, from whom has that advice been sought?

(3) Did the advice indicate that the State has grounds to challenge the constitutionality of the section?

(4) How much did the advice cost?

(5) Will the minister table the advice?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(3) The Government has obtained advice generally from its legal adviser within government on the operation and validity of the Native Title Act. It is not the practice of government to release such advice.

(4) Legal advice from within government on native title is not accounted for on a case-by-case basis.

(5) Refer to answer to (1).

ALLEN, MR MARK, LEGAL ADVICE ON DEATH

706. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Labour Relations:

I refer to the death of union organiser Mr Mark Allen on the MetroBus demolition site in East Perth in September 1996.

(1) Can the minister confirm that WorkSafe is not prepared to release copies of the legal advice between the Crown Solicitor's Office and WorkSafe on this matter to Mark Allen's family?

(2) Can the minister confirm that the decision not to release this information is a discretionary decision and that nothing prevents WorkSafe from releasing this information?

(3) Can the minister advise whether WorkSafe has given similar information to families of other injured or dead workers?

(4) Will the minister now instruct WorkSafe to provide this information to Mr Allen's family, and, if not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) I will read the answer: The decision not to release the information was not a discretionary decision. The information is legally privileged and is an exempt matter under the Freedom of Information Act.

As was mentioned earlier by the Leader of the House, it is not the practice for legal advice to the Government to be released.

(3) WorkSafe Western Australia has not given similar information to other families.

(4) No; refer to (2) above.

HOLT, MR NEIL, DEATH

707. Hon JOHN HALDEN to the Minister for Justice:

I refer to the report in *The West Australian* that at the time of his death Neil Holt was severely battered.

(1) When did this beating occur?

(2) Was it formally reported?

(3) How many assaults of prisoners by prison officers have been reported by prison officials in the past 12 months?

(4) Will the minister table any reports relating to the battering of Neil Holt?

Hon PETER FOSS replied:

Problems always seem to arise when a statement is made at the beginning of the question and one assumes that the statement is correct and proceeds to answer the question on that basis. I do not accept that the statement made at the beginning of the question is true, and perhaps that should govern the rest of the answer. I will now give members the rest of the answer.

(1)-(2) As this matter is now the subject of a coronial inquiry, it would be inappropriate for me to make any comment prior to the coroner handing down his formal finding.

(3) Please reframe this question as it is not clear.

(4) See answer to (1).

HOME AND COMMUNITY CARE, CHANGES TO FEE STRUCTURES

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

I refer to information pamphlets and a letter dated 13 May sent out by the Health Department to all home and community care agencies providing information for clients and carers about changes to fee structures for HACC services.

(1) Is the minister aware that the Health Department's letter to the agencies requested that the enclosed pamphlets be distributed to HACC clients before 28 May?

(2) Is the minister aware that many of the community agencies did not receive pamphlets for distribution until after that date?

(3) If yes, what reasons are given for the delay?

(4) Can the minister explain why the Silver Chain Nursing Association was able to professionally print and distribute these pamphlets, including the agency's name, to its clients days before other agencies received theirs?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Yes. One box of additional brochures was couriered to Harold Hawthorne Day Centre on 27 May 1999. Additionally, a small number of community agencies had not provided the number of brochures they required by the due date of 27 April 1999.

(3) The brochures received by Harold Hawthorne Day Centre on 27 May 1999 were as a consequence of additional brochures being requested. The other agencies had not provided the required numbers by the due date to be included in the primary delivery process.

(4) The Health Department facilitated the printing of all the brochures relating to the safeguards policy. No individual agency undertook the printing of any of those brochures. Due to the numbers required by the Silver Chain Nursing Association relative to all other agencies, it was a decision of the HACC fees working group to have the name and contact details for Silver Chain printed directly on the brochures.

KWINANA MOTOR SPORTS COMPLEX

709. Hon GIZ WATSON to the Attorney General representing the Minister for Planning:

Some notice of this question has been given by Hon Jim Scott. I am asking the question for him as he is absent from the Chamber on parliamentary business.

(1) Why is the Minister for Planning taking responsibility for the Kwinana motor sports complex development when that project is a sporting complex and appears to have no link with his portfolio responsibilities?

(2) Can the minister confirm that the motor sports complex is a public work?

(3) Has the motor sports complex been deemed a public work by the Governor?

Hon PETER FOSS replied:

(1) The Minister for Planning, through the Western Australian Planning Commission, had responsibility for locating a suitable site for the motor sports complex. The minister is also responsible to Cabinet for the International Motorsports Implementation Committee.

(2) Yes.

(3) No.

COLLEGE ROW SCHOOL, THERAPY SERVICES

710. Hon BOB THOMAS to the minister representing the Minister for Health:

Some notice of this question has been given. I refer to the minister's meeting on 17 November 1998 with Mrs Christine Joyce, President of the College Row School Parents and Citizens Association, Mr Ian Osborne, MLA, and the Minister for Disability Services and ask -

(1) What extra speech therapy, occupational therapy and physiotherapy resources did the minister promise the school?

(2) Did his department provide those resources in the 1998-99 financial year? If not, why not?

(3) Were those resources provided in the 1999-2000 year? If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) At the meeting of 17 November 1998 a commitment was made to increase the funds provided by the Health Department of Western Australia to the Disability Services Commission for physiotherapy services at College Row School from $6 000 per annum to $17 500 per annum. It was also agreed to consider a case for speech therapy and occupational therapy services at the school. A case has been received by the Health Department from local officers of the DSC. The case was supported by the school's parents and citizens association. As the responsibility for school-aged therapy services lies with the DSC, the Commissioner of Health has written to the chief executive officer of the DSC concerning these therapy services generally, including College Row School. The case received by the Health Department will be discussed with the DSC as it is appropriate that any decision to expand or provide new services at the school be a decision of the DSC.

(2)-(3) Yes.

YARDIE CREEK BOAT TOURS

711. Hon TOM STEPHENS to the minister representing the Minister for the Environment:

Some notice of this question has been given. Further to the answer to question 664 of Thursday, 25 November, in particular the minister's reply that she would not review the decision that only one licence would be issued for a boat operator at Yardie Creek Gorge, I ask -

(1) Has the minister reviewed her decision?

(2) If yes, why?

(3) Will there now be an opportunity for Ningaloo Safari Tours to have its licence reviewed to operate boat tours at Yardie Creek?

(4) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) No. However, the Minister for the Environment has had consultations which have confirmed that a proper process was followed in determining the licence.

(2) Not applicable.

(3) The minister has sought further information and advice from the National Parks and Nature Conservation Authority regarding licence conditions.

(4) Not applicable.

DOMESTIC WATER SUPPLY, CHEMICAL ADDITIVES

712. Hon KEN TRAVERS to the minister representing the Minister for Water Resources:

Will the minister table a complete list of the chemicals added to Western Australian's domestic water supply?

Hon MAX EVANS replied:

Chemical	Reason
Chlorine gas	Used for removal of iron, manganese and hydrogen sulphide, and for disinfection
Alum	Used for removal of natural organic matter and turbidity
Polyelectrolyte	Used to aid coagulation/flocculation
Lime	Used to alter water pH
Fluoride	Statutory requirement
Caustic soda	Used to alter water pH
Ammonia	Used for formation of chloramines in some disinfection processes
Sodium-hypochlorite	Disinfection
Calcium-hypochlorite	Disinfection
Calgon	Used to reduce the effects of hardness
Soda ash	Used to alter pH
Sodium alganate	Used to aid coagulation/flocculation

NEW DIESEL BUSES, NICHOLSON ROAD SUBWAY

713. Hon E.R.J. DERMER to the Minister for Transport:

(1) Have there been any problems encountered with the new diesel buses negotiating the new Nicholson Road subway in Subiaco?

(2) If so, what is the nature of those problems and how are they being dealt with?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(2) Buses, old and new, have difficulty turning left from Railway Road into Nicholson Road to enter the subway. This difficulty has arisen with the introduction of the new circle route as a consequence of the need for that new service to provide access to the Shenton Park train station. Resolution of this difficulty requires modification of the intersection at Railway and Nicholson Roads and the subway itself. The Department of Transport is in the process of obtaining the necessary approvals.

OLYMPIC GAMES, TICKETS

714. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I refer to the undertaking by the Leader of the House on 10 November to table details, including total costs, of any tickets purchased or applied for in the name of government departments and agencies to the Sydney Olympic Games, purchased at taxpayers' expense.

(1) Is the Premier able to table those details?

(2) If not, when is the Premier likely to be able to do so?

Hon N.F. MOORE replied:

I regret that I do not have the question let alone the answer. If the member would like to place the question on notice or ask it tomorrow, I will try to obtain an answer.