Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Tuesday, 4 April 2000

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

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999, Report

Hon Tom Helm presented the forty-ninth report of the Joint Standing Committee on Delegated Legislation in relation to the Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999, and on his motion it was resolved -

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

[See paper No 837.]

FREEDOM OF INFORMATION ACT

Urgency Motion

THE PRESIDENT (Hon George Cash): I received the following letter this morning -

Dear Mr President

At today's sitting it is my intention to move under SO72 that the House at its rising adjourn until 9am on 25 December 2000 for the purpose of condemning the Court Government's failure to conduct a genuine and comprehensive review of the *Freedom of Information Act 1992,* the reliance of Government agencies on exemptions within the Act and consequent implications for government accountability, and calls on the Premier to immediately instruct all agencies to operate within the spirit of the Act.

Yours sincerely

Hon Ljiljanna Ravlich MLC
Member for East Metropolitan Region

The standing orders require at least four members to stand in their places in support of the motion before it may proceed.

[At least four members rose in their places.]

HON LJILJANNA RAVLICH (East Metropolitan) [3.35 pm]: I move -

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

The Freedom of Information Act is a hopeless Act; anyone who has dealt with it extensively would have come to that realisation. A reason that this Act is almost obsolete is that the nature of government has changed over time. Given the increase in commercialisation of government, the Act is becoming less and less relevant. Furthermore, government agencies do not operate within the spirit of the Act, and this has been recognised by the Information Commissioner for some time. In the 1997-98 annual report, she stated that a wide-ranging and comprehensive review of FOI is needed to fully explore the implications for accountability, and particularly for FOI, resulting from changes that are occurring in government agencies. The Australian Labor Party fully supports the commissioner in her call; hence the motion before the House today.

Since becoming a member of Parliament, I have, through my office, made at least 40 freedom of information applications across a wide range of government agencies. I put on public record that I have been nothing short of disgusted by the extent to which agencies try to withhold information. What is clear to me is that there is no openness or accountability in the Court Government. In fact, it is a secretive, closed, small-minded Government that is full of rhetoric but no substance in its claim of accountability and openness.

The FOI Act is supposedly built on three key principles: First, human rights and privacy, thereby enabling people to gain access to information about themselves; secondly, accountability and open government - the Act enables the Government to be open to public scrutiny; and, thirdly, democratic participation to allow public participation in the policy process of government. My experience is that the Act fails on all three principles.

Although the Act was reviewed in 1996 in accordance with a provision of the Act that it be reviewed after a three-year period, no substantial changes were made as a result of that review because no substantial changes were recommended. I find it hard to believe that a review of the Act could produce no recommendation to make changes, because my experience of dealing with the Act is that it is outdated and very much in need of change.

Although the FOI laws appear to deal with the question of access, there are 15 exemption clauses in the Western Australian legislation. Of greatest concern is a recent ruling by the Information Commissioner in relation to an arrangement between Western Power and Brown and Root AOC for the establishment of a joint venture company called Integrated Power Services Pty Ltd. This ruling renders the FOI Act almost redundant. Under the ruling, many agencies are increasingly denying access to very important information. It relates to schedule 1, section 8(1), titled "confidential communications", which reads -

> Matter is exempt matter if its disclosure (otherwise than under this Act or another written law) would be a breach of confidence for which a legal remedy could be obtained.

Many public sector agencies enter into confidentiality agreements with private sector organisations as part of their contracting arrangements. They then claim exemption under section 8(1) of schedule 1 of the Act, arguing that the release of the information into the public domain would be a breach of confidence and legal remedy could be obtained from the private sector contractor; therefore, no information can be disclosed to the public. That is not good enough. Given that the Act was passed in the 1992, when the level of commercial activity might have compromised 10 per cent of the Government's business -

Hon Peter Foss: You've got to be kidding! Most of the budget was spent on your useless things!

Hon LJILJANNA RAVLICH: The Attorney General will have his turn.

This Government spends $6b purchasing goods, services and works - a substantial amount of money - yet nothing is released in the public domain about the commercial arrangements entered into. All government agencies hide behind the limited provision of the Freedom of Information Act.

My argument is simple. This Act is increasingly obsolete because contracting out and procurement might have represented 5 or 10 per cent of government activity in the past, but these days it comprises about 80 per cent of government activity. Therefore, this Act is no longer capable of meeting the requirements of government as established under the Court Government.

Another area of concern is the entire matter of government trading enterprises and how they relate to the FOI Act. Government trading enterprises have no regard for the FOI Act, which is particularly sad. In a recent example the Water Corporation said that its job was to make profits; therefore, it was not a public sector agency as defined by the Act and should not release any information publicly. The Information Commissioner ruled otherwise. I do not uphold the view that government trading enterprises are designed purely to make a profit. They are public sector agencies. Sure, they have a commercial bent, but that should not be their priority. No government trading enterprises are exempt under the schedule of exceptions in the Act. However, all government trading enterprises, to my knowledge, go to great lengths to ensure that commercial arrangements with private operators contain confidentiality clauses, which effectively makes them exempt under section 8(1) of schedule 1 of the FOI Act.

Government trading enterprises argue that their primary role is to make a profit. We need a public and open debate about what we expect from government trading enterprises and we need to outline their role in the public sector. These enterprises borrow people's money at cheap rates from Treasury. If their business arrangements with the private sector go belly up, these enterprises will recoup losses in a fundamental way; namely, through increased charges to Western Australians. It is a fallacious argument to suggest that they should be exempt because they are commercial entities with a sole role of profit making. Government trading enterprises also argue that releasing information would put them at a commercial disadvantage. That is nonsense. Government trading enterprises for the most part are monopolies in this State. How can a monopoly be disadvantaged by making commercial information available publicly? Undoubtedly, the failure of such agencies to act within the spirit of the law renders the FOI Act and the Information Commissioner powerless in this area.

We face many problems in trying to obtain information through FOI. The length of time to process applications is a factor, with a statutory 45-day deadline. In reality, it takes the full 45 days to process applications whether they be small or large. In a recent case, the Western Australian Department of Transport took the full 45 days to write back to say that no documents fell into the ambit of our application. It is poor to take 45 days to tell people they will get nothing. Agencies use a variety of stalling tactics to prolong applications. For example, the Integrated Power Services application I made with Western Power went well over a year. It has been recorded that agencies impose huge charges when they do not want people to access information. The Crown Solicitor's Office recently attempted to charge my office $30 000 for an application to access a review of the State Supply Commission Act. This figure was later reduced to $7 500, and the commissioner ruled that I should pay $260. Members can see the extremes in charges imposed. That fee was supposed to put me off the scent and make me a good girl and go away. It did not work. A worrying aspect is that the Crown Solicitor's Office gives many agencies advice on how to deal with applications. What a joke! This agency is supposed to uphold the spirit of the legislation, yet it did the wrong thing by me and the Western Australian public!

Hon Peter Foss: I will reply to that!

Hon LJILJANNA RAVLICH: I do not care. Its actions are indefensible.

Hon Peter Foss: You behave like a spoilt child. I will prove it.

Hon LJILJANNA RAVLICH: The Attorney General will get his turn, but he cannot defend the indefensible, and he knows it.

Exemptions are also claimed on technical grounds. When an inquiry was under way at C.Y. O'Connor College of Technical and Further Education, I made an FOI application regarding the commercial activities of the Australian Academy of Business Development at the South East Metropolitan College of TAFE. I do not know whether it was coincidental, but two days later the police were called in to investigate the commercial activities of the college. I was told by the department that I could not access the information because a police inquiry was under way. These are the lengths to which government agencies will go.

The FOI Act needs to be rewritten to reflect the changed business of government. The Western Australian Act is no longer relevant to the model of government in this State and does not serve the public interest. As a member of the Western Australian public, and a member of Parliament intent on doing a good job on behalf of the people who have put me in this place, I am sick and tired of the excuses made to prevent access to a workable FOI Act. The public has a right to such an Act. This Government does not give a toss about the workability of the FOI Act, and does not give a hoot about whether the public has an open and accountable Government. Everything demonstrates that the Government acts to the contrary. The Government has failed to ensure that we have a workable FOI Act, and it has systematically condoned the poor behaviour of government agencies. No-one hauled in anyone from the Crown Solicitor's Office regarding its exaggerated charge to me of $30 000. This Government simply does not care. The responsibility for this situation rests with the Premier. The Premier is responsible for public sector management. The Premier is not providing the direction and leadership to government agencies to enable them to act in the spirit of this law. I implore him to do something in order to salvage this absolute mess before us. I call on him to urgently instruct all government agencies to work in the spirit of the law. If he is not prepared to do so little, given the time that has elapsed, he should step down from his job as he is not worthy of holding such a position.

HON PETER FOSS (East Metropolitan - Attorney General) [3.50 pm]: If I were the Leader of the Opposition I would now move for a committee of privilege to inquire into the false assertions made by Hon Ljiljanna Ravlich, who purported to quote from the Information Commissioner's report and made all kinds of assertions which are totally and utterly false.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: Hon Ljiljanna Ravlich had 15 minutes. I get only 10 minutes so she should be quiet.

The PRESIDENT: Order, members! The rules are the same for every member. This is an urgency motion which has very limited time for debate. As I said before, we do not need interjections.

Hon PETER FOSS: The commissioner's report, which Hon Ljiljanna Ravlich purported to be referring to, shows the considerable number of applications. The average time taken to deal with applications began with a high of just below 24 days and has been distinctly reduced to just more than 21 days now. The average charges were high in the first year, rose slightly in the following three years and reduced significantly in the past year. The interesting aspect of this matter is the outrageous statement made by Hon Ljiljanna Ravlich about the outcome.

The commissioner's report shows the outcome of decisions in which full access was granted increased significantly over time. Edited access gradually increased, the reason for that being that people decide not to opt for third party consultation as it can considerably increase the time and cost of carrying out the process. However, there has been hardly any increase in instances in which access has been refused. Therefore, despite the statements made by Hon Ljiljanna Ravlich, she is wrong. She led us to believe that she had been reading the commissioner's report and, obviously, she had not been reading the report because she proceeded to make it up.

The commissioner made a statement recently and the extract reported by *The West Australian* tended not to be the good part. However, during her speech she commended the WA legislation compared with other legislation in Australia, although she has a long agenda for reform. She commented on the generally high standard of performance in public sector agencies with regard to management of the freedom of information legislation. The interesting aspect is that the previous Labor Government promised FOI in every single election it held.

Hon Tom Stephens: And we delivered it.

Hon Ljiljanna Ravlich: And we delivered it.

Hon PETER FOSS: Yes, you promised it for four years and did nothing.

The PRESIDENT: Order! Hon Ljiljanna Ravlich was heard in relative silence. I want to hear the Attorney General.

Hon PETER FOSS: And she gets a reply.

The previous Labor Government had three successive elections when it promised freedom of information legislation. When did it bring it in? When the Government knew that it was so on the nose that it was on its way out. Did it even proclaim the legislation then? No. Who proclaimed it? We did. What did the previous Labor Government do? Despite saying three times to the people of Western Australia that it would bring in FOI legislation, it did not bring it in and did not proclaim it.

Hon Tom Stephens: Why didn't you fix up the proclamation date?

Hon PETER FOSS: The previous Labor Government was absolutely cowardly. It did not proclaim the legislation because of the dirty little tricks that it was up to when it was in government. There was no way that it wanted anybody to see the legislation.

We have excellent FOI legislation, and I do not say that from a partisan point of view. I refer members to an acknowledgement that we have the best FOI legislation in Australia. If members do not believe me, they can read *The Australian* of 19 August 1999 which rated, in order, the freedom of information laws in Australia. I will read them in order starting with the worst State: Queensland, Victoria, the Commonwealth, New South Wales, South Australia, Tasmania; and the best of them all is Western Australia. Therefore, when making her statements, Hon Ljiljanna Ravlich does not even

bother to put her feet on the ground and check whether there is any reality in them. She was wrong about the time the FOI applications take; she should look at the commissioner's figures. She was wrong about the cost; she should see the commissioner's figures. She was wrong about the amount of access given; she should see the commissioner's figures. Why does she stand up in this House, supposedly calling on the Information Commissioner as her authority, and not even bother to look at the commissioner's figures? Hon Ljiljanna Ravlich deceived this House in the way she represented the commissioner's report. This review has been advertised and has been on my Internet site -

Hon Ljiljanna Ravlich: Table the commission's information.

Hon PETER FOSS: Why does Hon Ljiljanna Ravlich not shut up? She will have another five minutes later.

The PRESIDENT: Hon Ljiljanna Ravlich will come to order.

Hon PETER FOSS: The review was advertised. Did Hon Ljiljanna Ravlich bother to make a submission? She could have made a submission as the Information Commission continued to take submissions right up to the time it provided the report to me. Only one member of the Opposition, Mr John Kobelke, bothered to make a submission; that is how difficult the Opposition found the FOI laws.

Hon Ken Travers: He is our shadow spokesperson.

Hon PETER FOSS: Many people can make submissions. There is nothing to say that only a shadow spokesperson can make a submission; why did other members not do it? Very few people made submissions. If it was such a problem, why did more members not make submissions? The only person who has a problem is Hon Ljiljanna Ravlich and I will deal with that because, as I said, she behaved like a spoilt brat recently -

Hon Ljiljanna Ravlich: When?

Hon PETER FOSS: - when she dealt with the application to the Crown Solicitor's Office. I would like to tell members what really happened.

Hon Ljiljanna Ravlich: I was quoted $30 000.

The PRESIDENT: Order! If Hon Ljiljanna Ravlich wants to hear the minister, she should stop interjecting otherwise she will find it difficult from outside the Chamber.

Hon PETER FOSS: The Crown Solicitor's Office carefully followed the rules for dealing with FOI applications. One of the first things it is obliged to do is tell people how much it will cost if they go ahead with their requests. It then offers people an opportunity to narrow their requests. When Hon Ljiljanna Ravlich put in her usual compendious, omnibus request, she received a letter from Mr Gotse telling her that he believed the documents falling within the ambit of the access application were held by at least 130 other agencies. He estimated that the ministry held 20 000 folios, it would take three minutes to deal with each folio which would be more than 1 000 hours, and the charge, on that basis, would be $30 000.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: The Crown Solicitor's Office is required to do that by law.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: Why does Hon Ljiljanna Ravlich not shut her little mouth for a while and open her ears.

Point of Order

Hon LJILJANNA RAVLICH: That remark is unparliamentary.

The PRESIDENT: Many remarks are unparliamentary; however, it depends on the context in which they are said. If the Attorney General and Hon Ljiljanna Ravlich want to have a catfight, other members would be happy for that to occur outside the Chamber. There is no point of order. I have asked Hon Ljiljanna Ravlich to come to order so that we can hear the Attorney General in relative silence. Hon Ljiljanna Ravlich has a right of reply, if there is time. However, she spoils it for other members in the meantime by interjecting. If the Attorney General directs his comments to the Chair and does not personalise them, there might be fewer interjections.

Debate Resumed

Hon PETER FOSS: I apologise. I was trying to stop Hon Ljiljanna Ravlich from interrupting as I was finding difficulty getting my words across to you, Sir.

As also required by the law, the letter asked whether Hon Ljiljanna Ravlich wished to proceed with the access application or, alternatively, to reduce the ambit of the application. In June, Hon Ljiljanna Ravlich asked for a summary of documents and was given a list specifying 11 categories. She was again asked whether she would like to reduce the ambit of the application. There was a telephone conversation about that and at the conclusion she narrowed the ambit of her access application. The commission wrote to her again saying that the application had been reduced to 2 000 folios which would take 200 hours. Another letter followed from Hon Ljiljanna Ravlich narrowing the ambit of the access application. This went on until eventually the number of documents she wanted came down from many thousands to about 60. That application was dealt with by Miss Gugliotta of the Crown Solicitor's Office who is obviously a bit more reasonable than the spoilt brat opposite who is insisting on this matter.

Hon Ljiljanna Ravlich: I object to that.

Hon PETER FOSS: The fact is that if people ask for a large quantity of documents, agencies are obliged to tell them that it will cost a great deal of money and it would be easier if the application were narrowed down. Therefore, the application went from 20 000 folios to 60 documents. There is a world of difference between getting the full range of information and a small amount of information. The Information Commissioner followed the request to the spirit. Typically, Hon Ljiljanna Ravlich asks for immense amounts of information from the Information Commissioner and expects everything to be done for free. She should narrow the ambit down to what she needs. Until some reasonable person, such as Miss Julie Otter from the commissioner's office interposes, she continues to seek thousands of documents.

Hon Ken Travers: Did you discuss that application with the Crown Solicitor? You are on the record as saying you discussed FOI applications in the past.

Hon PETER FOSS: I did not. I received a report on it afterwards. The first I knew about this issue was when I saw a report in the newspaper. I have asked for a report. Most important, I received a report from the Crown Solicitor's Office that indicated the commissioner's office had acted properly both in law and in spirit. Not wishing to take purely the view of the Crown Solicitor's Office, I asked the Crown Solicitor and the Solicitor General for their confirmation. Both of them said the problem arose with Hon Ljiljanna Ravlich. The Information Commissioner acted on it properly in the spirit of the Act, and the person who caused all the problems was Ms Ravlich.

However, I happen to disagree with the commissioner on the fees; I do not think she was entitled to do what she did, but there is no right of appeal. I will raise that point of law at some other stage and ensure it is determined. The truth is, Hon Ljiljanna Ravlich behaved like a spoilt brat. She demonstrated the sort behaviour she shows when she stands in this House on other issues, and misrepresented what the FOI Commissioner said about her performance and the time taken to provide information. The facts from the commissioner are on the record.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: Hon Ljiljanna Ravlich should keep quiet.

Hon Ljiljanna Ravlich: Why are you so heated up?

The PRESIDENT: Order!

Hon PETER FOSS: I am having to speak louder and louder because Hon Ljiljanna Ravlich keeps interrupting.

HON HELEN HODGSON (North Metropolitan) [4.01 pm]: I do not want to be seen to be interfering in any personal issues arising in the Chamber at present! I would like to talk about some of the issues that are pertinent to the Freedom of Information Act. One of the acknowledged authorities on administrative law in Australia, Professor Stan Hotop, said in his text on administrative law -

> Official secrecy is a time-honoured tradition in Anglo-Australian government administration. It has been described by Professor Campbell as "a legacy from the times when public administration was simply an extension of the Crown's administration of its properties, when the distinction between private and public administration was by no means clear cut".

Hon Barry House interjected.

Hon HELEN HODGSON: I have the Commission on Government recommendations also, so members will hear about those in a few moments. Basically, freedom of information is relatively new in administrative law in this country. The Western Australian legislation is among the newest, having been proclaimed only seven years ago. It is interesting to look again at the principles of the Act. Section 3(1) reads -

> The objects of this Act are to -
>
> (a) enable the public to participate more effectively in governing the State; and
>
> (b) make the persons and bodies that are responsible for State and local government more accountable to the public.

The problem with that is it looks as though the FOI Act is intended to be the vehicle through which the public can gain access to information about what is going on within government. I do not agree that that is the correct way to ensure the public has access to what is occurring. I have said in this Chamber time and again that information should be made available through this Parliament so that members of Parliament and members of the public have access to it.

Among some articles tucked away in my files I found one dated June 1995 that refers to a submission to the Western Australian Discussion Paper No 1 "The Secrecy Laws of the State and Cabinet secrecy" when the Information Commissioner made a number of important recommendations concerning the Freedom of Information Act. It is interesting that they have not come through the FOI review. Some of the issues identified in 1995, after 18 months of operation, included the need for a public interest test to apply to all exemptions in schedule 1 of the FOI Act. Surprise, surprise; that was also a recommendation of the Commission on Government which referred to the need for a public interest test in the use of exemptions. Further recommendations are -

> The existing secrecy provisions in various statutes in Western Australia should be repealed and replaced with a statutory framework . . .
>
> No legislation should be enacted which precludes the operation of FOI in respect of current or future statutes . . .

I have been a party in this Chamber to that occurring. In that case I was willing to accept that it was appropriate. However, it caused me some consternation to think we were passing legislation that precluded the application of FOI. A number of other recommendations were made aimed at ensuring we have an open and accountable culture in agencies under the administration of the Public Sector Standards Commissioner.

The Commission on Government report contains a number of recommendations that relate specifically to the FOI Act. They were attached to a letter I received inviting submissions to the FOI review. Having said that, I note that at that time I had held my seat for only a matter of months so I was probably not on the list of submissions to the FOI review. However, these recommendations indicate that the Act is not working properly. For example, recommendation 1 of the Commission on Government Report No 1 reads -

> Existing statutory secrecy provisions should be repealed and the freedom of information regime should be the governing legislation for determining when information held by the government should not be disclosed.

Recommendation 5 refers to the attachment of a public interest test to the exemption clauses. Recommendation 7 suggests section 8 of the Act should be amended so that the provisions of the Act should not be overridden or restricted without public consultation. It also refers to the cabinet secrecy provisions and so on. The COG report makes eight recommendations that specifically deal with shortcomings in the FOI Act that have not yet been addressed. There are two basic exemptions: Matter is exempt when it is considered not to be in the public interest to be disclosed and some agencies are exempt. The number of exempt agencies is relatively small, and I do not have too much concern about them, but I am intrigued about some specific agencies. It would be interesting to read *Hansard* to see why the State Government Insurance Corporation and the Perth International Centre for the Application of Solar Energy are exempt agencies. Some of the exemptions do not make sense.

I have grave concerns over two of the more important exemptions; the first being exemption 4 which is commercial or business information and the second is exemption 10 which is the State's financial or property affairs. Those exemptions are most likely to be abused in limiting access to information. It comes back to the whole question of commercial-in-confidence and contracts and information to which the people of this State should have access in determining whether contracts entered into by the Government are appropriate and protect the interests of the Western Australian taxpayers.

As I said last week in this place and as I have said in many debates, in some circumstances trade secrets cannot be disclosed nor can tendering processes be compromised by disclosure of information. However, the problem with these confidentiality clauses is that often they are used to bar access, preventing people from knowing whether an issue is a trade secret that requires protection. It could be that what the government agency bars access to, saying that it is a trade secret, is something that is common knowledge throughout that particular industry, and yet, as a consequence, the contract may not be disclosed and the information not made available to the public. I do not believe that is in the interests of open government in this State.

The last thing I raise is a provision which I found in the South Australian FOI legislation and which might assist Hon Ljiljanna Ravlich in her efforts on behalf of her constituents. The South Australian legislation has a provision stating that members of Parliament are not to be charged for FOI applications. Section 53(2)(b) states that the regulations -

> . . . must provide for access to documents by Members of Parliament without charge unless the work generated by the application exceeds a threshold stated in the regulations . . .

That threshold is currently $350. That would not assist the member if she has a request for which she is to be charged $30 000 - although I believe she told us that the final charge was considerably less than that. If contracts are not to be made available in this Chamber, and they are not made available for members of Parliament to examine as part of our duties and on behalf of our constituents, we must have some other method other than FOI of making sure that we can have access to the information. The South Australian provision goes some way towards providing access to members of Parliament who need information in order to fulfil their duties.

HON J.A. SCOTT (South Metropolitan) [4.11 pm]: I firmly believe that openness and accountability have long disappeared from the Court Government's agenda and that, with it, the spirit of openness and accountability does not exist any more. That is a terrible shame because members of Parliament, in particular, depend very much on getting information so that they can protect the interests of the community on many issues. It is my experience that quite often the reason why documents are not forthcoming when, for instance, we ask for them to be tabled in this place, is simply that they are damaging to some minister's argument. We have seen numerous examples of that.

When people go to the Office of the Information Commissioner to access information, they may find that the departments involved - under pressure from their ministers no doubt - do not want to hand over information. A recent example of that was the FOI application made in regard to the Kwinana speedway motorplex project, where the Government made certain reports disappear because they were not favourable to the outcomes it wanted. The real problem with that issue was that it involved a life or death situation. The reports pointed out that the project would be dangerous to human life; namely, to the patrons of the complex. I think it is outrageous that a minister should hide this sort of information. Another good example of the sort of secrecy that exists within government was the witch-hunt carried out within the Department of

Transport for the person who had released information. Once again, it was information that would impact on people to the extent that it could, by the information being known, show that the Government was not properly considering the safety of people using the roads. Rather than the Government dealing with the issue, the information was hidden.

This attitude makes the application of the Freedom of Information Act rather difficult. It is the spirit in which ministers and their departments are working with the Act that makes it not work. We have the basics of what we need in a FOI Act, but, as with native title, for instance, it needs two to tango. The reality is that there are too many times where financial barriers are put in place. At times I have paid out large sums, quite outrageous sums, for FOI information from government departments. On other occasions I have had to go directly to the Information Commissioner. I commend Bronwyn Keighley-Gerardy because I think she does a very good and fair job. I have been very impressed with the way in which she has approached her job. She does not do favours for anyone. The fact that the system is not working is not due to her, but to the increasing secrecy in which we see government move.

Hon Peter Foss has pointed out some statistics showing that there has been a decrease in the time taken to provide information and an increase in the efficiency of the system. Part of that comes about because so much information has now been put out of reach of the FOI system, such as that of the Water Corporation, because of the corporate nature of the agency or because of the increasing amount of outsourcing in the public sector in which the Government pleads commercial-in-confidence. Commercial-in-confidence is a wonderful little excuse that Governments use in order to not be accountable for the way in which they spend public money. They argue that somehow, if we have an open system of tendering and openness in the government contracts, they will no longer be able to do business with anybody.

I have spoken to Ted Mack, who is renowned for having set up a very open system in his local government area of North Sydney some years back. When he put in place that completely open tendering system, he was told what the Government is saying here: No-one will do business if they have to reveal information; there must be commercial-in-confidence otherwise no-one will tender for projects. That did not prove to be true at all. There was absolutely no change in who tendered. The only change was that the community received some level of accountability. We see Acts of Parliament and state agreement Acts go through this place in which commercial arrangements are hidden well away from the Parliament. We get scant information until after all the documentation is signed. There is no opportunity for us to do our job and this is exacerbated by the unwillingness of ministers to be honest by giving the full information that is asked for in questions in this place and their refusal to table documents - requests to table documents are totally ignored.

Hon Ljiljanna Ravlich: All the contracts are now on the Internet, according to the minister.

Hon J.A. SCOTT: I can give an example of the sort of information I have requested in recent times. I requested the Minister for Transport to table the studies that had been done on the port of Fremantle and its future use. The minister said that he had commissioned reports which showed that the silos at the port could not be retained.

Hon M.J. Criddle: Did you read the document released?

Hon J.A. SCOTT: The minister did not table that document; he ignored that part of the question. On another question relating to the Port Kennedy development, once again I must make an application under the FOI legislation. The minister involved had a report on the current state of the Port Kennedy development called the Leonhardt report, and when I asked the minister to table the report, that part of my question was completely ignored.

The ministers in this place are causing unnecessary use of FOI legislation because of their secrecy and their ability to provide obscure, rather than direct, answers when requested to provide information. It is little wonder that their departments are threatening to go to the Supreme Court rather than hand over information. That is the case with the motorplex development in Kwinana, about which the Ministry for Planning has said it will go to the Supreme Court to prevent the documents being handed over, and it has even told the commissioner a big fat story about the documents being cabinet documents when that is not the case.

HON TOM HELM (Mining and Pastoral) [4.21 pm]: It is fortuitous that we are debating this matter at a time when I am in conversation with two friends from Kalgoorlie who have been involved with the FOI legislation. They thought it was an opportunity for them to learn more about the things going on around them, but they now reckon that the freedom of information system is neither free nor informative. That has been their experience, particularly when dealing with the Department of Environmental Protection. They have made nine applications to the DEP since the beginning of December 1999. At $30 for each application, the amount required for ordinary people to seek out information on nine matters of interest to them is not to be sneezed at. People should have some confidence that an investment of that amount will provide the response they request. I am sure the request was made within the 30 days required, and it was for the narrowing down of information required. It is useful at this time to mention that these people also have had some contact with the department of the Minister for Mines, and the Department of Minerals and Energy has been far better to deal with than the DEP on this matter. That should go on the record. I know it is a change, but a bit of praise where it is due does not go amiss.

Hon N.F. Moore: I will frame that and put it on the wall.

Hon TOM HELM: I can assure the minister I will not make a habit of it. I had a quick conversation with these people who happened to be around at the time, and I was not aware of the agencies' response and could not warn them that this debate would take place. They are 100 per cent behind this motion and hope that something can be done about it. I listened to the Attorney General and his defence of the FOI system and legislation. According to him, everything is all right and stacks

of responses are being provided. It is not all right because, with all due respect to the Greens (WA), the Australian Democrats and every other politician, we are politicians and we are big enough and ugly enough to take the blows from various government departments and bureaucrats. However, it is not good enough for our constituents who believe that, through FOI applications, they are heading towards some understanding of what is happening to them so that they can respond to it, but nothing happens. Those systems which people believe are part of the democratic process are being snatched from them. It would be better if there were no ability to make applications under the FOI system or if there were some other way people could obtain information. It is totally unfair to raise people's hopes and aspirations and then shoot them down by ignoring their requests and saying that no information is available. That is the problem people have, and it creates difficulties for people trying to understand the FOI system when they do not get the information they ask for. That is the worst part of this issue.

It does not do the Attorney General, the Government or any politicians any good to try to kid people into believing it is a way of resolving their issues and problems. The Attorney General mentioned that resolution of the problem with Hon Ljiljanna Ravlich's matter before Crown Law was as simple as narrowing down the questions. One of my friends from Kalgoorlie advised me recently that he asked for a document 30 pages long, and was advised that it was of Ben Hur proportions. In this day of photocopying machines, facsimile machines and other wondrous electronic devices, if a public servant cannot reproduce a 30-page document without too much hassle, what can be done? It is not good enough.

Once people have been advised to obtain information under the FOI legislation, they go through the process and they do not get it, their energies are channelled into other directions. It can be quite frustrating. A friend of mine from Kalgoorlie, who is not here today, is a mature young person who has a problem understanding how the Government can pretend to allow ordinary people access to information, but when they seek that information it is not available. People wait and wait, go through the emotional exercise and find there is nothing for them at the end of the day. It is only fair to repeat the comments received from my friends in Kalgoorlie.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.28 pm]: I do not have much time to respond -

Hon Tom Stephens: You can talk for as long as you like.

Hon N.F. MOORE: No, I cannot.

Hon Tom Stephens: Yes, you can.

Hon N.F. MOORE: If the Leader of the Opposition reads the standing orders, he will know that there is a limit to this debate. Even if we went beyond 4.30 pm, I would not have unlimited time. With these debates, the House should give the minister responding at least the same time as the person who made the allegations. That would make it a reasonably fair debate.

I listened to Hon Ljiljanna Ravlich's whingeing and whining as usual, and I listened to the Attorney General's response explaining a little of the history of this place. I have been a member of this House for longer than most other members, and I have been through debates in this House during the term of the Labor Government. I have been through the most secretive, miserable, and useless government in the history of this State - the Burke-Dowding-Lawrence Government - which sent this place almost broke and promised FOI legislation for 10 years. The Labor Government delivered it to the people in Western Australia in its last year in office when it knew it had a million to one chance of being re-elected. It provided FOI legislation on the basis that it would never apply to the Labor Government at that time in history. We all know that, and members opposite know that. The then Labor Government deferred all consideration of FOI legislation because it knew darn well that if people could get the information to which they were entitled, which emerged during the royal commission, the Labor Government would have been dead a long time before it was. Certainly Peter Dowding would never have been the Premier and nor would Carmen Lawrence.

Several members interjected.

Hon N.F. MOORE: I seek leave to table a document relating to the comments made by the Attorney General on Hon Ljiljanna Ravlich's contact with the Crown Solicitor's office on this matter.

Leave granted. [See paper No 838.]

Motion lapsed, pursuant to standing orders.

MISUSE OF DRUGS AMENDMENT (CANNABIS CAUTIONING NOTICES) BILL 1999

Second Reading

Resumed from 30 March.

HON RAY HALLIGAN (North Metropolitan) [4.34 pm]: I spoke last time about the fact that Hon Kim Chance could be applauded because of the way he approached some of these issues. I was pleasantly surprised to read a copy of an article in *The Geraldton Guardian* of 24 November last year. It states -

> Kim Chance was formally a supporter of decriminalisation, but now believes the drug's influence is too strong.

That comment was made on the decriminalisation of the possession of cannabis. Hon Kim Chance should be applauded for that stance. I hope that when it comes to a vote, the member will vote with me on this issue because we are most definitely of a like mind.

The speech of the Leader of the Opposition - who unfortunately has left the Chamber on urgent parliamentary business - indicates that he is very much at odds with his colleague. I will read from an uncorrected proof of *Hansard* dated Wednesday 29 March this year. It seems that the way to go on issues such as this is to have the colloquial two bob each way. Hon Tom Stephens said -

> Some policy directions have been flagged within that report -

He is referring to a report from Alan Carpenter in the other place -

> . . . and these are the basis upon which the Labor Opposition responds to the legislation before the House.

Hon Greg Smith: Is that the position of Labor's lay party, or is it the position of the Parliamentary Labor Party?

Hon RAY HALLIGAN: That is a very good question. One would not necessarily know the answer to that, irrespective of who one spoke to within the lay party or the Parliamentary Labor Party.

Hon N.D. Griffiths: Tell us about the National Party.

Hon RAY HALLIGAN: The Leader of the Opposition apparently believes that the use of cannabis, as well as other substances, is growing at alarming rates in the community. The Leader of the Opposition accepts that point. The interesting part about the conclusion of his speech is that he spoke about the responsibility of people who want to form a Government - meaning of course the Labor Party, but it may take far longer than members opposite would have hoped - responding in an intelligent manner. I do not know what that member's definition of intelligence is, because he went on to say that the Labor Party supports the legislation. What legislation it would make! There is overwhelming evidence that marijuana should be despised. I have a document which contains drug information on marijuana - unfortunately, it does not have a date on it.

Hon Norm Kelly: Is it 1954?

Hon RAY HALLIGAN: Does the Opposition think the dangers of marijuana have changed since then? Has tobacco changed? Do members opposite believe that marijuana has changed? Marijuana has most definitely changed; it is worse now than it ever was before. I refer to an article from the Youth for Australia Quarterly Newsletter which states -

> The strengths of THC vary from 0.5 to 60 per cent, and the so-called small quantity of 100 grams of cannabis leaf may make up to 250 joints!

That is not the same as a packet of cigarettes, is it? It goes on to say -

> The strength of marijuana today is 10 to 15 per cent stronger than in the 1970s.

Yes, there have been some changes. It is worse now than it ever has been. While I am on this issue, this article goes on to state -

> A person on a drug such as marijuana generally has an altered perception of time and space, as well as difficulties with concentrating and remembering. In this state a person is dangerous - particularly on the roads. So it is a wonder that some of our politicians want drugs such as these to be legalised.

The first myth is that decriminalisation will not increase use. Since the legalisation of cannabis in South Australia, its rate of use has doubled.

Hon Helen Hodgson: In offences; not use.

Hon RAY HALLIGAN: In countries across the world, there is no blueprint to say legislation has not led to an increase in drug use and crime. The second myth is that marijuana is no worse for a person's health than alcohol or cigarettes. The intoxication from one joint is equivalent to six to eight standard beers and does as much damage to the lungs as one packet of cigarettes. It stays in the body three to four weeks, owing to its being fat soluble, unlike alcohol which leaves the body after 24 hours, because it is water soluble. The risk of its causing schizophrenia is six times as high as alcohol and cigarettes; the risk of suicide is 5.4 times as high; and the risk of leukemia in offspring is 11 times as high. This is the product that the members on the other side of the Chamber say we should be giving to our children.

Hon Norm Kelly: Does that report look at youth suicide due to increased -

Hon RAY HALLIGAN: There may well be other ways of and reasons for people committing suicide, but this article categorically states that smoking marijuana is one factor that can cause people to commit suicide.

There has been talk about what has happened overseas and about the fact that some other countries are far more enlightened than Australia let alone Western Australia - at least, I am told they are far more enlightened. However, I will now quote from an article which appeared in *News Weekly* of 3 July 1999. It states -

> Then there is the perennial debate about cannabis use and the evidence that has emerged about the current strength of cannabis preparations (especially in the Netherlands) and the cognitive and behavioural effects associated with regular use.
>
> Cannabis is a mind-altering substance and may well be the trigger for psychotic disturbances. Mind-altering means substances that act upon the brain to alter mood and cognition.

> What this means is that such individuals have difficulty in paying attention, in concentrating, in retaining information in the memory centres, of processing information and linking it with other information; of making judgments and wise decisions, partly because the information in the brain, if it is still there, is distorted and jumbled.

Again, that is relevant to a lovely piece of legislation we are being asked to support. An article from *News Weekly* of 27 March 1999 talks about Holland. It states -

> Holland is a country which in the 1980s experimented with the "decriminalisation" of soft drugs, meaning that while drug use was officially illegal, it was no longer prosecuted.

Exactly what we are being asked to support. The article continues -

> The effect was an explosion of use of both soft and hard drugs; and the growth of a drug culture through coffee shops which sold marijuana. Holland, once a law-abiding society, had the dubious honour of the highest crime rate in Western Europe.

Hon J.A. Scott interjected.

Hon RAY HALLIGAN: If Hon Jim Scott has something to refute that, he should stand up and tell us about it and give us the documentation. I have no intention of standing here and listening to his rhetoric. This is evidence; he should refute it if he can.

Hon Christine Sharp: Could you give the source?

Hon RAY HALLIGAN: I just did. It is part of the editorial from *News Weekly*, 27 March 1999.

No doubt Sweden is another enlightened overseas country. I will now quote from a document presented by the Swedish National Institute for Public Health in 1998. It is called "A Preventive Strategy; Swedish Drug Policy in the 1990s." Under the heading "No Soft Drugs" it states -

> Swedish drug legislation makes no basic distinction between "soft" and "hard" drugs. Open drug scenes where, in practice, cannabis or other drugs can be bought and sold without risk, do not exist in Sweden.
>
> There is no automatic connection between use of cannabis and use of other drugs. We know that the majority of those who test and use cannabis do not become heavy drug abusers, and yet great efforts are made to limit the experimental use of cannabis, for three reasons.

Members should note that I am reading all of the document; I am not being selective. It continues -

> Firstly, research has shown that cannabis can cause serious harm, especially to teenagers. . . .
>
> Secondly, research shows that, even if cannabis does not automatically lead to abuse of other drugs, cannabis use does constitute a heightened risk of more severe drug abuse to occur at a later stage.

Hon J.A. Scott: Does it harm them more when it is legal or illegal?

Hon RAY HALLIGAN: That is not the point at all. The document continues -

> Thirdly, there is a statistical connection between cannabis and other drugs. Over the past thirty years we have seen that when cannabis use declines, abuse of other drugs does the same. And when cannabis use increases, there is a corresponding upsurge, for example, in heroin and amphetamine abuse.

Hon J.A. Scott: Is that when it is legal or illegal?

Hon RAY HALLIGAN: Hon Christine Sharp should take Hon Jim Scott in hand. The document continues under the heading "Is the Swedish drug policy successful?" -

> The drug policy pursued in Sweden is strongly supported by public opinion. Young people are also in favour of a restrictive policy on drugs. Surveys have shown that 90 per cent of those aged between 15 and 24 do not agree that the smoking of hashish ought to be permitted.

If members have a better argument than that, I would like to hear it. Members opposite do not like hearing the facts, do they?

Hon J.A. Scott: What does that have to do with it being a criminal offence?

Hon RAY HALLIGAN: Anything as bad as cannabis should never be decriminalised. Never!

Hon Norm Kelly: Alcohol is -

Hon RAY HALLIGAN: Do two wrongs make a right? That is Hon Norm Kelly's argument. His excuse is that if alcohol is allowed, cannabis should be allowed. He believes two wrongs make a right. I do not agree with tobacco smoking. I do not agree with the excessive use of alcohol. I gave up smoking tobacco after 35 years. I am probably one of the worst of antismokers - a reformed smoker. I do not agree with smoking, so how could I for one moment agree to people using cannabis?

Hon J.A. Scott: But do you think a person should be made a criminal?

Hon RAY HALLIGAN: If one does any number of things outside the law and one is convicted, by Hon Jim Scott's definition one is considered a criminal, and so be it. If one knows the law, one abides by it. It is as simple as that. We cannot make excuses. Does Hon Jim Scott want to decriminalise the non-use of seatbelts in cars?

Hon J.A. Scott: Yes.

Hon RAY HALLIGAN: That is interesting. We could go further and move into all manner of things, such as heroin and cocaine use.

Hon N.F. Moore: Let's just try him on heroin and see what he does.

Hon RAY HALLIGAN: That might be what we are seeing at the moment.

I have here a document entitled "Drugs; a Guide to Dutch Policy" which has been provided by the Netherlands Ministry of Foreign Affairs. It talks about the harm caused by various substances. Mention has been made of alcohol and tobacco and I agree entirely that they are harmful substances.

Hon J.A. Scott: Now that you have given them up, you want to make criminals of everybody.

Hon RAY HALLIGAN: Hon Jim Scott is a problem.

This document talks about damage to respiratory organs. It suggests that there are major changes to those organs with the use of both tobacco and cannabis. Unsafe driving behaviour: It suggests a major chance of that occurring with alcohol use, none with tobacco use and a reasonable chance with cannabis use. This has come from the Foreign Information Division of the Netherlands Ministry of Foreign Affairs. It also states that alcohol has a reasonable chance of causing damage to the brain. There is a question mark about the damage caused by cannabis in that there is either insufficient evidence or it is under discussion. There is a minor chance that alcohol will cause damage to the heart, a major chance that tobacco will and, again, the jury appears to be out on cannabis.

Hon Greg Smith: You should take a precautionary approach as the Greens espouse.

Hon RAY HALLIGAN: This document was produced in 1998, so it is not old.

I have heard what has been said about people being made criminals. However, I repeat: If one breaks the law, that is what one deserves. I cannot condone a Bill of this type relating to anyone, let alone to children. This morning I was at an Anzac gathering for schools in Wanneroo. The three speakers - one veteran from the Second World War, one from the Korean War and one from the Vietnam War - all said that war should not be glorified and that they hope there are no further wars, except one - the war on drugs. I could not agree more.

HON N.D. GRIFFITHS (East Metropolitan) [4.53 pm]: I have listened to a number of speeches on this Bill. Members on the government side say they deplore what the Bill seeks to achieve. Yet this Government has a cautioning system throughout the State for simple cannabis possession. That system was introduced after cannabis trials - if I may use that term - in two parts of the State. The law was selectively not enforced in two police regions - Mirrabooka and Bunbury. What this Government does by way of administration - what it chooses to do in not having the law enforced as set out in the statute books - it seeks to deplore when a member of this House says it is better to have the law set out in the statute books and to apply it. It is better practice to have a cautioning system set down in an Act of Parliament, rather than an Act of Parliament being ignored and a cautioning system practised as a matter of administration. With the greatest of respect to government members, their rhetoric indicates they believe one thing but their Government does another.

Hon Greg Smith: They are sentenced to undertake an education program.

Hon N.D. GRIFFITHS: Rather than engaging in rhetoric about cannabis use, the member should look at what the Bill seeks to do.

In speaking to the Bill, Hon Christine Sharp referred to what she wanted to achieve. In fact, the Bill refers to the social impact of a conviction for a simple cannabis offence. Many Western Australians suffer greatly because at one time or another they acquired a conviction for a simple cannabis offence. If in the not too distant past they had been in Mirrabooka or Bunbury, this Government would not have caused them to be inflicted with that burden. At the moment we have a cautioning system around the State. The fact that people continue to suffer greatly because they have a conviction for a simple cannabis offence is not something to be treated lightly. I note the observations of members from both sides of the Chamber about their past activities. Would it be right that they be deprived of employment opportunities because of a conviction for something the community sees as very minor? I do not think -

Hon Greg Smith: You have to be in possession.

Hon N.D. GRIFFITHS: I do not think that is fair. There is something very worthy about having the punishment fit the crime; there is something very worthy about having penalties that relate to a drug's capacity to cause harm. The Bill seeks to deal with small amounts of cannabis - minor cannabis offences.

Hon Ray Halligan: We are talking about 250 joints.

Hon N.D. GRIFFITHS: I am talking about the policy of the Bill.

Hon Ray Halligan: It refers to 100 grams.

Hon N.D. GRIFFITHS: The Bill seeks to deal with minor cannabis offences. It appears to me that if the offence is minor then the punishment should also be minor.

I am very concerned about the social consequences. Much has been said about the cost to the community of law enforcement and many complaints have been made in recent times about police resources, operational budgets and matters of that kind. If the pressure on police resources can be eased by the use of cautions and the police can then deal with matters about which the community is more concerned, what is wrong with that? Of course, we have cautioning now anyway, so members opposite who decry the policy of this Bill are being hypocritical. As Hon Ray Halligan well knows, the details of the clauses will be dealt with in Committee in due course.

Hon Christine Sharp proposes that there be a number of hurdles before someone is brought under this system. I have heard Hon Ray Halligan refer to his concern about children, and I share that concern. However, this Bill does not apply to children. I invite the member to read the Bill. For a police officer to administer a caution, the offender must be an adult. It has nothing to do with children, and perhaps I should not refer to the person as the offender.

[Questions without notice taken.]

Hon N.D. GRIFFITHS: A number of matters must be arrived at for a person to be the subject of a cautioning notice: A police officer should have a belief based on reasonable grounds and the person must be an adult, must admit to the offence and then consent to the cautioning notice, must not have a prior conviction for a drug offence in any part of the Commonwealth, and must not have been served with more than one prior cautioning notice. The Bill intends that an offender can receive up to two cautioning notices.

I gave a speech to this House in 1995 and during the course of this debate, some reference has been made to that. In that speech I pointed out that cannabis was a dangerous drug with many harmful effects and that its use should be discouraged. I gave that speech after reading a number of articles. In that speech, I gave an up-to-date statement on the state of research into the effects of cannabis. I have not updated my knowledge since, other than noting what is said in the occasional article. I have not researched the issue further and I note what members have said about the drug's ill effects. I substantially retain the conclusions I outlined in 1995. I say "substantially" because in 1995 I thought the way to proceed with matters of possession was through infringement notices. My view is no different from that of the National Party. In 1995, and in 2000, I believe that one of the methods of tackling the cannabis problem - and it is a serious problem - is an anti-cannabis campaign. I know that something in the nature of a campaign is occurring in the community, but I do not think it has been very effective. A more effective campaign pointing out the bad effects of the drug should be mounted.

I am pleased to see that the cautioning system the Bill seeks to put in place in Western Australia involves an education process. A police officer will not be able to say, "I have caught you with a small amount of cannabis; you should be careful because you have only two of these notices." The normal processes are no longer to apply across Western Australia because of the Government's statewide cautioning regime. The procedure Hon Christine Sharp is advocating goes further than that and has the potential to meet many of my concerns from 1995. Relevant medical and legal material should be included in the system of notices. I am interested particularly in the medical information. The Bill proposes that information be made available about people who can be contacted about the issue of cannabis and its effects. Those are two worthwhile initiatives. They are not revolutionary; this Bill is not revolutionary. It does not advocate substantial change, but provides a statutory basis for what the Government is already doing through administration. However, it suggests improvements.

Hon Peter Foss: The Government requires offenders to attend a lecture. Under this system, they will just receive a piece of paper they can throw in the bin.

Hon N.D. GRIFFITHS: People can go to lectures and close their mind to what is said. The interjection was somewhat trite. I wonder if the Attorney General and those members of the Liberal Party who spoke during the debate have contemplated the division in their own ranks. The Western Australian branch of the National Party has a particular view on cannabis. I refer to a motion on law and order about the personal use of cannabis which is contained in the Nationals' "Western Australia 1998 Convention Minutes". It interesting to note that the seconder of the motion is a member of the other place - the member for Collie. Hon Peter Foss is not speaking for everybody on the government side when he talks about cannabis, cautioning and matters of that kind.

He may be in this place but we have not yet heard from the vocal National Party in this debate. We have not heard from Hon Dexter Davies about where he stands. I thought he was involved in the National Party machine, insofar as it is a machine; it is probably just a horse and buggy. We have not heard from Hon Murray Montgomery or the Minister for Transport - where do they stand? Do they stand with the member for Collie and the National Party conference resolution or do they go along with the rather flowery rhetoric of Hon Peter Foss? I do not accept for one moment that members opposite are united on this issue. They, or certainly the Attorney General, are trying to contrive a false law and order debate when the differences between the parties in the Parliament on this issue are very minor indeed. The resolution dealing with cannabis for personal use which was carried at the 1998 National Party conference states -

> That the Nationals endorse previous state council action to accept the proposal that first and second-time offenders found to be in possession of small quantities of cannabis for personal use are issued with infringement notices, rather than face court action.

On cautioning and infringement notices the following questions must be asked: Should people face court action and

convictions the first and second times they are caught possessing small quantities of cannabis, bearing in mind the disproportionate social effects which flow from that? Do we adopt a cautioning regime such as the one the Government is implementing now or a system founded on statutes so that the Government does not ignore the will of the Parliament as set out in the Misuse of Drugs Act? Alternatively, do we move, as the National Party suggests, away from cautioning and adopt an infringement notice regime? In 1995 I referred to the use of infringement notices. It seemed to me at the time that that was not a bad way to proceed. Having people go to court the first and second times they are found in possession of small quantities of cannabis seems to be very stupid for the reasons which others have outlined.

The state Parliamentary Labor Party's position is that it does not agree with the possession and cultivation of cannabis being legalised but it is of the view that a person who has a small quantity of cannabis should be issued with a cautioning notice for a first offence; be required to attend an education and counselling session for a second offence and, in lieu of accepting that option, face a fine; and then be fined for any subsequent offence. There is little difference between the various parties on this issue with one very important exception; that is, we are setting out quite clearly cautioning, education and counselling with the alternative of a fine and then carrying on with fines.

Hon Peter Foss: You support the two trees in the backyard, do you?

Hon N.D. GRIFFITHS: I am not into trees in backyards.

Hon Peter Foss: Cannabis trees in backyards?

Hon N.D. GRIFFITHS: I am not into cannabis trees. The detail of the Bill will be dealt with appropriately when we reach the committee stage. The Attorney General is seeking to put a false debate into the public mind. The National Party advocates infringement notices. The Greens (WA) say we should have a statutory basis for cautioning. The Government pretends that it is tough on the issue, but has an administrative regime of cautioning and in doing so ignores the statute. It seems to me that the rhetoric and the strident words of the Attorney General -

Hon Peter Foss: Let us see what you do about trees in the backyard.

Hon N.D. GRIFFITHS: Hon Peter Foss should be less strident. It seems that he has a preoccupation with trees in backyards; however, he is trying to divert attention away from the Government's many ringing failures, but he will not succeed.

HON CHRISTINE SHARP (South West) [5.45 pm]: I thank all members who have made contributions to this debate. I have enjoyed the debate and found it very interesting. All members who have spoken have made a real effort to make a genuine contribution and many very interesting points were raised. I also put on the record that whatever the subsequent fate of this Bill, I am greatly pleased to hear these matters raised in this place. They are matters of importance in the community and we do not often have the opportunity to debate them here. I am pleased about that.

In replying to the issues raised by various members, I would like to first discuss the point the Attorney General made in his speech on behalf of the Government. The Attorney General did not disappoint us; he is always good value to listen to and has a lively rhetoric on this issue. The main point of his speech was a question that he posed; that is, where does one draw the line? The Attorney General discussed many aspects of that question. However, what the Attorney General did not discuss was the assumption contained in the question; that is, the assumption that there should be a line. This is an important point because the debate on this Bill was characterised by some confusion about the types of issues which are being debated. There is a moral argument and we have heard much from all government members about that; about the need for lines; and about the moral undesirability of the consumption of marijuana. However, such members seem to be oblivious to the fact that there is also an alternative argument; that is, it is actually immoral to attempt the imposition of prohibition when what one is prohibiting has no harmful effect on anyone but oneself. Therefore, there is a moral argument both ways and those who seek to speak in moral terms alone need to be aware that there are two ways of looking at the moral issue. I will come to the practical issue in a moment. As I have said, a moral argument can be put that the smoking of marijuana is wrong. However, a moral argument can also be put that prohibition is wrong and that it is immoral for those of a certain cultural framework, experience and attitude to impose those values on other people when other people's behaviour is not having any harmful effects beyond themselves.

We must make the distinction between moral issues and practical issues that was not made during the debate. The debate kept ranging erratically between the two aspects. I do not believe that members were thinking about where they stood on these issues. We must make that distinction between moral views and the practical arguments of harm minimisation, and all parties support moves to reduce the harm that marijuana can cause. How we achieve that in practical terms is another matter.

I find it extraordinary that the many members from the government benches who spoke - all from the Liberal Party - seem very much to favour a prohibition morality for others. That is inconsistent with their political philosophy, which focuses on preserving freedoms. That kind of liberalism appears to apply more to their economic policies than their moral policies.

It was overlooked in the debate in the confusion between moral and practical matters, but it is important to note that we ignored some of the practical arguments. The Attorney General glossed over some of the obvious difficulties. In posing the question about where we might draw the line, he conceded that legislation does not solve this issue.

Hon Peter Foss: Neither does your Bill.

Hon CHRISTINE SHARP: He did not develop that argument. Curtin University of Technology's National Centre for

Research into the Prevention of Drug Abuse produced a research paper entitled "The social impact of minor cannabis offences". The paper points out that, prior to the Government's recent policy change, despite the very high level of cannabis offences, and the very high level of cannabis offences in relation to other drug offences and to overall criminal offences, a sample survey indicated that, of those convicted of a cannabis offence, 87 per cent said that having been convicted made no difference to their intention to smoke marijuana.

Hon Peter Foss: Unfortunately, we have the same problem with traffic offences.

Hon CHRISTINE SHARP: The other aspect which the Attorney General glossed over but which other members raised is the Government's policy change. I imagine it made the decision for very practical and well-intentioned reasons.

The Attorney also discussed at some length the South Australian experience with the decriminalisation of marijuana use. I clarify for members that this Bill does not propose implementing the South Australian system; it proposes the adoption of the much more recently implemented Victorian system. The Victorians made significant changes to the South Australian system based on South Australia's experience with decriminalisation. Of course, one of the most notorious aspects of the South Australian system of cannabis expiation notices - which is a civil infringement system wherein someone caught with a small quantity of marijuana is fined - has been the problem of net widening. "Net widening" means more people are now being prosecuted. A research paper produced by Adam Sutton and Elizabeth McMillan entitled "A review of law enforcement and other criminal justice attitudes, policies and practices regarding cannabis and cannabis laws in South Australia", concludes on the cannabis fines system in that State as follows -

> One of the major unintended consequences of CENS which was disclosed by DASC's 1991 study relates to 'net widening'. Simplified procedures have rendered police far more likely than previously to take action against people found to be possessing, using or cultivating small amounts of cannabis. Christie and Ali (1995:p.iv) point out that between 1987/88 and 1993/94, the number of cannabis offences dealt with under the CEN System went from 6,200 to over 17,000: almost a three fold increase.

That is why, in researching these matters and determining what system we should implement in Western Australia, I was very mindful that serious inadequacies have come to light in South Australia and that it would be much better for us to follow the Victorian system.

Hon Peter Foss: I did not raise expiation notices; I raised the trees in the back garden.

Hon CHRISTINE SHARP: I will come to that. Of course, one of the other difficulties found in South Australia is that the system tends to encourage people to grow marijuana indoors because they are less likely to be detected. That is an argument against decriminalisation generally as the Attorney General was correct to point out. Growing marijuana indoors hydroponically has also led to an increase in the number of household fires in South Australia. Radio Triple J - if I may use it as a reliable source of information - reported that the South Australian Fire Service -

Hon N.D. Griffiths: Where there is smoke there is fire.

Hon CHRISTINE SHARP: Exactly. The South Australian Fire Service is being called to one household fire each week that has resulted from inadequate wiring in hydroponically grown marijuana systems.

Hon Peter Foss: They are being overcome by fumes no doubt.

Hon CHRISTINE SHARP: The Attorney General's concern was that allowing a small quantity of plants to be grown could lead to consortia and that such a communal enterprise for increasing the scale of marijuana production was a very serious criminal offence. He referred to the conspiracy offence, which could attract a 20-year prison sentence. I acknowledge that that could be a problem. However, if the law were more understanding in these matters, there would be very little tolerance of people conspiring in such a way.

Hon Peter Foss: You have to prove it.

Sitting suspended from 6.01 to 7.30 pm

Hon CHRISTINE SHARP: I was finishing my remarks on the concerns that the Attorney General had raised about the possible facilitation of conspiracy through the provisions of this Bill. I was saying that if that were the case, while we would not wish to encourage that, it would be the responsibility of the individuals who decide to cooperate in such a criminal project. Overall the result of such partial discrimination as proposed in this Bill will be that people will feel safer to cultivate their own marijuana. One of the marvellous things about marijuana is that it is so easy to cultivate, and people have done that for thousands and thousands of years. I imagine that would be far more desirable than growing it hydroponically or needing to hide it because one is concerned about the consequences.

The other issue that I feel the Attorney General perhaps glossed over is the offence for possession of smoking implements. He mentioned it in only one sentence, yet one of the most important provisions contained in the Bill before the House is the repeal of the current offence for the possession of a smoking implement to be used for the consumption of marijuana. In fact, in the past this provision has had an extreme impact on the community. We have already talked about the high number of cannabis offences in the past, 32.5 per cent of which have been for the possession of a smoking implement alone. That does not include offences for possessing the marijuana to go with the smoking implement, but simply owning such a thing as a water pipe with which to smoke marijuana. One-third of all offences have related to a conviction for possessing a smoking implement. Those persons have suffered the same kind of stigma and social impact that goes alongside a

criminal record. Furthermore, given that the smoking implement charge is still in place under the current laws, if one is found under the Government's new policy to be in possession of a bong, a water pipe or something of that nature, and five grams or a small amount of marijuana, one is disqualified automatically from receiving a caution with counselling. That is because one has immediately been convicted of two separate offences and therefore does not meet the criteria for receiving the kind of counselling that we all agree is a good idea.

I will refer to another issue with smoking implements. A couple of weeks ago in Parliament House I demonstrated to members of the media the use of a vaporiser smoking implement. Vaporisers are not widely used.

The PRESIDENT: Order! I listened to the second reading debate, and the member's reply is now meant to be summing up or replying to matters raised. It seems that the member is introducing new material. The member may wish to raise those matters at a later stage, but at the moment she is replying to matters raised during the second reading debate.

Hon CHRISTINE SHARP: How does that apply when I am referring to matters not raised, which ought to have been raised? That can be equally important.

The PRESIDENT: That is a fair question. The situation is that in the member's reply she cannot comment on matters not raised. There may be an opportunity for the member to raise these other matters during the committee stage if a question is asked in respect of smoking implements or whatever. There will be opportunities later on, but the member cannot raise them in reply.

Hon CHRISTINE SHARP: Thank you, Mr President.

I will consider comments made by the Leader of the Opposition last week in this place. Hon Tom Stephens took quite a different approach from the Attorney General. He said that he hoped to see a breaking of the cycle in these matters and that we need to "respond in a different way". I was gratified to hear that he was coming to terms with the practicalities of this matter, and not dwelling on the moral, judgmental side of the debate. One of the first practical considerations he raised was the amount of police resources that are tied up on marijuana convictions. I note that it has been found in overseas experience that decriminalisation makes a huge impact on reducing the impost on our police and court system. In California it was shown that after decriminalisation the annual cost to police services was reduced from $17m per annum to $4.4m. Decriminalisation resulted in a 74 per cent reduction in police expenses.

The Leader of the Opposition also raised an issue that all members in all honesty probably realise; that is, this law is not widely respected within the community. That is a reality. He also referred to his experience in his own electorate. I reiterate that is also the experience in my electorate, which is at the opposite end of the State. In the south west not only is the use of marijuana reasonably commonplace, but also there exists widespread disenchantment with the law in this regard, and it is common to consider that the law is an ass in this matter.

Hon Tom Stephens and other members like Hon Greg Smith raised their concerns about people who overindulge in marijuana. I have experience of individuals who consume amounts of marijuana that would not do their health and lifestyle any good at all. That is why when the Government introduced this new policy of a cautioning system with counselling, my reaction was to think that it was a very positive move, and to ask the Government whether it would consider more energetically making such counselling available so that we remove its direct link with the committing of an offence and instead encourage more widespread use of counselling for people who feel that they smoke too much marijuana and wish to reduce their consumption. This should be widely available in electorates all over the State and should be something that does not have the stigma attached to it or the direct association it has at the moment with breaking the law.

I enjoyed Hon Simon O'Brien's remarks very much. I thank the member for providing me with further information today on some of the points he raised. He seemed to think that this whole thing was, to use his word, silly. He considered this Bill to be ludicrous because of its provision for two cautions when the government system is restricted to a single caution. When by way of interjection I asked the member why he did not amend this Bill to make it less, in his terms, ludicrous for having one caution and not two, he described it as being far too hard to unscramble.

Several members interjected.

The PRESIDENT: Order!

Hon CHRISTINE SHARP: I do not think that is a matter of fact, because one of the reasons for the format of the Bill is that it would be extremely simple to change the Bill to reflect in law the Government's current cautioning system, the main differences being, as the member pointed out, that the government system offers only one caution whereas this Bill offers two, and the amount constituting the offence is limited to 25 grams of dried material or below, whereas this Bill has a figure of 100 grams. The Bill allows for a person caught with both possession of dried herbs and live plants to have it treated as a single offence. The Bill repeals the smoking implement offence. The government system has a mandatory educational component, whereas the Bill has provision for an educational component but does not expressly make it mandatory. The Bill also includes live plants.

However, it would seem to me that with a few simple changes of figures and the odd sentence, the Government has here an opportunity to enshrine in legislation the system it is implementing statewide. I find it curious that of all the government members who spoke on this matter, none dealt with the Government's own policy. One could almost say that was an extraordinary denial of what the Government is for practical reasons developing. We all share the consensus that we want harm minimalisation. That is why I imagine the Government has come to that practical conclusion. However, to hear government members speak, one would think that there was no change in government policy.

One of the important points Hon Simon O'Brien raised was the question of potency. The member provided me with some information taken from *The Australian Financial Review*.

Hon Simon O'Brien: On the last sitting day I said that the figure used was 45 per cent. That was off the top of my head and without my reference material. The material I provided to you quotes a figure of 35 per cent. I apologise for that slip of the tongue. Thank you for allowing me to correct that by way of interjection.

Hon CHRISTINE SHARP: I thank the member for some qualification of that point. I thank him for the article. Because I was at a meeting during the suspension, I have not had the opportunity to read the article. However, I look forward to it. Given his remarks, I have looked up the matter of potency and found what the research is telling us. I will read to the House some extracts from "The National Drug and Alcohol Research Centre Technical Report No 47 on the THC Content of Cannabis in Australia: Evidence and Implications" of 1999. The research asks: Has the average THC content of cannabis plants increased? It finds -

> The THC content of Australian cannabis products has *not* been *systematically* tested by any Australian police force over the period in which average THC content has been claimed to have increased, as there is no legislative reason for doing so. There is therefore no Australian data to support the claim that there has been a 10 to 30-fold increase in *average* THC content of cannabis in Australia.

The only place where strict monitoring of the THC content of cannabis has occurred over recent times is the USA, so we do not have any Australian data. The report states -

> The USA is the only country that has regularly collected data on the THC content of cannabis plants over the past several decades. Claims that this data indicated that the THC content of marijuana in the USA had increased between three to seven-fold from the early 1970s to the mid 1980s have been challenged by data from independent laboratories, and because such claims relied on the assumption that the samples from the middle 1970s were representative of cannabis consumed at that time. More recent data have failed to show a 10-30 fold increase in the THC content of seizures between 1984 and 1998. At most this series shows a small increase in THC content from 3.3% in 1980 to 4.4% in 1998.

I also have some evidence from New Zealand, which is quoted in the same document. It states -

> The New Zealand government has also intermittently tested the THC content of cannabis samples over the past two decades.

That has included samples of hydroponically grown cannabis tested in a New Zealand survey. They typically contain 6 to 8 per cent THC with an occasionally higher sample. Therefore, we must say that there is some evidence of a slight increase in the strength of marijuana that has been consumed over the past 20 years, but by and large, and certainly on average, this has been only a small increase.

There has also been an increase in the use of sinsemilla plants. As some members are aware, there are male and female cannabis plants, and it is the female plant which is the potent one. The female is pollinated by the male flower and then produces lots of seed. When cannabis is reared intensively I gather that some growers systematically remove the male flowers and prevent the female flowers from seeding. This form of birth control for cannabis plants produces a plant which has a lot of head, that is to say usable material, but no seed. Therefore, the percentage of the plant which is smokeable is 58 per cent as opposed to 34 per cent of a normal female flowering head. Such plants are typical of what is known as skunk, which is marijuana which is considered to be very powerful. I am told anecdotally that skunk can have a very high THC content, and the world record for the THC content of marijuana was a sample which had 29.86 per cent. I gather that smokers find that this kind of material "blows their brains out" and they do not like to smoke it at all because it makes them feel dizzy and uncomfortable rather than high. I understand that increasing amounts of the material which is grown illegally in Western Australia is hydroponically grown and it would be interesting to have better data on the THC content, because it would surely enable us to make better-informed decisions in this place about the law on this matter and the kinds of practices the law should encourage.

The other point raised by Hon Simon O'Brien was that if we move to decriminalise marijuana we will expand the problem. Other members made similar points to the effect that decriminalisation would tend to encourage people to smoke more. This is one of the critical aspects of this debate: Does decriminalisation foster greater consumption? It would appear from overseas experience that that is not the case. I will quote data obtained in 1994 which compares the percentage of the population in the United States - which had a largely strictly prohibitionist approach - who had used marijuana with the percentage in the Netherlands. The evidence is taken from a book called *Marijuana Myths Marijuana Facts* by Professor John Morgan, Professor of Pharmacology at City University, New York, and Associate Professor Lynn Zimmer, Associate Professor of Sociology, at Queens College, City University, New York. The evidence relates to 1994 and it shows that of the total population of the United States, 31.1 per cent had used marijuana. In the Netherlands, the figure was 28.5 per cent. The figure for older teenagers in the United States was 38.2 per cent and in the Netherlands it was 29.5 per cent. For younger teenagers the figure was 13.5 per cent in the United States and 7.2 per cent in the Netherlands. Members will see that there is a consistent pattern in the figures which shows that although marijuana was not legal, it was openly available in the Netherlands, but the figures do not support the notion that decriminalisation leads to skyrocketing consumption.

Hon Greg Smith: That is not talking about consumption.

Hon CHRISTINE SHARP: There is not a lot of data available on that. Hon Simon O'Brien was somewhat hostile to what

he considered was the Labor Party pandering to minorities within the community which support this type of legislation. He scoffed at the 13 per cent mainstream thinking, as he called it. It is important that all members are aware that the support for the decriminalisation of marijuana is very high in Western Australia. According to a survey, 71.5 per cent of the population of Western Australia supports decriminalisation.

Hon Greg Smith: Where was that survey conducted - the Arts Festival?

Hon CHRISTINE SHARP: No, it was not conducted at the Arts Festival; if it were, the figure would be much higher. I am referring to the results of a survey conducted by Lenton and Ovenden called "Community Attitudes to Cannabis Use in Western Australia". The summary of those findings comes from a survey of 400 Western Australians, of whom over one-third believe that cannabis should be made as legal as alcohol. Support for decriminalisation increased from 64 per cent to 71.5 per cent when the possible penalties associated with decriminalisation were described.

We also heard the remarks of Hon Muriel Patterson. I listened particularly carefully to her remarks because part of me could relate to where she was coming from in this debate. I think she is a well-intentioned member - that is not to say that other members are not - who approaches these matters with a good heart and she does not wish to see something she considers to be dangerous for young people proliferate, and I respect that. She quoted from a book entitled *Marijuana - An Australian Crisis* by Elaine Walters and I must admit I have neither read nor sighted it. Parts of the book that she quoted related to a series of case studies of how marijuana harmed people and led them astray. Cases like that do exist, and I have no doubt they are not manufactured. However, that is not necessarily the experience of the mainstream. As Hon Muriel Patterson said, the intention of the author was to get to the facts and not the ideology. However, it seemed to me from her representation of this book that its findings were very much driven by ideology and morality rather than any kind of scientific survey. Hon Muriel Patterson should not feel too alarmed at the notion of decriminalisation. I believe the member's concerns are not realistic but come from her lack of experience, and perhaps naivety, in these matters, and that in the real world she would find that her worst fears and dreams did not take place -

Hon Peter Foss: Are you saying Hon Muriel Patterson is naive?

Hon B.K. Donaldson: I cannot believe you would say such a thing.

Hon CHRISTINE SHARP: Certainly with regard to marijuana.

Hon Peter Foss: I suppose she is naive with regard to murder too.

Hon CHRISTINE SHARP: As I say, morality can come from two different directions.

Hon Greg Smith: I will take my morality over anything.

Hon N.D. Griffiths: I will not take your morality for anything.

The PRESIDENT: Order! Members are preventing Hon Christine Sharp from speaking.

Hon CHRISTINE SHARP: Hon Jim Scott said before we stopped for the dinner break, or was it before the House adjourned -

Hon Peter Foss: It will be a joint break after you pass your law!

Hon CHRISTINE SHARP: Hon Jim Scott said that whatever one might think about the consumption of marijuana, the main reason for the problems that are associated with its use is that we have made it a criminal offence, when essentially it should be dealt with as a health issue. We are acknowledging that marijuana is not good for a person's health, and no-one is claiming that marijuana should be smoked every day like an apple should be eaten every day, but it is a matter of looking after one's health and not of one's ethical position in life.

Hon Norm Kelly elaborated on the theme of harm minimisation and made some interesting points in support of a harm minimisation approach; although, as I said earlier, I think we all agree that we want to minimise harm. Hon Norm Kelly then said that he supported this Bill, but the Democrats would like to see the legislation go further. I inform the Democrats that I would also like to see legislation go further. About 18 months ago, I attended a conference in Adelaide convened by the Parliamentary Group for Drug Law Reform. The lord mayors from each capital city in Australia were holding a conference on drug law reform in that same city on that same weekend, so the two conferences got together for a joint session -

Several members interjected.

Hon CHRISTINE SHARP: The lord mayors included the Lord Mayor of Perth, Peter Nattrass, so members can imagine what kind of event it was. What really struck me then was that the majority of the sessions focused on the enormous concern about the dysfunctional impacts of heroin abuse in our society, and the desire of the lord mayors of all the capital cities in Australia to reform the law on this matter. I found it interesting that because of the number of street deaths and the obvious association between heroin and crime due to the high cost of being addicted to heroin, there is a huge momentum towards heroin law reform in Australia. However, because the use of marijuana is not that dysfunctional and does not create that much of a serious problem -

Hon Peter Foss: That is a dangerous statement.

Hon CHRISTINE SHARP: - there is not the same urgency or pressure for marijuana law reform. I decided at that stage

that I wanted to introduce a Bill into this place for the legalisation of marijuana so that the consumption of marijuana could be controlled by the Government - as opposed to the situation at the moment where it is out of control - and could be licensed in the same way that the consumption of alcohol is licensed. However, I was assured by the people with whom I consulted on this matter when I returned from Adelaide that such a proposal was far too radical and was unlikely to attract any support in this place. Therefore, I have designed legislation which I hope will receive significant support in the Legislative Council.

Hon Norm Kelly raised some good points. I endorse what he said about the fact that people who consume too much marijuana are very reluctant to seek help, because they then have to admit that they are engaging in criminal activity. That is an important point for all of us if we are pursuing harm minimisation. He talked also about the problem of illegal drug networks and police resources. He pointed out to the House that in 1993, 11.7 per cent of all criminal charges were for cannabis alone. I am not talking about all drug charges. I am talking about all charges. That is an astounding figure and gives the House some insight into the amount of resources with which we are trying, like King Canute, to hold back the tide, but it is not working.

Hon Norm Kelly talked also about hypocrisy. That is something that really motivates me. I have always felt that what I want us to do in this matter is get real about it and speak about it with honesty and experience of wherever we come from. I refer to some remarks that I read in *The West Australian* a few weeks ago about one of my Green colleagues from New Zealand, who has earned quite an international reputation -

Hon Greg Smith: For hypocrisy.

Hon CHRISTINE SHARP: - for being a champion of marijuana law reform. The article states -

> A New Zealand Green Party MP who champions marijuana law reform has accused fellow politicians of being drunk in charge of a country. Newly elected Nandor Tanczos said it was time to legalise personal use of cannabis and opponents were hypocrites because some politicians had a reputation for drinking too much alcohol. "In my short time in this House I've seen people drunk - drunk in charge of a country," he said.

Hon Peter Foss: Are you suggesting that anyone on this side is drunk in charge of a country?

Hon N.D. Griffiths: You are not in charge of a country.

Hon CHRISTINE SHARP: I am suggesting that overindulgence of alcohol is quite common among members in this Parliament, as it is elsewhere.

Hon Peter Foss: I think you should be very careful about the statements you make.

Hon Ljiljanna Ravlich: Don't be intimidatory!

The PRESIDENT: Order! Hon Ljiljanna Ravlich and the Attorney General, I will worry about what can be said.

Hon CHRISTINE SHARP: Many members raised similar points, and I will try not to be repetitious in my summation of this debate. I will deal with the remarks of Hon Greg Smith, whose comments we all enjoy in this place because he usually speaks so frankly. He talked as a father about his concerns for his kids. I think we can all relate to that. He is concerned about what he called the wrong message, and that if we decriminalise marijuana, we will be encouraging our kids by telling them to get stoned because that is fine, and so on. Although I understand the concern the member raised, he should bear in mind that we would not like our kids to do many things; yet relatively few of those things are criminal offences. Part of bringing up children is to steer them in the right direction about the food they eat, the company they seek, the films they watch and a whole host of activities.

Hon Greg Smith: When we were 12-year-old kids and we attended a wedding or something like that, we may have drank a couple of glasses of wine or something similar, but we did not drink alcohol regularly. However, if marijuana is freely available because people are growing it in their backyards without fear, children will have constant access to it when they are and are not at school.

Hon CHRISTINE SHARP: The member's interjection and many of the remarks he made during the second reading debate could equally be used to support remarks in favour of the decriminalisation of marijuana. For example, he said that we do not want to decriminalise marijuana because we do not want to encourage characters like Al Capone.

Hon Greg Smith interjected.

The PRESIDENT: Order! Hon Greg Smith is preventing the member from getting on with her reply.

Hon CHRISTINE SHARP: We all know that Al Capone was a notorious example of how prohibition gives rise to crime and that it has been unsuccessful in the past. Therefore, that is a good argument for drug law reform. Hon Greg Smith also drew an analogy with speed limits, because it has been suggested that the marijuana law is not respected and therefore it should be changed. He said that according to the same argument, which the Attorney General seemed to like, we should reject laws on speed limits because so many of us break the speed limit laws from time to time. Various matters should be borne in mind, the first of which is that it is not a criminal offence to speed. However, that is not my point. My main point is that it is true that many of us break the speed limit laws from time to time. However, that does not mean that we do not, from an ethical position, support the notion of speed limits. That is a different matter. We all accept when we are caught that we were going too fast on that occasion, we were in a hurry and we were taking unnecessary risks to which we would

not subscribe in more careful moments. There is not an ethical wave of opposition to speed limits, so it is a different kind of law and a different neglect of it. I reiterate that it is the majority view of Western Australians that marijuana be decriminalised.

Hon Ray Halligan quoted from my second reading speech and asked me for clarification of the points I raised. I repeat to members that in my second reading speech I said that smoking marijuana is primarily a youth issue and that the evidence suggests that most cannabis smokers are young or very young. To clarify that for the member, in my second reading speech I said that on 13 October 1998, *The West Australian* contained an article which stated that 40 per cent of Western Australian school students had used cannabis and that 75.5 per cent of adults charged with cannabis offences between 1994 and 1996, when the study was taking place, were below the age of 30 years. The meaning of that should be fairly clear in that marijuana seems to be largely associated with younger people.

Another matter about which the member requested some clarification was my turning upside down the gateway argument. We all know that one of the most common arguments used against marijuana law reform is that although marijuana is not particularly dangerous, it leads to the use of far more dangerous substances. In my second reading speech, I suggested that it may well be the opposite; that is, the fact that we have made something which could be very widely available the subject of a criminal offence, thereby reducing its availability, has led to its use within illegal drug networks, and the illegality of marijuana has made it a gateway drug. In that regard, I quoted from Professor David Pennington, who attended the conference in Adelaide to which I just referred. I raised with Professor Pennington at the end of the conference my concern that the emphasis was on heroin law reform alone and that it seemed to be very important that one of the causes of the heroin epidemic, as it were, was the laws pertaining to marijuana. I asked him whether he considered I was right, and he replied to that point by saying -

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

Hon Ray Halligan also mentioned some of the harmful physical effects of smoking marijuana. Although I did not keep a note of them, I agree with the overall thrust, and that is why I reiterate that smoking marijuana is a health issue.

Hon Ray Halligan then referred to some common myths about marijuana. The first was that the experience in South Australia was that decriminalisation had led to a very significant increase in the consumption of marijuana. However, as I have explained to members, research into the social impacts of the cannabis expiation notice system in South Australia outlined that although there was a net widening effect, with a threefold increase in the number of offences being recorded, no evidence whatsoever indicated any increase in the consumption of marijuana.

Hon Ray Halligan also stated that it is claimed that marijuana is no worse than alcohol and tobacco. I made this claim in my second reading speech when stating that we need to get real on this subject. I remind the member that later in my second reading speech I quoted the results from a several-year survey which appeared in the most highly respected medical journal of the British Isles, *The Lancet*, and concluded that marijuana was no worse than alcohol or tobacco. Hon Ray Halligan also mentioned medical evidence on cannabis. He said he was open in his quoting and did not selectively quote. It is clear that relatively little evidence indicates that cannabis has any severe health impacts on the brain, heart and so on, whereas tobacco has severe impacts on the lungs. Although marijuana has a greater concentration of harmful substances for the lungs than does tobacco, normally persons who smoke marijuana smoke far lower quantities than do persons who smoke tobacco; therefore, the health risk is considerably lower with marijuana. Also, this risk can be dealt with through the use of a smoking implement, such as a smoking vaporiser.

Hon Nick Griffiths made some interesting remarks before the dinner suspension. He raised an important point about whether it is desirable for us to introduce a de facto partial decriminalisation by using discretionary powers under the Police Act as a matter of policy, or whether it would be better for the Government to amend this Bill and implement its policy by means of binding law. The member suggested that a fixed law with clear rules that equally apply to everyone is better than maintaining the current policy, which relies on discretionary powers, which could be abused - I do not suggest that has been the case - by certain members of the Police Force. One can imagine a hypothetical situation in which, under the current application of the Government's policy, an elderly police officer who caught a person with 10 grams of marijuana would be less willing to exercise that discretion than would a younger police officer from a younger generation with a different approach to these matters. The results of the Government's trial in Bunbury and Mirrabooka were that 24 per cent of persons apprehended in the 12-month period who were eligible for a caution did not receive that discretionary largesse because of the judgment of the police officer for whatever reason. That is a very high percentage - nearly one-quarter. Therefore, the law is being applied unevenly. Does it mean it is applied, for example, more to Aboriginal people et cetera than to other members of the community? Those questions can be raised when discretionary powers are applied rather than the law of the land, which we sit in this place to consider.

Also, Hon Nick Griffiths raised the important matter that the Bill has nothing to do with children, who come under different laws with the Young Offenders Act. If this Bill were to become law, it would apply only to persons aged 18 years and over. Hon Nick Griffiths raised the hypocrisy with which certain members are dealing with this matter. In fact, he quoted a member of the National Party - which is a coalition partner in this Government - whose party policy is that first and second offenders should receive an infringement notice similar to that issued under the South Australian system.

Much of this debate was pretty fuzzy and dealt with morality rather than the practical reality that we need to get real about drugs. We need to find policies, systems and laws which work and keep respect in the community for the deliberations of this place. In fact, when it all boils down to it, most of us agree on that need. I commend the Bill to the House.

Question put and a division taken with the following result -

Ayes (14)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Christine Sharp	Hon E.R.J. Dermer *(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill		

Noes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon B.M. Scott
Hon B.K. Donaldson	Hon Barry House	Hon M.D. Nixon	Hon Greg Smith
Hon Max Evans	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon Peter Foss			

Pairs

Hon Cheryl Davenport	Hon Dexter Davies
Hon Bob Thomas	Hon W.N. Stretch
Hon Tom Stephens	Hon Derrick Tomlinson

Question thus passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Christine Sharp in charge of the Bill.

Clause 1: Purpose -

Hon PETER FOSS: I consider this probably one of the most naive of clauses. I heard Hon Muriel Patterson described as naive. I find that an extraordinary statement from somebody I would have thought -

Hon N.D. Griffiths: Are you having a go at Hon Muriel Patterson?

Hon PETER FOSS: I am saying that Hon Muriel Patterson is one of the most level-headed people I have come across. She is certainly not naive. If I had to pick out somebody as being naive - certainly in politics - I would have picked the proposer of this Bill rather than Hon Muriel Patterson. This clause is naive for two reasons. I notice Hon Christine Sharp suggests that a distinction can be made between traffic offences and cannabis offences, because people have an ethical respect for speeding laws, whereas they do not for cannabis laws. I do not know where she got that from - it is a nice broad statement. One of the most common comments police get from people who are picked up for speeding is why are the police not out dealing with real criminals like burglars. I am pleased to hear that Hon Christine Sharp appreciates that speeding is a real offence and that she recognises the ethical wrongness of it. She should carry out a better sample as to whether that is a general view in the community. Far too many people do not appreciate the danger of speeding and have much the same attitude towards speeding offences as she claims is the case towards cannabis use. The problem with the member's response is that she has not dealt with the fundamental question of why an offence should be abolished simply because people do not respect the law. The other aspect which is quite worrying about this - and she has indicated this in her response - is, by using her logic, why cannot we now include every other illegal drug, such as heroin - she said she supports that; why not amphetamines, ecstasy and speed as well? She has said she is quite happy to -

Hon N.D. Griffiths: We are dealing with a specific Bill dealing with a specific drug.

The CHAIRMAN: The Attorney General will not address the Opposition, but will address the Chair.

Hon PETER FOSS: I realise that Opposition members are very sensitive on this issue because the number of times they flipped on whether they approve of decriminalising marijuana is quite extraordinary. They do not seem to recognise the problem that is recognised by the Government, which is that once this is started there is no logical reason why - as Hon Christine Sharp said in her reply - all the other drugs which cause health problems should not be included. There is an underlying reason - I made this point in my contribution to the second reading - why people take drugs. Those underlying problems are not solved by decriminalising the use of those drugs. One of the unfortunate things about that is the way it then changes people's views of those drugs. I certainly would not like to see amphetamines, heroin, ecstasy or LSD put in the legislation by way of substitution.

Several members interjected.

Hon PETER FOSS: Members opposite really are amazing. I have never known an Opposition that was so sensitive. One of the statements made by Hon Christine Sharp without any authority - I did ask if she had any authority - is not borne out by the research. I quote from a press release issued by the National Drug and Alcohol Research Centre on 19 October 1999. It is titled "Pot Habit Tough to Quit New Research Finds" and it says -

> There are more than 200,000 Australians who are dependent on cannabis. The world's first scientifically-controlled trial of its type, which aimed to assist people quit their cannabis use, has found that many find it 'almost impossible' to quit using the drug.
>
> Investigators, Dr Jan Copeland and Dr Wendy Swift found that only 10% of the participants were able to totally abstain from cannabis use after the program. However, it appears as though the trial was extremely successful in reducing the amount of cannabis used and related problems.
>
> The project, conducted by the National Drug and Alcohol Research Centre, used a series of counselling sessions designed to provide cannabis users with the skills necessary to quit. These sessions covered issues like coping with urges, management of withdrawal symptoms and coping skills training.
>
> Sixty nine per cent of the sample were male, with an average age of 32 years. The majority were employed full-time, with only 12% being unemployed. They had begun smoking cannabis at 15 years old, and had been using for an average of almost 14 years. The median number of cannabis used in a day was 8 cones, with some using up to 125. The majority of the sample had been smoking at the current level for most of their cannabis-using career.
>
> "Most users seeking help from this study were severely dependent on cannabis and reported an inability to control use, withdrawal symptoms and continued use despite problems," said Dr Swift.
>
> Eighty three per cent reported general health problems and on average experienced significant psychological problems.
>
> "Many clients experienced depression," added Dr Swift. "They also attributed things such as problems with concentration and memory, isolating themselves from others and lack of motivation, to their cannabis use."
>
> Too often cannabis dependence is trivialised as being equivalent to that of television or chocolate addiction said Dr Copeland, Chief Investigator of the project.

I will seek to incorporate this fact sheet from which I shall now pick out a few of the issues. Under the heading "Background" it says that the probable long-term effects include respiratory diseases, cannabis dependence syndrome and subtle cognitive impairment. Possible long-term effects include increased risk of aerodigestive cancers and increased risk of leukemia in offspring exposed in utero, decline in occupational performance and increased risk of birth defects. Eighty-three per cent reported general health problems and 13 per cent reported psychological problems caused by cannabis use. Fifty-five per cent reported respiratory complaints; 25 per cent, demotivation; 80 per cent, memory problems; and 12 per cent, psychosis and paranoia. Many of the cannabis users in the study had unsuccessfully attempted to seek help elsewhere. The perception - this is a very important point and it is quite contrary to what Hon Christine Sharp said, and she did not give any evidence for what she said -

Hon N.D. Griffiths: You are going over the second reading debate again

Hon PETER FOSS: No, I am not. This is disagreeing with the preamble. The preamble makes a mockery of statements here; it says how good it is to do this. This goes right to the basic premise that is made in this press release. To continue -

> Many of the cannabis users in the study had unsuccessfully attempted to seek help elsewhere. The perception by a section of the community that cannabis use is not a problem has contributed to a stigma for those who seek assistance.

That is the reverse of what was alleged by Dr Christine Sharp.

Hon Christine Sharp: No it isn't.

Hon PETER FOSS: It is the reverse, and Hon Christine Sharp will make it even more of a stigma. To continue -

> Results suggested the needs for training for a range of health care providers, in the recognition and treatment of cannabis problems.
>
> "We found that even a single session of counselling made a significant impact on levels of cannabis use and related problems. This brief form of intervention is ideal for use by GPs and nurses,"
>
> "This study found that heavy, long-term users are anxious to quit but find it extremely difficult."
>
> "The attitude that cannabis is not a drug of addiction has meant the state of knowledge about treatment is very poor. There is an urgent need for further research, particularly among adolescents, to assist people to recognise when cannabis is becoming a problem and seek treatment before addiction becomes a lifestyle."

That attitude has been expressed by Hon Christine Sharp as though there is a difference between cannabis and other drugs of addiction. Drug addiction is a very serious problem affecting 200 000 people in Australia. As I said earlier, 11.3 per cent of people involved in road deaths were affected by cannabis. I acknowledge that people can be affected by alcohol, but do we need another legal drug that has no restrictions on it in the way driving under the influence of alcohol is restricted?

Clause 1 refers also to reducing the social impacts and to making the penalties consistent with its capacity to produce harm. Hon Christine Sharp will have us believe cannabis causes no harm. By interjection she said, "I didn't say it can't cause harm." It has a considerable ability to cause harm.

Hon Christine Sharp: I agreed consistently.

Hon PETER FOSS: Why does subclause (b) seek to make the penalties consistent with the drug's capacity to produce harm? If ever a statement indicated that penalties were unnecessary, it is this one, because supposedly the drug has no capacity to produce harm. No penalty equals no harm. I object to clause 1.

Hon N.D. Griffiths: What about government policy?

Hon PETER FOSS: I am objecting to clause 1.

Hon N.D. Griffiths: You say one thing and do another. There is a word for it, but it is unparliamentary.

The CHAIRMAN: Order!

Hon PETER FOSS: I would like to address you, Mr Chairman, but I am finding it difficult. I was trying to make the point that I am dealing with paragraph (b), which reads -

> to make the penalties which apply to the drug consistent with its capacity to produce harm.

I find that paragraph offensive. A person may read the Bill and not read Dr Sharp's constant interjections indicating that she has never said it does not cause harm. Having read clause 1(b) in conjunction with the rest of the Bill, that person may take the view that the drug has very little capacity to produce harm because no penalty applies. Although the words in the Bill clearly say that, she says that is not what she is saying. The clause continues -

> (c) to reduce the costs to the criminal justice system, including the police and the courts, of prosecuting simple cannabis offences;
>
> (d) to make cannabis law more consistent with community values; and
>
> (e) to acknowledge cannabis as primarily a health issue.

I will read some comments from some people who should probably be taken notice of. The comments are mainly from the International Narcotics Control Board Report of 1998 of the United Nations in Vienna and are as follows -

> Cannabis continues to be the most widely abused drug in Oceania; it is cultivated for abuse and is available throughout the region.
>
> **The Board continues to be concerned about the prevalence of cannabis abuse in Australia,** New Zealand and Papua New Guinea. The Board trusts that the Governments of those countries are taking adequate measures to achieve a reduction in such abuse.
>
> **In Australia, there appears to have been an increase in the number of cannabis abusers and a decrease in the average age at which persons first abuse cannabis.**
>
> The Board commends the Government of Australia on its steadfast resistance to pressure groups calling for legalization of the use of cannabis. The Board recommends that the Government continue to deal with current misconceptions about cannabis through education campaigns and the media.
>
> Cannabis remains the most widely used illicit drug in Australia.
>
> Between 1995 and 1998 the proportion of people aged 14 years or older who had used cannabis in the preceding 12 months increased from 13.2 per cent to 17.9 per cent

Those figures are from the national drug strategy household survey. Hon Christine Sharp says that is a good reason for legalising cannabis. Some people's attitudes towards cannabis are causing an increase in its abuse among very young people. Her Bill does not try to deal with that problem other than to say we will not caution children.

The Australian Bureau of Criminal Intelligence issued the Australian Illicit Drug Report of 1998-99, which says the following -

> Cultivation of hydroponic cannabis is increasing: law enforcement agencies have difficulty detecting these crops and there is growing consumer demand for hydroponic cannabis
>
> The ability to effectively conceal hydroponic cannabis production and to produce continuously, coupled with the reputedly high THC levels, contribute to the desirability of hydroponically grown cannabis

The report says further -

> The International Narcotics Control Board reports "Surveys in the United States have shown that the upsurge of cannabis abuse among young people is directly linked to propagation of the false perception that cannabis abuse is harmless.

Lastly, the Australian Illicit Drug Report says further -

> As reported by the ABCI (Australian Bureau of Criminal Intelligence) in 1997 and 1998, syndicated cannabis-cultivating groups continue to operate in South Australia. These groups are reported to be growing the legislated maximum amount of cannabis (previously 10 plants per person but since June 1999 only three) that does not attract criminal sanctions.
>
> The cannabis is distributed to customers in South Australia and elsewhere. New South Wales crime agencies report that during 1999 a number of people were arrested, in South Australia and New South Wales, and charged with offences relating to an alleged large-scale cannabis-cultivation syndicate based in South Australia.
>
> The presence of organised groups involved in syndicated cannabis cultivation is consistent with trends identified in Europe, where, as the International Narcotics Control Board reports, "Indoor cannabis cultivation is increasingly being controlled by criminal organizations."
>
> South Australia Police reported an increase in hydroponic cultivation of cannabis and that cultivation was becoming more sophisticated and yields were increasing.
>
> The plants seized are believed to have high THC levels and to be of a smaller, high yield variety.
>
> Cannabis cultivators are growing as few as three to four plants yet producing the same yield as was previously produced by nine plants.

I seek leave to table those comments.

Leave granted. [See paper No 840.]

Hon PETER FOSS: I also seek leave to incorporate in *Hansard* the media fact sheet.

Leave granted. [See Appendix 1 on page 5864.]

Hon PETER FOSS: I am sure there is some woolly-headed think in all of this.

Hon N.D. Griffiths: You do one thing and criticise a legislative basis for a cautioning notice. You ignore the statute and caution across the State; yet you oppose a statutory regime for cautioning. Why not move amendments to put in place what you think is a proper statutory regime for cautioning, or are government members hypocrites?

Hon PETER FOSS: The law allows policemen to use discretion. I do not have a problem with that.

Hon N.D. Griffiths: You should have.

Hon PETER FOSS: It is funny how some people like discretion in judges but not in policemen.

Hon N.D. Griffiths: You are so bitter and twisted because you are not a Supreme Court judge, it doesn't matter.

The CHAIRMAN: Order! The Attorney General will address the Chair, not Hon Nick Griffiths.

Hon PETER FOSS: I fail to see the need for this legislation, with which I disagree, because it does a number of things that our present cautioning regime does not do. First, it gives no discretion and it is important that police have discretion in these matters. Secondly, it gives two chances rather than one. Thirdly, it does not require counselling; it requires that a piece of information be handed over. We have found that counselling has been effective. Fourthly, the real problem will be how we handle the use of cannabis by children, although we will deal with that later.

Proposed section 8A makes the cultivation of two plants a "simple cannabis offence", which is extraordinary.

Point of Order

Hon CHRISTINE SHARP: The Attorney General is not addressing the short title.

The CHAIRMAN: No, I must correct my comment. Clause 1 of this Bill is not the short title, it is the preamble. The Attorney General also has an opportunity in clause 2 to make wide-ranging comments.

Hon Peter Foss: I have been diverted by interjection.

The CHAIRMAN: The Attorney General is in order. The question is that clause 1 stand as printed.

Debate Resumed

Hon PETER FOSS: I have been slightly diverted by interjection. If the interjections were to cease, I would not respond to them.

Hon E.R.J. Dermer interjected.

The CHAIRMAN: Order! The interjectors are only diverting the Attorney General.

Hon PETER FOSS: As I said, the purpose of the clause is deceptive as it purports to show its intentions. However, it is a rationalisation and an apology for its intentions. The clause is objectionable, does not add anything to the Bill and puts the Government and members opposite at odds. I do not agree that the purpose as stated in paragraph (a), to reduce the

social impacts of a conviction for simple cannabis offences, will occur; we will discover that in due course if the legislation is passed. Paragraph (b) is deceptive to young people as it indicates that the penalties for possessing cannabis are low, consistent with the harm it produces. It is disgraceful to have that paragraph in the Bill, despite the protestations of Hon Christine Sharp to the contrary. Paragraph (c) is totally speculative and incorrect as a number of other offences will have to be prosecuted instead. Paragraph (d), to make cannabis law more consistent with community values, may represent Hon Christine Sharp's values. However, if we make the cannabis laws more consistent with community values, we will have to do that also with speeding; many people have the same attitude to speeding as Hon Christine Sharp believes they have to cannabis laws. The purpose of paragraph (e) is to acknowledge cannabis as primarily a health issue. I agree with that. However, it flies in the face of paragraph (b), which refers to its capacity to produce harm. Its capacity to produce harm is extreme.

Hon MARK NEVILL: The Attorney General's comments on the preamble were irrelevant to the preamble. From the tone and content of his speech, he seems more interested in stonewalling the Westrail Bill. Four of the five subclauses in clause 1 of the Bill refer to cannabis; the title of the Bill refers to cannabis; yet, the Attorney spoke at great length about other drugs being allowed by this Bill.

Hon Peter Foss: No; Hon Christine Sharp referred to the next drugs.

Hon MARK NEVILL: I am referring to what the Attorney General said, which was that they would all be allowed by this Bill, which is clearly nonsense. This Bill is about decriminalising the possession of small quantities of cannabis. I read through the Bill. I am not comfortable with everything in it. However, members should have the guts to put forward amendments to knock it into shape so that it can receive the support of the majority in this Chamber. If members believe the maximum amount is too high, they can come to a consensus on that matter. In no way can any of the purposes of the Bill be interpreted as encouraging the use of cannabis. The fewer people who smoke cannabis, the better. Its use is common and widespread and, although this Bill will not decriminalise it, I do not believe its use will diminish by much. I do not smoke it. It seems that I am the only member in this place who is missing out on it.

Hon B.K. Donaldson: And me.

Hon MARK NEVILL: Cannabis consumption is an immense social problem. The question is not that people will overindulge in it if it is decriminalised. Having been a cigarette smoker for a number of years and having taken seven years to give it up, if I had a choice again - not that I enjoyed cannabis when I tried it - I would rather have one joint of cannabis a week than smoke seven packets of cigarettes. I am sure it would have a far less damaging effect on my lungs. I do not know how much cannabis the average person uses. The Attorney General mentioned someone who had 128 cones a week.

Hon Peter Foss: Eight a day is average, but up to 125.

Hon MARK NEVILL: Is that in a week?

Hon Peter Foss: No, a day.

Hon MARK NEVILL: That is about one every six minutes, is it not? How does that person earn the money to get it? If people are growing it themselves, how do they get the time to cultivate it, process it and smoke 125 a day?

Hon Peter Foss: The median is eight.

Hon MARK NEVILL: That argument does not contribute much to the debate. This Bill will probably hit a brick wall in another place. However, it is a pity that the Government has implemented a cautioning system and is moving in that direction; yet, the rhetoric is all designed for public consumption and the next election. Many members of the Australian Labor Party are nervous about dealing with this type of matter so close to an election; however, it is a widespread problem. This Bill will not legalise cannabis but will decriminalise it. It is up to Parliament to decide on the small amount for which a person would not be convicted of a criminal offence but would still be charged. It is an indictment on this place that members cannot bend a bit and come together to reach consensus that would allow the police not to be preoccupied with small consumers. The police would still tackle people who were producing and distributing the stuff. While we are so preoccupied with passing laws that put streetwalkers in jail for seven years and giving small users of cannabis a criminal record so that they cannot travel overseas to places like America, we blithely do not worry about the Mr Bigs and the people behind producing the stuff; we just take the easy targets all the time. It is about time we showed a bit more spine in this Chamber. The Attorney General's comments on clause 1 were not up to his usual standard.

Hon NORM KELLY: One of the problems that members on this side of the House have with this debate is that it is uncommon to listen to government members speaking out openly against government policy. However, over the past three sitting days they have been speaking out against their Government's policy; that is, the implementation of a cautioning system.

It is a furphy to refer to this Bill as decriminalising cannabis. This Bill provides for a variation on the decriminalisation of cannabis which the Government has already implemented, if that is the line which government members want to take. Clause 1(b) of the Bill states that the penalties which apply to the drug will be consistent with its capacity to produce harm. The Government is already applying this provision in its cautioning system so that individuals who are apprehended for the use or possession of cannabis do not incur large costs.

I refer members to the report of the Evaluation of the Cannabis Cautioning and Mandatory Education System produced after the pilot project in 1999. Part 6 of the report, entitled "Overall Effectiveness", states -

- There is evidence that the system and the education session is having an impact on participants. This includes participants reporting:
  - being shaken up by the experience,
  - having greater knowledge,
  - reassessing or reviewing their use of cannabis,
  - using less or not using cannabis at all, and/or intending to cease or reduce use.

That is exactly what we want to achieve from a cannabis cautioning system. It states also that the cannabis cautioning notice system is consistent with the use of law enforcement for treatment/intervention with cannabis users, and the pilot has achieved a viable process for police. This is a more sensible way of treating the use of cannabis.

This Bill is not identical with government policy, but it is definitely consistent with government policy. If the Government wants to argue that it has already implemented a level of decriminalisation, it should make the relevant amendments to this Bill to make it consistent with that policy. It is complete hypocrisy to say that government policy is okay but this Bill is not. As I and other members said during the second reading debate, the Government should either put up or shut up.

Hon J.A. SCOTT: I too am staggered by the hypocrisy from the government benches and also by the lack of thought that the Government has put into this Bill. The Attorney General said that this type of Bill does not address the underlying reasons that people take drugs. I do not believe this Bill was ever intended to address that matter, except that if we do break the link between marijuana and the dealers of heavy drugs who also deal with cannabis, we will have some mechanism to address one of the underlying reasons that people take drugs. There are many such reasons. Some people may say that the economic rationalist policies that this Government is putting in place makes them want to take drugs. On the other hand, many of the underlying reasons are not addressed by this Bill. If we take the Attorney General's argument to its logical conclusion, by saying that decriminalisation will not fix the underlying causes, he obviously believes that criminalisation will, and that if people are given a criminal record, it will reduce their dependency.

The Attorney General was critical of the idea of matching the penalty to the harm that it causes. However, where the hypocrisy rises to the surface again is that he recognises the harm that is caused by cigarettes and alcohol. Hon Christine Sharp read out the *Lancet* opinion that there is no evidence that marijuana causes any more harm than do cigarettes and alcohol. Therefore, if we are matching the penalty to the crime, either similar penalties should be applied to the use of alcohol and tobacco, or people should not get a criminal record for smoking small quantities of marijuana.

Hon Ray Halligan: You are having a bad day.

Hon J.A. SCOTT: I am having a perfectly good day. I have at least consistently had the same policy, whereas members opposite want to have a policy, but when it comes to putting that policy into an Act of Parliament, they are opposed to it. They clearly recognise that this Bill is a real move towards a solution, because they have moved to do the same thing at a policy level. However, they do not want to admit that to the electorate. It is a simple lack of courage. Hon Christine Sharp is to be commended for carrying the Bill thus far and for addressing the concerns of members, rather than the silly and name-calling way that the Attorney General carried on in his remarks. I support the Bill.

Hon PETER FOSS: I move -

Page 1, lines 6 and 7 - To delete the lines.

Hon NORM KELLY: In deleting those two lines, would the Attorney General prefer that the penalties remain inconsistent with the capacity to produce harm?

Hon PETER FOSS: Throughout Hon Christine Sharp's speeches, she has admitted that the smoking of cannabis does cause considerable harm.

Hon Christine Sharp: Certain harm, not necessarily considerable harm.

Hon PETER FOSS: I am concerned that the people who read this Bill will not also read Hon Christine Sharp's remarks and will believe that little or no harm is associated with the smoking of cannabis. That is one of the things that I hope Hon Christine Sharp is trying to overcome with her provision that people be given material. I believe that the material they will be given will be quite inconsistent with this Bill. If people were given this Bill, they could easily get the impression that little harm is associated with smoking cannabis. That is not correct, and I do not wish the Parliament to give that indication.

Hon MARK NEVILL: The Attorney General is putting forward a very confusing argument. Clause 1(b) states that the main purposes of this Act are to make the penalties which apply to the drug consistent with its capacity to produce harm. The Attorney General has described all sorts of deleterious effects of cannabis, some of which are quite serious, and I think we get the same thing with many other legalised substances. If that is the case, then on the Attorney General's reasoning we could include very savage penalties in respect of clause (1)(b), so why would he want to get rid of it?

Hon Peter Foss: It is the wording I object to, not the penalty.

Hon MARK NEVILL: If the Attorney General believes it has a great capacity to cause harm, he can set penalties to apply to that which will be consistent. The Attorney General's argument is untenable.

Hon J.A. SCOTT: The Attorney General also is looking at this matter only in terms of a health risk. He is not looking at it in terms of the quantity and whether someone is a dealer and has huge amounts.

Hon Peter Foss: I am looking at the words. The words are deceptive.

Hon J.A. SCOTT: The Attorney is being very narrow in his focus and, once again, is missing the point.

Hon CHRISTINE SHARP: I request the Attorney to clarify the amendment that he has just moved and that I have only just seen. I understand the meaning of the amendment, but various amendments are before us, and the attitude I have adopted to those proposed amendments is to discuss them with the members who have proposed them and to ascertain whether they support the passage of this Bill. If the Attorney General is saying that the Government would be comfortable with the objectives of the Bill if clause 1(b) were removed, I think it would be worth removing. However, if he wants to remove the subclause simply to make a point, it will be difficult for me to support the amendment. Will the Attorney General clarify his position?

Hon PETER FOSS: I earlier indicated that the Government opposes the Bill in its totality. Hon Christine Sharp and a number of other people in this House invited me to move amendments that I thought would improve the Bill. I am now making such an amendment. I am not suggesting clause 1(b) should be removed because of my logic or anybody else's logic, but because I believe the words are wrong. It does not matter what I or anyone else may think; the words have the capacity to give the wrong impression. The subclause states -

> to make the penalties which apply to the drug consistent with its capacity to produce harm.

There is no statement anywhere in the Bill that the drug causes any harm.

Hon N.D. Griffiths: The Attorney General should move an amendment.

Hon PETER FOSS: I have moved an amendment.

Hon N.D. Griffiths: He should move an amendment which makes a statement that cannabis is a harmful drug. He did that with a homosexuality Bill a couple of years ago.

Hon PETER FOSS: If Hon Nick Griffiths wants such an amendment, he should move it. I have never come across such a petulant mob of people. First, I am told off for not having any amendments listed and saying I oppose the Bill. When I move an amendment, I am told I should move some more. If members want other amendments, they should move them. I moved this amendment because this statement - I will say it slowly so it is not misunderstood - is misleading. The first clause says that the Bill provides penalties consistent with the drug's capacity to produce harm. Yet, no penalties will be applied; people will not receive a penalty for the first two offences. It would not be unreasonable for someone reading the Bill to assume we do not think any harm is caused by cannabis. Yet, everybody in this House has said that it is a harmful drug. I believe that a person who has not had the benefit of hearing everybody in this House say it is a harmful drug might falsely get the impression that no harm is caused by cannabis. It is not up to me to insert a clause that conveys that point. I am simply seeking to remove this subclause. If Hon Christine Sharp thinks she has another way to make the point clearer, she should go ahead. The Bill is misleading as it gives the impression there is no harm in smoking cannabis because no penalties are applied. That is what it appears to mean because clause 1(b) says we are making the penalties consistent with the drug's capacity to produce harm. The Bill seems to suggest that cannabis does not have any capacity to produce harm, even when the issue of penalties is not taken into account. Hon Christine Sharp and I do not agree with that. I do not think Hon Christine Sharp has thought the particular clause through. If members want to vote to keep it in the Bill, let us go ahead and vote. I am happy to vote now.

Hon CHRISTINE SHARP: I do not agree with the Attorney General's analysis of the clause because the gist of my and other member's arguments during the second reading debate was that it is not appropriate for cannabis smoking to be a criminal offence on the first and second occurrence. That is exactly consistent with the capacity of this drug to cause harm. It is the whole point of the Bill. By moving this amendment, the Attorney General is demonstrating the difference between his approach to these matters and my approach. When I asked him for clarification, I said my approach to the proposed amendments is to determine whether they constitute an effort to work cooperatively and reach consensus on the overall objectives of this Bill. However, the Attorney General has used this as an opportunity for sophistry and for demonstrating his forensic abilities, rather than his abilities for seeking cooperation and consensus.

Hon NORM KELLY: I want to correct the Attorney General on one minor point. He said that members on this side of the House had encouraged him to try to improve the Bill. We did not risk that. Rather, we asked him to try to bring the Bill into line with government policy. By proposing to delete the lines, the Attorney General is taking the legislation further away from government policy. The whole idea of penalties relates to their capacity to produce harm. Someone driving 100 kilometres per hour in a 60 kilometre per hour zone in a small suburban street would receive a traffic infringement, whereas someone who has a joint would get a criminal conviction. In effect, the Government is saying that it is less dangerous to drive 100 kilometres per hour down a suburban street than it is to have a joint. That is a preposterous idea and, therefore, this clause should stay intact.

Hon RAY HALLIGAN: I am having difficulties understanding the arguments of the people on the other side of the Chamber.

Hon N.D. Griffiths: The member has been listening to the Attorney General!

Hon RAY HALLIGAN: No, I agree with the Attorney General. That is also my reading of the clause. What does the Bill

mean by the words "its capacity to produce harm?" I heard something Hon Christine Sharp said, but it still does not make sense. She spoke about the cautioning, and it appeared from what she said that cannabis produced no harm during the cautioning period. What happens after the cautioning period? It is suddenly harmful? During the second reading debate, the greater majority of members agreed that smoking tobacco and cannabis was harmful. They produce harm when consumed. Now, according to clause 1(b), smoking cannabis suddenly does not produce harm. I need some clarification. Hon Norm Kelly spoke about a report which said that some people who were cautioned suggested they might reduce their consumption or stop smoking altogether. Yet, this Bill, which he supports, will allow people to keep two plants. How will people give up cannabis when they are able to grow two plants in their backyard? I support the Attorney General in wanting to delete clause 1(b), because until Hon Christine Sharp can convince me otherwise, it makes no sense. For exactly the same reason, I suggest that clause 1(d) should be deleted.

Hon CHRISTINE SHARP: I do not see how any member could disagree with these words. As an overall principle of any Act of this Parliament, I thought that everybody would agree that the punishment should fit the crime. Therefore, if members opposite are not happy with this, it is the penalty issue with which they should be dealing rather than the purpose of the Bill, because that can be dealt with by changing the way it is stated in the Bill. I cannot understand how any rational person could not agree with that clause.

Amendment put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon B.M. Scott
Hon B.K. Donaldson	Hon Barry House	Hon M.D. Nixon	Hon Greg Smith
Hon Max Evans	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon Peter Foss			

Noes (14)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Christine Sharp	Hon E.R.J. Dermer *(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill		

Pairs

Hon Dexter Davies	Hon Cheryl Davenport
Hon W.N. Stretch	Hon Bob Thomas
Hon Derrick Tomlinson	Hon Tom Stephens

Amendment thus negatived.

Hon CHRISTINE SHARP: Having determined that proposed amendment in the negative, I will address some of the other remarks made by the Attorney General on clause 1. To begin, the purposes are stated in that clause. Although it is relatively unusual to have purposes outlined in this way in a Bill, I thought it was important because in seeking to amend the Misuse of Drugs Act, this Bill is making a significant change in the direction of the laws in the State, and it is important to state clearly from where that change was derived. Therefore, I have attempted in this clause to state the principles of harm minimisation, and that is the basis for them.

I will also raise the very important scientific study on the harmful effects of cannabis, and its treatment through counselling, which the Attorney General tabled during the debate on clause 1. I have read the results of that research, which I support. It is important for members to be aware that the subjects of that study, who took part in an experiment to reduce cannabis consumption, all participated voluntarily as a result of positively responding to advertisements. In other words, it was a sample biased towards reducing consumption, and this provided an opportunity for those people to take part in university research and to reduce their smoking. That is a good thing. It also shows the value of counselling, which I totally support. That is why I have said to the Minister for Family and Children's Services and to the Minister for Police that not only do I support their counselling system, but also I would like to see it extended widely to include all those adults who would like to reduce their cannabis consumption, not necessarily only those who have been apprehended. When considering the scientific evidence that was tabled, it is important to remember that this was a particular sample of persons, and it is not representative of either general cannabis smokers or cannabis smokers who would be apprehended under current state law.

That study also talked about the stigma of seeking help for cannabis use when it is widely considered that it is cool to smoke it, and that somehow people are being uncool in seeking help to reduce their use. There is probably a lot of truth in that, but there is also truth in the proposition that there is a stigma in seeking help when it is an illegal habit, and that also tends to preclude the active seeking of assistance in these matters. Therefore, the Attorney General and I are in agreement.

Hon Peter Foss: Except you made up the second part. You said that the first part tells us about the second part.

Hon CHRISTINE SHARP: I am sorry, I do not understand the point the Attorney is making.

Hon Peter Foss: You made up the suggestion that people do not seek help because of the stigma of its being illegal. That is contrary to what that shows. It shows that the stigma came not because it was illegal, but because it was considered uncool.

Hon CHRISTINE SHARP: No. I was quoting earlier from the Curtin University of Technology study. I thought it was scary that the Attorney General should stand up in this place and defend the lack of support for this legislation by quoting the International Narcotics Control Board in Vienna, which it is widely known is associated with the Vienna convention and which is funded by the Central Intelligence Agency of America. It is amazing that in this place he should bring to bear on Australian business that kind of ideology about Australian harm minimisation policies. If the Attorney General were aware of the funding sources of the information he was using, he would feel embarrassed to quote them.

Clause put and a division taken with the following result -

Ayes (14)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon E.R.J. Dermer
Hon G.T. Giffard	Hon Norm Kelly	Hon Christine Sharp	*(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill	Hon Ken Travers	

Noes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon B.M. Scott
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Hon Max Evans	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon Peter Foss			

Pairs

Hon Cheryl Davenport	Hon Dexter Davies
Hon Bob Thomas	Hon Bill Stretch
Hon Tom Stephens	Hon Derrick Tomlinson

Clause thus passed.

Clause 2: Short title -

Clause put and a division taken with the following result -

Ayes (14)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon E.R.J. Dermer
Hon G.T. Giffard	Hon Norm Kelly	Hon Christine Sharp	*(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill	Hon Ken Travers	

Noes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon B.M. Scott
Hon B.K. Donaldson	Hon Barry House	Hon M.D. Nixon	Hon Greg Smith
Hon Max Evans	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon Peter Foss			

Pairs

Hon Cheryl Davenport	Hon Dexter Davies
Hon Bob Thomas	Hon Bill Stretch
Hon Tom Stephens	Hon Derrick Tomlinson

Clause thus passed.

Clauses 3 and 4 put and passed.

Clause 5: New Part IIA -

Hon N.D. GRIFFITHS: I move -

Page 3, line 14 - To delete "100" and substitute "50".

The appropriate quantity in the definition of "simple cannabis offence" is 50 grams, not 100 grams. The former quantity is Australian Labor Party policy. It is a matter of drawing the line, and 100 grams goes further than the Labor Party considers to be appropriate.

Hon PETER FOSS: The amendment moved by the Opposition is certainly an improvement on the clause as it stands. However, the current cautioning policy defines the level at 25 grams. I do not know from where people came up with this amount in this clause. I table in the Chamber something which might be useful for members to help work out the amounts involved with this provision. I have with me a photograph of 27.9 grams of cannabis, including the plastic bag. It is rather a large looking packet. That would be more than enough for one's "personal use". That is the 25 grams under the present system.

Hon Christine Sharp: It is very poor quality, Mr Chairman.

Hon PETER FOSS: We are considering grams, not the amount of tetrahydrocannabinol.

Hon Christine Sharp: You are showing the volume.

Hon PETER FOSS: If it were better quality, one would have even more THC. The next picture shows 56.6 grams of marijuana, including the plastic packet. I hope all members take the opportunity to look at these photographs as I suspect that no-one here knows what is involved with these quantities. The 50-gram photograph is of two large plastic packets, as the amendment represents. Perhaps members would like to see the amount defined under Hon Christine Sharp's Bill. This photograph of 100 grams of cannabis shows a very large amount, which I imagine would keep a person going for an enormous amount of time. Under no circumstances could anyone suggest that 100 grams is a small amount to be kept for personal purposes. It is either an awful lot of cannabis to be given away or the person has a serious problem if he or she will consume that amount in a reasonable time. I seek leave to table these six photographs.

Leave granted. [See paper No 841.]

Hon CHRISTINE SHARP: I accept this amendment for two reasons: Firstly, because it has been my approach all along to try to work cooperatively with all parties on this matter, therefore I am happy to work with Labor Party members to make the Bill acceptable to them. The other reason for accepting the amendment is that if the amount is reduced from 100 grams to 50 grams, the legislation will be in line in its entirety with the Victorian system, which is outlined through the process of the Bill. The reason for making it 100 grams initially was that I was seeking to make the Bill conform to current Western Australian laws in which 100 grams is the cut-off point between possession and dealing offences. That is why I chose that figure; however, I am happy to reduce it. I also point out to members that the weight of cannabis depends a great deal on the part of the plant shown in the photographs held up by the Attorney General, which were misleading. Cannabis may have a large volume of leaf but very little tetrahydrocannabinol.

Hon Peter Foss: We are talking about the quantity, which is an awful lot of it.

Hon CHRISTINE SHARP: When one is looking at photographs one is not looking at weight but at volume, Attorney General.

Hon NORM KELLY: As the amendment brings the Bill more closely in line with government policy, the Australian Democrats will not oppose the amendment.

Hon PETER FOSS: Members might like to know that in 82 per cent of the cautions issued under the current policy, the amount seized was less than 5 grams.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 3, lines 16 to 20 - To delete the lines.

This is the area of the Bill where the greatest abuse has occurred in South Australia. Hon Christine Sharp said that the Bill is not a copy of the South Australian legislation but a copy of the Victorian legislation. The Bill is a copy of the South Australian legislation. This must be the clearest opportunity for abuse in the whole legislation. I outlined my reason for opposing it during the second reading debate. The quantities can be enormous. I quoted what happened in South Australia with the use of hydroponically-grown cannabis which had greater amounts of THC. The quantities we are talking about are significant but, most importantly, it has led to syndicates using individuals as their means of growing this stuff. This is an open invitation for crime syndicates to get involved in cannabis production and to use ordinary people to do it for them. The Government has no policy that would accept this clause. The Government totally opposes this clause and I can see no circumstances under which Hon Norm Kelly could possibly support it. The clause will make life easier for organised crime, will make it impossible for the police to actively police the matter and will inveigle ordinary people into organised crime. It has been one of the major criticisms in South Australia. That State reduced the number of plants but the same amount of THC is being produced with a smaller number of plants. This clause is iniquitous and no argument that has been put to this Chamber today by anybody can justify it. It has to be wrong, it is wrong and we totally oppose it.

Hon CHRISTINE SHARP: I want to make it clear that I had not seen this amendment until now. Obviously, I do not support the amendment and I draw the attention of the Chamber to the amendment standing in my name relating to the same clause. I presume we may debate that amendment if this amendment is defeated.

The CHAIRMAN: No, the Attorney General has an amendment before the Chamber which we are considering and which requires that lines be deleted. If those lines are deleted, we will consider Hon Christine Sharp's proposed new part B. If she is supporting her proposed amendment, she will first be supporting the Attorney General's motion.

Hon RAY HALLIGAN: I have something to say to the members on the other side of the Chamber who appear to agree with the cautioning aspects of the Bill and what the cautioning is supposed to do for the people cautioned. I can understand why they feel that way. However, I cannot understand why they support the provision for people to grow two cannabis plants. If people are to be cautioned, assisted and coerced into giving up the drug, why should we allow them to grow two plants? That situation seems to be far more long term than short term. For that reason, I cannot understand why some members opposite support the clause.

Hon NORM KELLY: One of the reasons for people growing their own plants is to remove themselves from the criminal cycle where a criminal element may push harder drugs onto individuals. I realise there are problems in trying to come up with the correct terminology in clauses to deal with plants. However, the amendment foreshadowed by Hon Christine Sharp provides an opportunity to make better laws involving the use of plants. Government members have consistently said that by having these clauses in the Bill we are saying that it is all right to grow a couple of marijuana plants. However, they are not talking about decriminalisation for the possession of marijuana plants but, rather, the first and second occasions when somebody is found in possession of plants. If someone has a couple of plants in their backyard, that person will receive a caution. If the police find that person later with a couple of plants, he or she will receive another caution. If that person is found in possession of a couple of plants a third time, he or she will receive a criminal conviction. The whole idea of this type of legislation is to allow offenders in the first and second instances the possibility of adjusting their behaviour prior to receiving a criminal conviction, the impact of which would vastly outweigh the dangers associated with the use of the drug. This clause will bring about a far more reasonable approach to those people using the drug which means that they will be more likely to be productive contributors to our society rather than receiving their first criminal conviction.

In my contribution to the second reading debate I quoted some information which referred to the impact on people who received an infringement notice in South Australia as opposed to people who have a criminal conviction in Western Australia. About 32 per cent of the Western Australian test group reported negative employment consequences relating to their cannabis conviction as opposed to only 2 per cent of the South Australian group who received only infringement notices. This Bill is about looking at long-term impacts on individuals not only to themselves but also in relation to their interaction with the rest of our society.

Hon J.A. SCOTT: Hon Ray Halligan should look at some of the real life events that have occurred in this State relative to this clause. As has already been said, this clause attempts to create a separation between the users of cannabis and the dealers of all manner of drugs. I can remember when only a few years ago a rush of heroin deaths occurred in this State and marijuana from dealers became more expensive than heroin. It was a deliberate policy to encourage people to use a substance that was heavily addictive compared with marijuana, which is mildly addictive to most people. The road the Government would have us take favours the drug dealer. It has always supported small business. I guess this is another example of that!

Amendment put and passed.

Hon CHRISTINE SHARP: I move -

> Page 3, lines 16 to 20 - To delete the lines and substitute the following -
>
> (b) the cultivation of not more than the number of cannabis plants and their location to be prescribed by regulation.

I am moving this amendment because I accept the arguments members made that the issue of live plants is complex. When I originally drafted this legislation I thought that to reduce the number of live plants under the present laws for a simple offence from 20 to two would be a modest way of addressing the matter. However, I accept the concerns raised in the debate that such clauses are being abused elsewhere and that we need to develop complex ways of addressing the matter in order to prevent that abuse.

However, I am adamant that this Bill should include provision for live plants because, as Hon Jim Scott said, it is a helpful step towards preventing the acquisition of marijuana from being associated with illegal drug networks. It will mean that people will be perhaps less inclined to buy from dealers and more inclined to have the courage, as it were, to grow their own marijuana.

With reference to my so-called paranoia about the Central Intelligence Agency and its international propaganda, it is very difficult for multinational companies to make much money out of marijuana because it is easy to grow live plants. Old ladies can grow it on their windowsills, but we do not want them to be turned into criminals. That is why live plants should be included in the legislation, but due to their complexity they should be dealt with by regulation.

Progress reported and leave granted to sit again, pursuant to standing orders.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.55 pm]: I move -

> That the House do now adjourn.

Mining Tenements with Project Status, Legislation - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [9.55 pm]: I draw the attention of the Minister for Mines to page 34 of today's *The West Australian* and the article headed "Prospectors wait on Bluebird status role". How long will it be before the minister introduces legislation into this Parliament that will allow some prospectors onto tenements with project status? How can the minister help in a case like this in which a mining company has been before the Mining Warden's Court and the Supreme Court? Many people have asked the minister if he would make known his intentions regarding a decision of the Supreme Court if the original owners of the land in question were to lose the appeal. I am asking the minister because he could have avoided the need for the prospector to spend a great deal of money taking his case to the Warden's Court and the Supreme Court. Circumstances arise in which the minister could make known his intentions before people go through that exercise.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.57 pm]: Obviously I will not comment on matters that are yet to be determined. The Bluebird St Barbara lease issue has yet to be resolved, so I will not talk about that publicly at this time. When I make a decision on that the member will be made aware of it.

Legislation to allow prospectors who hold miners' rights to have access to exploration leases is progressing through the "milk process". The Association of Mining and Exploration Companies has withdrawn from the negotiations. The legislation requires cabinet approval for the printing of the Bill once it has been finalised. That is very close to finalisation. The member will be aware that the "big end of town" is not happy with this and much pressure is being applied to the Minister for Mines on the matter.

I look forward to the support of the Labor Party when the legislation comes to the Parliament. It will be implemented as a trial for a year before being reviewed to ensure some of the concerns expressed by the Chamber of Minerals and Energy and AMEC do not eventuate. However, we will have a chance to debate this in future when the Bill is introduced.

Question put and passed.

House adjourned at 9.59 pm

APPENDIX 1

MEDIA FACT SHEET

CANNABIS DEPENDENCE - A RANDOMISED CONTROLLED TRIAL OF BRIEF COGNITIVE-BEHAVIOURAL INTERVENTIONS

BACKGROUND

- 1998 National Household Survey - 39% of population have ever used cannabis and of 14-19 year olds 45% of males and females had used cannabis
- 1997 National Survey of Mental Health and Well-Being - 2.5% males and 0.7% females identified as cannabis dependent
- Probable long-term effects include respiratory diseases, cannabis dependence syndrome and subtle cognitive impairment
- Possible long term effects include increased risk of aerodigestive cancers, increased risk of leukaemia in offspring exposed in utero, decline in occupational performance and increased risk of birth defects

ABOUT THE STUDY

- 229 participants from November 1996 - June 1998
- Three groups - 6 sessions of therapy (n=78), 1 session (n=82) or control (n=69)
- Intervention included coping with urges and handling triggers, management of withdrawal symptoms, coping skills training and relapse prevention and lifestyle modification

DEMOGRAPHICS

- 69% male
- mean age 32
- 65% full-time employed, 12% unemployed
- 21% had tertiary qualifications
- 47% in a stable relationship, 11% lived alone
- median age of first use = 15 years (range 7-47 years)
- median age of regular use = 18 years (range 11-45 years)
- mean of 14 years of regular use (range 1-34)
- median cones per day = 8 (0.1 - 125)
- 74% used bongs; 90% mulled with tobacco with mean mix of 35%
- 93% smoked at home; 80% alone, 24% with a partner
- 76% reported that more than half of their friends used
- 21% grew all their cannabis
- 23% of males and 7% of females had cannabis-related convictions
- mean percentage of income spent on cannabis was 27.5%
- 20% had experienced a problem with other drugs in the past
- 83% reported general health problems and 13% psychological problems caused by cannabis
    - 55% reported respiratory complaints
    - 25% demotivation
    - 18% memory problems
    - 12% psychosis/paranoia

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

SCHOOLS, PERIMETER SECURITY FENCING FUNDING

1312. Hon E.R.J. DERMER to the Parliamentary Secretary representing the Minister for Education:

(1) How many Education Department of Western Australia schools have been funded in each of the last four years for perimeter security fencing?

(2) Will the Minister for Education confirm that a priority funding list for schools requiring perimeter security fencing has been compiled?

(3) If yes to (2), will the Minister table that list?

(4) If not, why not?

Hon BARRY HOUSE replied:

(1)

1996/97	Seven
1997/98	Six
1998/99	Eleven
1999/00	Nine

(2)-(4) There is no priority funding list for perimeter fencing maintained by the Education Department. However, the Department does hold a list of 39 schools which have made application for perimeter fencing. The need for fencing at schools is assessed annually, based on the following criteria and the availability of funds:

The actual dollar cost of vandal/wilful damage at schools over a given period.
Increasing trends in the cost of vandal/wilful damage over a given period.
The number of incidences reported through the Department's Security Section.
Recommendations from Education Security and Riskcover.

PRIMARY SCHOOLS, CLOSURES

1321. Hon CHRISTINE SHARP to the Parliamentary Secretary representing the Minister for Education:

(1) How many Government primary schools have closed from 1996 to 1999?

(2) If so, in which towns?

Hon BARRY HOUSE replied:

(1) 14

(2)

1996	Benger, Birralee (metro), Glenorchy, Warwick (metro)
1997	Chowerup, Greenwood (metro), Whiteside (metro)
1998	Deanmill, Gillingarra, Oakford, Pingaring, Port Hedland, Roelands
1999	Karragullen

Note: Birralee Primary School amalgamated with North Innaloo Primary School to form the new Yuluma Primary School.

Whiteside Primary School amalgamated with Cloverdale Primary School to form the new Cloverdale Primary School.

Port Hedland Primary School amalgamated with the old Cooke Point Primary School to form the new Port Hedland Primary School.

Roelands Primary School amalgamated with the old Burekup Primary School to form the new River Valley Primary School.

GOVERNMENT CONTRACTS, FEES FOR BEING ON PANELS

1396. Hon TOM HELM to the Minister for Transport representing the Minister for Services:

(1) Can the Minister for Services confirm that contractors registered under panel contracts as preferred suppliers to Government departments will now be required to pay a fee to continue on those panels?

(2) If yes -

(a) how is the fee to be calculated; and

(b) why is it necessary to charge the contractors a fee for a service which was initiated by one Government department as a cost-saving service for other departments?

(3) Can the Minister confirm that contractors have been advised to increase their fees to Government departments to cover the fee for being on the panels?

Hon M.J. CRIDDLE replied:

(1) I assume the member is referring to the Contract and Management Services (CAMS) panel contract for public relations, marketing and marketing communications services on which a fee is proposed.

(2) (a) Two options are under consideration:

(i) a $75 annual fee per sub-category; and
(ii) a fee based on 0.75% of turnover achieved by the contractor under their contract.

(b) The fee is necessary to partially recover some of the costs associated with the development, management and marketing of this highly resource intensive contract. There is a direct benefit to contractors in terms of the additional marketing and promotion effort undertaken by CAMS in relation to this contract. The value of this exposure far outweighs the cost and is considerably cheaper than what contractors could arrange in their own right.

(3) Contractors may elect to increase their fees. However, it is expected that normal competitive market forces will ultimately determine the extent of any increases.

FISHERIES, DIXON, MR THOMAS JOHN

1398. Hon MARK NEVILL to the Minister for Transport representing the Minister for Fisheries:

Further to unanswered question on notice 1303 of December 15 1994, can the Minister for Fisheries now advise -

(1) Was Mr Thomas John Dixon of Midland under official investigation at any time for any offence by Fisheries Department officers?

(2) If so, when and what was the result of the investigation?

(3) Is the Minister for Fisheries or are senior Fisheries Department officers aware that a Fisheries officer took the wife of Mr Dixon to the Midland Police Station for questioning?

(4) Was the use of the Midland Police Station approved by the Police Officer in Charge for this purpose?

(5) Is the Minister or are senior Fisheries Department officers aware that a Fisheries officer questioned Mr Dixon's wife at the Midland Police Station about her ability to obtain a loan to satisfy her husband's alleged indebtedness to the Fisheries officer's father?

(6) Is the Minister or are senior officers in the department aware that a Department of Fisheries officer approached the Home Building Society and got permission to inspect the account of Mr Thomas John Dixon because he was under investigation by the Fisheries Department?

(7) Is the Minister or are senior Fisheries Department officers aware that the same Fisheries officer took Mr Dixon's wife to a branch of the Home Building Society to obtain a loan?

(8) What authority did the Fisheries Department officer have to force Mr Dixon's wife to go to the Police Station or to Home Building Society?

(9) Is the Minister or are Senior Fisheries Department officers aware that the same Fisheries Department officer showed his Fisheries Department identification to the staff of the Home Building Society staff and acting on this representation, the staff released Mr Dixon's savings records to the Fisheries officer?

(10) Is the Minister or are Senior Fisheries officers aware that the same Fisheries officer supplied this information to the solicitors Messrs Bayly & O'Brien who were acting for his father, and that the same solicitors then issued a garnishee action against Mr Dixon?

(11) Were the actions of the Fisheries Department officer investigated by the Fisheries Department, and if so, what was the outcome of the investigation?

(12) Was the matter investigated by the Police Department?

(13) If so, what was the outcome of the investigation?

(14) What specific action was taken against the Fisheries Department officer concerned?

Hon M.J. CRIDDLE replied:

I refer the member to my response to his question, which was tabled in Parliament on 23 May 1995. As the events in question occurred during the term of the previous Government I suggest that the Member take up my previous offer and seek a personal briefing from the Executive Director of Fisheries WA on the matter.

GOVERNMENT CONTRACTS, LIST OF PREFERRED CONTRACTORS

1598. Hon TOM HELM to the Minister for Transport representing the Minister for Services:

(1) Can the Minister for Services confirm that contractors wishing to tender for Government work have to pay to be entered onto a list of "preferred" contractors?

(2) If yes, what is the fee and how it is arrived at?

(3) Can the Minister explain why some contractors feel that they are being asked to pay to provide for this "cheaper" and "more efficient" service?

Hon M.J. CRIDDLE replied:

I assume the Hon Member is referring to the Contract and Management Services (CAMS) panel contract for public relations, marketing and marketing communications services on which a fee is proposed.

(2) Two options are under consideration:

(i) A $75 annual fee per sub-category; and

(ii) a fee based on 0.75% of turnover achieved by the contractor under their contract.

The fee was arrived at by calculating the annual management and marketing costs of the contract and devising an administratively simple and equitable mechanism for fee allocation.

(3) Because there are substantial benefits for contractors in terms of the extent of management and promotional effort by CAMS. The fact that there are so many suppliers continuing to want to get a place on the contract and so few leaving would seem to indicate that the industry as a whole sees real benefit from this arrangement.

WATER CORPORATION, WELLINGTON DAM LAND PURCHASE

1599. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Water Resources:

In relation to the Water Corporation's decision not to include details of the $9.5m purchase of the Wellington Dam land in the 1998/99 financial statement -

(1) Was the Auditor General informed of this decision prior to the statements being audited?

(2) If not, why not?

Hon M.J. CRIDDLE replied:

(1) No.

(2) There was no requirement applicable under Australian Accounting Standards to disclose details of the purchase as it was not financially material relative to the Water Corporation's asset base.

WATER CORPORATION, WELLINGTON DAM LAND PURCHASE

1600. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Water Resources:

(1) Was the money for the purchase of the Wellington Dam land included in the Water Corporations 1998/99 Budget?

(2) If not, what was the source of the funds?

Hon M.J. CRIDDLE replied:

(1) No.

(2) The Water Corporation's Capital Budget. Whilst not budgeted for as a specific item when the Capital Budget was approved, the purchase was funded from it. The total capital expenditure for the 1998/99 financial year was less than the approved Capital Budget.

GANTHEAUME POINT, PEARL BAY RESORT DEVELOPMENT

1649. Hon TOM STEPHENS to the Leader of the House representing the Minister for Lands:

(1) On how many occasions did the Minister for Lands have discussions with Mr Barry MacKinnon, Director of Pearl Bay Resorts Development, prior to this company being chosen as the preferred developer of Gantheaume Point, Broome?

(2) On how many occasions did the Minister meet with representatives of WR Carpenter Properties, the unsuccessful bidder for this development?

Hon N.F. MOORE replied:

(1)-(2) Once at the presentation.

QUESTIONS WITHOUT NOTICE

NORTHBRIDGE TUNNEL, OPERATION AND MAINTENANCE CONTRACT

944. Hon TOM STEPHENS to the Minister for Transport:

Some notice of this question has been given. I refer to the 10-year contract for the operation and maintenance of the Northbridge Tunnel. Have the terms or price of that contract been renegotiated? If so, what is the current cost of that contract?

Hon M.J. CRIDDLE replied:

No.

CARNARVON, FLOOD RELIEF

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

I refer to the recent flooding in Carnarvon.

(1) When will the topsoil replacement program be implemented and what funds have been allocated?

(2) Why was the topsoil replacement scheme developed in response to the flooding in Carnarvon put on hold last Wednesday?

(3) Is it the case that the Premier has placed this program on hold pending the release of additional special purpose funds from Treasury?

(4) If so, has the State Government approved these additional funds; and, if it has not, when does the Premier expect it will do so?

(5) When will these funds be made available?

(6) When will growers, businesses and residences within the Carnarvon community be able to access topsoil through this program?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) As the member was advised last week, the Government has made a commitment to the provision of topsoil replacement. Through the personal hardship grant, the Government has agreed to pay $1 000 per adult, to a maximum of two adults per household, and $200 per child for owners and tenants occupying homes that were flooded. The budget for the topsoil replacement is expected to be $2.5m.

(2) The program was not put on hold; the equipment was put on hold, as the member was advised last week. Ten trucks, two loaders and one grader were placed on standby. However, because of inclement weather and a rising river, which peaked at 12 o'clock on Wednesday, the bridge was closed and it was not possible to commence the work. As a consequence, the trucks and machinery will remain on standby until conditions improve sufficiently for the work to take place. The project manager is now on location and is coordinating the machinery and works to facilitate the topsoil replacement program.

(3)-(6) No. Funds are available; however, the works are dependent on weather conditions improving sufficiently for the required work to commence.

LIQUOR, SALE FROM SERVICE STATIONS

946. Hon N.D. GRIFFITHS to the Minister for Racing and Gaming:

(1) Is it still the Government's intention to introduce legislation to prohibit the sale of liquor from service stations, with exemptions for service stations in remote areas?

(2) If so, when will such legislation be introduced, and why the delay to date?

Hon N.F. MOORE replied:

(1) Yes.

(2) It will be introduced as soon as possible. There has been no delay to my knowledge. It is just a matter of having the legislation prepared, drafted and agreed to by the various processes of government and the party room.

OMEX SITE, BELLEVUE

947. Hon J.A. SCOTT to the Attorney General representing the Minister for the Environment:

(1) Is the cost of cleaning up the Omex Bellevue contaminated site still estimated to be $6.9m; and, if not, what is the estimated cost?

(2) What steps has the Government taken to pursue the Omex holding company, Jodetta superfund, to reclaim the cost of cleaning up the Omex contaminated site?

(3) Does the State Government intend to commence action against the Omex holding company, Jodetta superfund, to reclaim remediation costs in line with the minister's polluter-pays policy; and, if so, when will it take action?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) It is unclear to which entity reference is made. The State has entered a deed whereby the contaminated site and surrounding areas owned by Jodetta Pty Ltd, which is in liquidation, and associated companies has been transferred to the State.

(3) No. The deed provided for settlement of the State's claim against Jodetta Pty Ltd, which is in liquidation.

FINANCE BROKERS SUPERVISORY BOARD, COMPLAINTS

948. Hon NORM KELLY to the Leader of the House representing the Minister for Fair Trading:

(1) Is it possible for a person to make a complaint to the Finance Brokers Supervisory Board without going through the Ministry of Fair Trading's administration?

(2) If so, how is this done?

(3) If not, can the minister be assured that investigation of complaints by the FBSB can be conducted independently of the ministry when required?

(4) Is the ministry made aware of complaints lodged with the FBSB?

(5) How many complaints against finance brokers were received by the ministry for each of the years from 1992-93 to 1998-99?

(6) How many complaints against finance brokers were received by the FBSB for each of the years 1992-93 to 1998-99?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) By writing to the Finance Brokers Supervisory Board direct.

(3) Not applicable.

(4) Yes.

(5)-(6) The complaint database does not distinguish complaints lodged with the Finance Brokers Supervisory Board from those lodged with the Ministry of Fair Trading. The database disclosed the following complaints -

1992-93 - 6;
1993-94 - 2;
1994-95 - 1;
1995-96 - 3;
1996-97 - 23;
1997-98 - 47; and
1998-99 - 135.

SOUTH WEST COMPANIES, POWER USE

949. Hon MURIEL PATTERSON to the Leader of the House representing the Minister for Energy:

Can the minister list those companies operating in the south west of Western Australia which use in excess of one megawatt of power a year and which would be likely to have the capacity or the intent to generate their own power?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

Air Liquide WA Pty Ltd
Alcoa of Australia Ltd
Australian Fused Materials Pty Ltd
BHP Titanium Mineral Pty Ltd
BHP Transport Pty Ltd
BOC Gases Australia Ltd
Bristile Ltd
Bunbury Port Authority
Cable Sands (WA) Pty Ltd
Cockburn Cement Ltd
Co-operative Bulk Handling Ltd
CSBP Farmers Ltd
Department of Defence
BG Green Sons Pty Ltd
Fletcher International Exports
Gwalia Consolidated Ltd

Hedges Gold Pty Ltd
Iluka Resources Ltd
Millennium Inorganic Chemicals Ltd
Rockingham City Shopping Centre
Simcoa Operations Pty Ltd
Tiwest Joint Venture
Water Corporation
Wesfarmers Coal Ltd
Wesfi Manufacturing Pty Ltd
Wespine Industries Pty Ltd
Worsley Alumina Pty Ltd.

Most of these companies could generate electricity if they so desired.

PODIATRY SERVICES, SENIORS

950. Hon CHERYL DAVENPORT to the Attorney General representing the Minister for Health:

(1) Is the minister aware that access to subsidised podiatry services for seniors requires that they must be members of a senior citizens centre?

(2) In the interests of equality, will the minister ensure that seniors who are not members of senior citizens centres can access the subsidised service? If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No. The scheme is open to all persons of pensionable age accessing podiatry services, many of which are located in senior citizens centres. The scheme does not require people accessing these subsidised services to be members of any senior citizens centre or group. Currently 49 centres access the scheme.

(2) Yes. The podiatry subsidy scheme already provides this access. However, if any eligible person has been denied access to the subsidised scheme by a senior citizens centre on the grounds that he or she is not a member, that person should advise the general health purchasing division of the Health Department at once.

BUILDING AND CONSTRUCTION INDUSTRY TASK FORCE

951. Hon G.T. GIFFARD to the Attorney General representing the Minister for Labour Relations:

(1) Can the Minister for Labour Relations advise what consultations the Chief Executive Officer of the Department of Productivity and Labour Relations has had with interested parties about the future role and conduct of the Building and Construction Industry Task Force's activities; and specifically, can the minister advise with whom those consultations have occurred?

(2) Is the consultation process finalised; and, if so, what was the outcome of the process?

(3) If not, when will it be finalised, which interested parties are yet to be consulted, and will the minister advise the outcome when it is finalised?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) In December 1998 the minister asked the CEO of DOPLAR, Mr Lloyd, to consult with interested parties about the future role and conduct of the Building and Construction Industry Task Force's activities. The parties consulted in the course of the exercise were -

Australian Mines and Metals Association
Building Industry Group of Employer Associations
CFMEU, Construction and General Division
Chamber of Commerce and Industry
Clough Engineering Group of Companies
Construction Contractors Association of WA
Housing Industry Association of WA
Master Builders Association of WA
Property Council of WA
UnionsWA

(2) The consultation process is completed and Mr Lloyd reported to the minister in April 1999. The minister requested the consultations following a review of the Labour Relations portfolio in late 1998 that recommended the BITF be abolished. Mr Lloyd found widespread support for the role of the BITF and recommended it be retained. The BITF has been retained. Other recommendations were made on operational matters to which Mr Lloyd has had regard in overseeing the role of the BITF.

(3) The consultation process is finalised.

CREERY WETLANDS, CONSERVATION AREA

952. Hon CHRISTINE SHARP to the Attorney General representing the Minister for the Environment:

Given that item 1.1 of Environmental Protection Authority Bulletin 656 identifies areas B and C of the Creery Wetlands

as being approximately 63 hectares and 38 hectares respectively - that is, a total of 101 hectares - with area A being 96 hectares -

(1) Could the minister please explain why the conservation area is now only 93 hectares instead of that full 101 hectares, which is a reduction of eight hectares?

(2) How has Cedar Woods managed to secure an increase in the size of area A from 96 hectares to 100.887 hectares?

Hon PETER FOSS replied:

Hon Christine Sharp should speak to Hon Jim Scott, who is unfortunately absent on urgent parliamentary business. This question is a matter that is dear to his heart, because it deals with measuring areas. I will give the member the quick answer, and I hope she does not misuse the answer in the way that Hon Jim Scott does.

(1)-(2) The size of areas A, B and C presented in the Environmental Protection Authority Bulletin 656 were indicative only as they were scaled from plans rather than being based on site specific surveys. The original proposal was subsequently withdrawn and replaced by that assessed in bulletin 695. The revised proposal was approved on the condition that 68.5 hectares be set aside for a conservation area. This allowed approximately 128 hectares to be developed. In 1998 the proponent in consultation with the Minister for Planning agreed to increase the area to be ceded for conservation. The actual area to be set aside for conservation and that allowed to be developed has now been finalised through onsite inspections and delineation of the appropriate boundary, and surveying of this area of land. The area of land being ceded for conservation - 93 hectares - is greater than that originally approved following the EPA assessment in bulletin 695, which was 68.5 hectares.

PARDELUP PRISON FARM AND ALBANY REGIONAL PRISON

953. Hon MURRAY MONTGOMERY to the Minister for Justice:

The Minister for Justice visited Pardelup Prison Farm and Albany Regional Prison during January. Can the minister indicate the cost of the new facilities that he opened as well as who constructed them?

Hon PETER FOSS replied:

I went there to open some Aboriginal places of significance in both Albany Regional Prison and Pardelup Prison Farm, and the arts centre and chapel at Pardelup. The construction was carried out by staff and prisoners, and cost $12 050. This is a remarkable cost. I urge members in that area who have the opportunity, at least to go to Pardelup Prison Farm - it is probably harder to go to Albany Regional Prison - to look at the places constructed by Aboriginal prisoners, particularly for their own cultural purposes - a program which has been successful in all the prisons - and the arts centre and chapel that was constructed by prisoners both Aboriginal and non-Aboriginal of mud brick. It is a beautiful building. It has been beautifully designed and was constructed far more cheaply than we could have done under normal circumstances. It was supervised by a staff member, and the prisoners learnt very useful skills. It has enabled us to provide a wonderful facility at the Pardelup Prison Farm which we would not otherwise have been able to do with the money available. It has been a win all around for everybody involved. Not only is it a new facility, but also it was extremely cheap to construct and was well constructed by the prisoners supervised by staff.

DAIRY ASSISTANCE FUND

954. Hon HELEN HODGSON to the minister representing the Minister for Primary Industry:

I refer to the minister's response to question without notice 868.

(1) Is the dairy assistance fund regarded as a part of the net asset of the Dairy Industry Authority to be transferred to the dairy industry?

(2) If so, what role will the Government play in assessing applications for assistance from the dairy assistance fund?

(3) What amount of the margin collected on the sale of market milk will be set aside in the dairy assistance fund -

  (a) as a continuation of existing arrangements;

  (b) under the federal assistance package; and

  (c) under additional assistance measures to be implemented by the State Government?

(4) What purposes are considered to be "for the benefit of the Western Australian Dairy Industry" and therefore eligible for assistance from the dairy assistance fund?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(4) The net assets of the Dairy Industry Authority include the moneys in the dairy assistance fund. To assist a managed transition to a deregulated market ownership, the net assets of the DIA will be transferred to the industry. A transition advisory group has been appointed under ministerial authority to plan and guide the DIA transition.

NORTHBRIDGE TUNNEL, CONTRACTS 19/95 AND 404/95

955. Hon TOM STEPHENS to the Minister for Transport:

In relation to contract 19/95 for the design and construct of the Northbridge Tunnel and contract 404/95 for the design and construct for East Parade to Great Eastern Highway -

(1) What is the current cost of the contract?

(2) Are there any outstanding variations?

(3) If so, what are the value of these variations?

(4) How much has been paid to date?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The current cost of contract 19/95 is $235 552 415 and contract 404/95 is $75 208 281 including payments made to date for inflation.

(2) Yes.

(3) A number of claims which have been submitted have not been agreed to or resolved. Main Roads' assessment of the value of these claims has been included in the current project budget.

(4) Payments to date for contract 19/95 total $231 097 378 and for contract 404/95 total $72 465 116.

PILOT TRAINING VOUCHER INITIATIVE

956. Hon TOM HELM to the Leader of the House representing the Minister for Employment and Training:

I refer to the pilot training voucher initiative under which the State Government provides a $400 training voucher for small business in parts of the south west of the State.

(1) Can the training voucher be used to pay for training on the goods and services tax?

(2) If not, can the training voucher be used to obtain any training on the GST, and if so, what is allowed?

(3) Given the cost to small business of implementing the GST, will the Government extend the pilot scheme immediately to small businesses in Kalgoorlie, Geraldton and the north of Western Australia?

(4) If not why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) No. The training tickets cannot be used on training solely dedicated to the goods and services tax.

(2) The training tickets can be used for training courses in which the GST comprises one of many elements of a training program identified as needed by the small business owner.

(3) No, the Government will not be extending the pilot scheme to Kalgoorlie, Geraldton or the north of the State at this stage.

(4) At this stage the program is a pilot only designed to foster and develop a general training culture among small business owners. Decisions to extend it beyond its pilot phase will depend on the outcomes of evaluation of the achievements of the program. It is my understanding that the Australian Taxation Office and the Small Business Development Corporation already provide extensive GST information, seminars and training courses across the State.

LANDCORP, METROPOLITAN LAND DEVELOPMENTS

957. Hon GIZ WATSON to the Leader of the House representing the Minister for Lands:

With regard to LandCorp's role in land development in the metropolitan area -

(1) Will the minister advise how many developments LandCorp is involved in in Perth?

(2) How many involve existing bushplan sites or sites nominated to be included in bushplans.

(3) Which are these developments?

(4) What is LandCorp's role intended to be in the acquisition of land - merely acquiring the land and distributing it, or involvement in the role of developers as well?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. As some research is necessary to gather the relevant information, I request the member place the question on notice.

GRAHAM FARMER FREEWAY, CORPORATE OVERHEADS

958. Hon KEN TRAVERS to the Minister for Transport:

(1) What were the corporate overheads provided for in each of the following Graham Farmer Freeway cost estimates -

(i) 1996-97 annual report of Main Roads WA - $335m;

(ii) 1997-98 MRWA budget - $371m;

(iii) 1998-99 MRWA budget - $407m; and

(iv) 1999-2000 MRWA budget - $374m?

(2) Is the cost of the Lord Street crossing included in the 1998-99 budget figure and in the 1999-2000 budget figure?

(3) What is the current estimated total cost of the Graham Farmer Freeway?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) (i) Nil;

(ii) $5.9m;

(iii) $37.6m; and

(iv) nil.

(2) No.

(3) $374m.

CONVENTION AND EXHIBITION CENTRE, FAILED BID BY LEIGHTON CONTRACTORS PTY LTD

959. Hon LJILJANNA RAVLICH to the Minister for Tourism:

(1) Can the minister advise who will pay the cost associated with the failed bid by Leighton Contractors Pty Ltd to build the multimillion dollar convention and exhibition centre?

(2) Can the minister advise whether the tender documents for this contract allow unsuccessful tenderers to claim costs associated with their bid? If so, how much are unsuccessful tenderers allowed to claim?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) Section 7.1 of the expression of interest document for the Perth convention and exhibition centre stated that all costs and expenses incurred by applicants in any way associated with the development, preparation and submissions of proposals, including but not limited to attendance at meetings, discussions etc, and providing any additional information required by the State, will be borne entirely and exclusively by the applicant.

The subsequent request for proposal for the Perth convention and exhibition centre specified in section 7.3 that all costs and expenses incurred by respondents in any way associated with the development, preparation and submissions of proposals, including but not limited to attendance at meetings, discussions etc, and providing any additional information required by the State, will be borne entirely and exclusively by the respondent. The State will not pay compensation to respondents for responding to their RFP.

DAIRY INDUSTRY, REQUEST FOR LEGISLATION CHANGE

960. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:

I refer to the matter of dairy deregulation and to the statement of the Minister for Primary Industry, by letter of 16 August 1999, that the Government has no intention of changing legislation unless the industry comes to him with a firm proposal requesting some change, and ask -

(1) Has the Western Australian dairy industry so far presented the Minister for Primary Industry with a firm proposal that makes this request?

(2) If so, in what form has the request been made?

(3) Who has made the request on the industry's behalf?

(4) Will the minister now table the instrument that contains the firm proposal requesting that change?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(4) The Western Australian dairy industry has formally approached the State Government requesting removal of the Dairy Industry Act 1973. I table the request from the WA Farmers Federation, signed by the president of the dairy section.

[See paper No 839.]

WATER QUALITY, ENVIRONMENTAL MONITORING

961. Hon RAY HALLIGAN to the minister representing the Minister for Water Resources:

Will the minister indicate whether any environmental monitoring of water quality is being undertaken in the lakes within Wanneroo and Joondalup local government areas?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. Yes, the Wanneroo City Council is undertaking monitoring in the Jandabup, Gnangara, Mariginiup, Joondalup, Nowergup, Coogee Spring, Loch McNess, Yonderup, Wilgarup and Pipidinny wetlands. In addition, the Joondalup City Council is undertaking monitoring in the Joondalup and Goollelal wetlands. Water levels are monitored monthly in all wetlands, and water quality and invertebrates - small animals living in the wetlands - are monitored biannually.

Water quality monitoring is carried out in spring at the time of maximum water level and in summer-autumn, the time of minimum water level. In those wetlands that are dry in summer-autumn, monitoring is done when the water levels are declining but before the wetland dries out completely. Parameters that are monitored include conductivity, pH, temperature, dissolved oxygen, chlorophyll - algae, turbidity, gilvin - colour, nitrate-nitrite, ammonia, total nitrogen, orthophosphate and total phosphorous. Wetland invertebrates are also monitored.

Lake Jandabup is also monitored for iron and sulphate - information relevant to acidification - and a monthly check of pH is also carried out.

"WA FORESTS TODAY", COST

962. Hon KEN TRAVERS to the Attorney General representing the Minister for the Environment:

I refer to the Department of Conservation and Land Management's eight-page publication "WA Forests Today" which appeared in some local newspapers last week, and ask -

(1) What is the estimated total cost of producing this brochure?

(2) What is the estimated total cost of distributing this brochure?

(3) How many have been or will be printed?

(4) In how many local newspapers will the brochure appear?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) $48 000.

(2) $32 000.

(3) $590 000.

(4) Eleven.

ROAD IMPROVEMENTS, COST

963. Hon TOM STEPHENS to the Minister for Transport:

(1) Will the minister advise of the original estimated cost of the following projects -

  (a) Lord Street grade separation;

  (b) Loftus Street widening; and

  (c) Mitchell Freeway ramps to Wellington Street?

(2) What are the current estimated final costs for each of the contracts?

(3) If any of these projects are completed, what is the final completed cost?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. There are various ways of coming to a conclusion on these costs. With that qualification, I advise -

(1) (a) $17.4m;

  (b) $23.4m; and

  (c) $14.5m.

(2) Costs are yet to be finalised; however all projects are expected to be below budget.

(3) Not applicable.

NATIONAL COMPETITION POLICY, LEGISLATIVE REVIEW

964. Hon KIM CHANCE to the minister representing the Minister for Primary Industry, and Fisheries:

(1) Have reviews been completed, under national competition policy arrangements, of legislation establishing the Grain Pool of Western Australia, and legislation establishing the pearling industry?

(2) If so, when were these reviews completed?

(3) Are reports of the reviews currently before the Minister for Primary Industry, and Fisheries?

(4) If so, how long has each report been before the minister?

(5) When is each report expected to be released publicly?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(5) No review has been completed of legislation establishing the Grain Pool of WA.

With regard to legislation establishing the pearling industry, the draft national competition policy pearling report is currently being considered by the Minister for Fisheries.

CARNARVON, FLOOD MITIGATION AND FARM RECOVERY SCHEMES

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

In relation to the flood mitigation scheme for the Carnarvon region, and the Carnarvon farm recovery scheme, as outlined in the draft guidelines dated 18 March 2000, I ask -

(1) What progress has the Government made?

(2) What steps are being considered as part of each of these schemes?

(3) When will they be implemented?

(4) If they are not to be implemented, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(4) The recommendations made by the task force inquiry into flood plain management are being implemented and funded by the Government. The first of the farm levelling works in the paddocks commenced today, following the arrival of the required machinery from Esperance. Other soil replacement is being undertaken as borrow pits become accessible. The farm driveways, access tracks and scouring around houses and sheds is being attended to. However, this work is being hampered to some extent by difficulties in accessing waterlogged borrow pits.

FREMANTLE PORT, CONTAINER VOLUME

966. Hon TOM STEPHENS to the Minister for Transport:

(1) What volume of containers was shipped through the Fremantle port in 1998-99?

(2) What is the current container storage capacity of the Fremantle port?

(3) What is the size of the area currently occupied by fuel depots?

(4) Are those fuel depots on land owned by the FPA?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The volume of containers shipped through the Fremantle port in 1998-99 was 275 697 20-foot equivalent units. Since 1990-91 container throughput has increased by an average annual growth rate of 10.9 per cent.

(2) The area of land currently under lease to the container terminal operators is approximately 27 hectares. This was sufficient to handle the 1998-99 trade levels, but Patrick The Australian Stevedore, has advised that its container terminal is reaching capacity and that additional land is urgently required for the efficient handling of future trade growth.

(3) The BP Pty Ltd fuel depot on North Quay occupies an area of approximately four hectares.

(4) No.

GRAHAM FARMER FREEWAY, COMPENSATION

967. Hon TOM STEPHENS to the Minister for Transport:

On 30 March 2000, the minister advised that $60m had been spent on the cost of negotiation and compensating landowners during the construction of the Graham Farmer Freeway. How much of that figure, if any, was spent on purchasing land?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

The land acquisition process for the Graham Farmer Freeway was complex and involved compensation for a range of things, including land, buildings, business disturbance, interest and solatium. The land component accounted for the vast majority of expenditure; however, considerable work is needed to separate the land values from other elements of compensation as part of the acquisition process. I am not prepared to allocate the resources to the task.

FIRST BUSINESS NAME APPLICATIONS

968. Hon TOM STEPHENS to the Leader of the House representing the Minister for Fair Trading:

(1) Is it correct that up to 95 per cent of first business name applications to the Ministry of Fair Trading by not-for-profit groups are rejected by the ministry?

(2) Does the ministry immediately refund the $80 application fee with the rejection notice, or is it retaining this money until it is requested? If it is, why is it doing so?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The criteria for registering a business name for a not-for-profit organisation are the same as for any other applicant. The process for determining an acceptable name is undertaken in consultation with the applicant where possible. The Ministry of Fair Trading's estimate of rejection levels is significantly below 95 per cent.

(2) The application fee for registering a business name is $93. If an application is lodged over the counter, no application fee is payable unless a mutually agreeable name is accepted. If an application has been lodged by mail, the application fee is withheld pending an appeal of the rejection or the submission of an alternative name. A high proportion of rejected applications are processed under an alternative name. Arrangements are made to refund the application fee, less the search fee of $10, once the ministry is aware that the applicant does not wish to proceed.