



Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Tuesday, 21 March 2000

Legislative Council

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

STANDING COMMITTEES

Resignation and Appointment of Members

THE PRESIDENT (Hon George Cash): I have received a letter from Hon Ljiljanna Ravlich MLC dated 21 March 2000 which reads -

Dear Mr President

Please be advised that I hereby tender my resignation from the Standing Committee on Ecologically Sustainable Development.

Yours sincerely

Hon Ljiljanna Ravlich MLC
Member for East Metropolitan Region

I also have a letter from Hon Bob Thomas MLC dated 21 March 2000 which reads -

Dear Mr President

Please be advised that I hereby tender my resignation from the Standing Committee on Estimates and Financial Operations.

Yours faithfully

Hon Bob Thomas MLC
Member for South West Region

Appointment of Members

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

That Hon Ljiljanna Ravlich be appointed to the Standing Committee on Estimates and Financial Operations.

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

That Hon G.T. Giffard be appointed to the Standing Committee on Ecologically Sustainable Development.

LIVE SHEEP TRADE

Petition

Hon J.A. Scott presented the following petition bearing the signatures of 3 054 persons -

To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

The People Against Cruelty in Animal Transport [PACAT] and the other undersigned residents of Western Australia are deeply concerned at the continuation of the live sheep trade for the following reasons:

- (i) Annually more than 100,000 sheep exported from Fremantle die traumatically during transhipment to the Middle East.
- (ii) Regulations covering road transportation and loading are not being adequately policed.
- (iii) The live sheep trade is undermining the more lucrative, job creating processed meat trade.

Your petitioners, therefore humbly pray that the Legislative Council will investigate and recommend a time frame in which this cruel, wasteful and uneconomic trade can be terminated.

And your petitioners, as in duty bound, will ever pray.

[See paper No 805.]

VISITORS TO PARLIAMENT HOUSE

Statement by the President

THE PRESIDENT (Hon George Cash): I take this opportunity to welcome to the Legislative Council and the President's gallery members of the Public Accounts Standing Committee of the North West Provincial Legislature of South Africa. The delegation is led by the committee's deputy chairman, Ms Sebekedi. Welcome to Western Australia.

[Applause.]

KWINANA MOTORSPORTS COMPLEX*Urgency Motion*

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 21 March 2000 -

Dear Mr President

I give notice that today the 21st of March 2000 I will move under Standing Order 72 that the House on its rising be adjourned until 4pm on the 24th December 2000 in order to discuss the Government's bad handling of the proposed Kwinana motorsports complex including the Western Australian Planning Commission's failure to follow due process when it did not consider an application to build a motorplex complex in Kwinana and the likelihood that this error has exposed the government to possible legal action.

Yours sincerely

Jim Scott MLC
Member for South Metropolitan Region

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

[At least four members rose in their places.]

HON J.A. SCOTT (South Metropolitan) [3.38 pm]: I move -

That the House at its rising adjourn until 4.00 pm on 24 December.

Earlier today, the Minister for Planning announced that the Kwinana motorsports complex would go ahead. I understand that this decision had been made for a couple of weeks. Unfortunately, the Kwinana Industries Council had spent the past two weeks looking at alternative locations and so on, so it was fairly annoyed to find that the minister had made this decision some time ago.

I will give a brief background to this matter. The motorplex is proposed to take the place of two other venues, as well as adding some other uses at the complex. The first venue for which it is designed to cater is the Claremont Speedway, which most people would realise is being redeveloped by the Royal Agricultural Society of Western Australia. Basically, the speedway is incompatible with the inner urban area. It requires noise exemptions to operate at its current site. It has only until the end of this month before its season in that area expires, and that will see out its time there. The Ravenswood drag strip is the second venue. This facility was built by a Mr Mioceovich. He has been forced out of that area because of a planning blunder by the Government. The Government has allowed urban expansion to occur too close to the Ravenswood drag strip, and it is now within an area where people will be unduly affected by the noise from that complex. To rectify that blunder, almost \$20m of the State's money will now be spent on providing a new venue for these two projects.

It is interesting to look at the history and to see the great secrecy that has surrounded this project. People on the council were sworn to secrecy when Kwinana was first proposed as the site. Information has been withheld, and reports that were not favourable to this project were canned, including reports which pointed out that members of the public attending this complex would be at severe risk if it went ahead. I also wonder whether the Government has been forced into the frenetic way in which it has dealt with this project and done everything it could to push it through without any real scrutiny, using devices such as declaring it a public works when the heat got too great, because of a threat by Mr Mioceovich to sue the Government for driving him out of Ravenswood as a result of a change to the local plan in that area. I do not know whether the Government is about to tell me that. However, it would certainly account for some of the contortions through which the Government has gone to avoid scrutiny by the stakeholders or the regulatory agencies.

The shabby approach the Government has taken to this planning proposal has meant that it has made a number of mistakes. The environmental process has already been successfully challenged by the Environmental Defenders Office. Yesterday, we saw a rushed-out change to the conditions after it was pointed out that it was highly likely that they were not lawful. I have not seen the arguments, but I understand that the conditions were so vague that they gave no certainty that the Government could not disapprove of the project at a later date; therefore it was forced to change those conditions. It is not yet certain - in fact it is quite likely - that it has not succeeded in making those conditions effective in this case. There is no certainty for the developer that, after being given approval, that approval will not be taken away because the developer will not be able to meet the requirements.

Hon Barry House: Where would you put the project?

Hon J.A. SCOTT: It is not my job to say that. However, I think Wanneroo would have been the most sensible place.

Hon N.F. Moore: That is not in South Metropolitan region - anywhere but South Metropolitan region.

Hon Cheryl Davenport: It is not in Claremont either.

Hon J.A. SCOTT: That is right.

Hon N.F. Moore: We were told to shift out of Claremont.

Hon J.A. SCOTT: Yes. I would like to get on with my comments.

I have also been able to obtain advice about another major mistake made by the Western Australian Planning Commission when it declared that it could not assess the project because it is a public work. I have received legal advice which indicates that the commission has almost certainly made an error in law. To give a brief background to this, I will deal with the process. The application for development was made by the Western Australian Sports Centre Trust to the Town of Kwinana. The land was owned by LandCorp, the Department of Land Administration and the Western Australian Planning Commission. Part of the land is zoned rural and part of it is zoned parks and recreation. The land is also subject to a clause 32 metropolitan region scheme resolution, which requires a local authority to refer the application to the commission for determination, and that the commission, under part II of the MRS, is the sole authority regarding the development of the land.

The argument that some sort of immunity from the assessment process would be given by declaring it a public works was based on a decision that was made reasonably recently - last year in fact - in a case before Justice Murray between the City of Bayswater and the Minister for Family and Children's Services. The commission has argued that it would not need to deal with the application because it was a public works and did not require the approval of the commission under the MRS. However, when one looks at the case, as a matter of law the commission has failed to deal with the application for two reasons. The first is that it will not be exercising its approval powers; and, secondly, it has failed to consider the nature of conditions that can be imposed. Section 32 of the Town Planning and Development Act provides that nothing in that Act can interfere with the right of the Crown to undertake, construct or provide any public work, and that this exemption applies to the Metropolitan Region Town Planning Scheme Act. I have no argument with the Sports Centre Trust being an agent of the Crown and therefore having immunity under section 32. However, if members bear with me, I will explain the problem.

The file note on this project states that the land will be created a crown reserve for a motorsports use vested in the trust. Despite the immunity given to the WA Sports Centre Trust, the process falls apart because at the time of the file note, the owners of the land were DOLA, LandCorp and the WAPC. The planning permission does not actually turn on the lessee or the project managers or anyone else; it turns on the land. Therefore, any planning permission is given to the applicant for the benefit of the landowners rather than to any person who may use the project. Any exemption of the Crown must be of the owner, not the lessee or the future owner. If the owner is given an exemption, that will exempt any lessee, but it cannot happen in reverse.

DOLA is a department of the Crown, and the WA Planning Commission and LandCorp are agents of the Crown. Under section 15 of the Western Australian Land Authority Act, LandCorp is required to obtain permission for development; that section reads -

Subject to section 32, nothing in this Act is to be read as conferring on the Authority in the performance of its functions any immunity from the operation of any written law.

That provision was tested in the Bropho versus the State of Western Australia case in 1990. The presumption that the Crown was not bound was put aside as it was found that the Crown could be so bound. The relevant Western Australian Land Authority Act was enacted after the Bropho case of 1990; therefore, LandCorp can take no advantage of any immunity under the Town Planning and Development Act.

Part of the motorplex land is reserved as parks and recreation. Part II of the MRS allows such land to be used without written approval of the commission if it is used, first, for the purpose for which it is reserved, second, for any purposes for which it was lawfully used prior to the scheme coming into force, and third, for any purpose for which the land may be lawfully used by the public authority. Section 16(2) of the MRS states, "Reserve lands owned or vested in a public authority may be used for any other purpose approved by the commission with or without conditions." Therefore, it is rather difficult in this case to say whether the motorplex fits into the description of the purpose of the reservation when initially formed.

Hon Peter Foss: What about section 16(1)(c)?

Hon J.A. SCOTT: In this instance, there is some debate about whether that would be the case.

Hon Peter Foss: You have not dealt with 16(1)(c). You're dealing only with 16(1)(a) and 16(2).

Hon J.A. SCOTT: I could talk about that aspect in my reply if I have the opportunity. The enabling statutes of the landowners do not allow them to carry out the activity of the motorplex. The Western Australian Planning Commission Act 1985 allows the commission to develop the land only for the purposes for which it was reserved. If the purpose of the reservation did not include the motorplex, the commission cannot build it.

Hon Peter Foss: You're talking about 16(1)(a).

The PRESIDENT: Order! This is a time limited debate, members.

Hon J.A. SCOTT: The commission has not assessed this project, which it should have done according to the requirements of the landowner, not those of the Western Australian Sports Centre Trust. The approval process must be re-opened to allow this dodgy project to be properly scrutinised and for stakeholders' submissions to be taken into account. Despite putting people's health and safety at risk, the Government has shown that its accountability is as bad as that of its predecessor. This project should not go ahead without an honest approval process.

HON N.D. GRIFFITHS (East Metropolitan) [3.55 pm]: I am obliged to Hon Jim Scott for bringing before the House a motion to enable us to discuss the Government's bad handling of the proposed Kwinana motorsports complex. The Government's handling of the complex places at risk the future of the Kwinana industrial area, \$250m in new investment, and the creation of many new jobs. Why is the Government to build a recreational facility inside an industrial buffer zone? The Government has rejected advice from many government and independent bodies on this matter; namely, the Department of Environmental Protection, the Department of Minerals and Energy, the Fire and Emergency Services Department, LandCorp, and the Department of Resources Development, which is in charge of the development and overall running of the industrial estate. The Government has rejected the advice of industry, particularly that of the Kwinana Industries Council, and the views of independent bodies which have examined the Government's proposal to place the motorsports complex at Kwinana.

The Government has placed at risk what appears to be very worthwhile investment indeed: Tiwest Pty Ltd has before the Government a \$190m proposal to expand its mineral sands processing plant at Kwinana. This project is being placed at risk, together with \$60m of trickle-down expenditure. Therefore, \$250m of new investment is being placed at risk because of the Government's bad handling of the proposed Kwinana motorsports complex. When this point was put to the Minister for Planning this morning by the Kwinana Industries Council, the minister's response was that he intends to lower the environmental bar on environmental standards in the Kwinana industrial strip; that is, he will deal with the matter by tossing out environmental standards and lowering the bar. This lack of process and bad handling threatens jobs, investment and our environmental standards.

The Government's bad handling is demonstrated by its failure to deal with the societal risk to up to 15 000 spectators; that is, it is not possible for any emergency plan to adequately protect spectators at the complex from unplanned industrial releases, or to ensure the safe evacuation or sheltering of up to 15 000 spectators. Also, the noise level will be well above recognised standards, and will affect most of Medina and half of Calista. The handling of what is referred to as "near impact effect" has been ignored. The House should note that the site is 700 metres from a liquefied petroleum gas plant.

The establishment of this complex will put at risk the Kwinana industrial zone's future, which is a very serious matter. The Government's very bad handling of the proposal is demonstrated clearly by the lack of leadership by the Premier, and it seems Cabinet has succumbed to the views of the Minister for Planning. This failure to provide leadership is demonstrated on the part of the Government, the Premier in particular, by not addressing very real concerns raised by the Kwinana Industries Council.

I will be making reference to a letter dated Friday, 17 March 2000 from the Kwinana Industries Council to the Premier of Western Australia. It sets out some but not all of the council's concerns. It refers to a meeting involving the Premier on 2 February 2000. It points out that the council is working with senior officers of the Ministry of the Premier and Cabinet and government departments to identify and offer alternative proposals for the Government to consider. That work is being carried out on the premise that the council is more than willing to work with the Government to find an alternative site. That would be good handling, but what the Government has done and is doing is bad handling. The council makes it clear that it opposes, without any reservation, this Kwinana proposal. It asks of the Premier that he ensure a peer review of the Mitchell McCotter assessment report is carried out. It points out to the Premier that deficiencies with the report would be addressed by a peer review. That casts into very serious doubt one of the foundations upon which the Government purports to base its decision. The council asks the Premier to ensure that such a peer review proceeds to completion before any decision; but no, the bad handling does not let that take place. The council points out to the Premier that earlier this month it approached the Ministry of Sport and Recreation to receive a detailed cost breakdown and analysis of the motorplex facility so that an independent audit of the figures could be carried out. The council notes that it has been refused such access. It asks the Premier to intervene and have the data released to it. It points out to the Premier Tiwest Joint Venture's position. It writes -

You will recall at our last meeting with you that a manager of a major Kwinana industry stated that if the Kwinana site is chosen by the State Government, his company's chances of securing a planned \$190m expansion would be severely diminished. This is due to the more stringent requirements and additional expenditure Tiwest will no doubt incur. The loss of this project to the State could lead to an additional loss of up to \$60m trickle down integrated investments in the Kwinana industrial area.

That contention was supported by advice received from the Department of Minerals and Energy. It was pointed out to the Premier that the loss of investment coupled with the introduction of more stringent requirements that would undoubtedly have to occur and be put in place by a number of government departments would send a wrong signal to national and international investors that what was happening had the potential to affect industry's national and international competitiveness. This is all being done to facilitate a proposal in an industrial buffer zone. It is putting at risk \$2b of investment in the Kwinana industrial strip. This is an example of very bad handling on the part of this Government.

HON PETER FOSS (East Metropolitan - Attorney General) [4.04 pm]: One gets used to extraordinary claims during the course of Hon Jim Scott's speeches. It is never a good sign when the very first claim he makes is wrong. He said that the decision was made some two weeks ago. Having been present when the decision was made yesterday, I can tell him that as usual he is wrong. However, that is no great surprise. The rest of his speech seemed to be covered mainly by paranoia, belief and general suspicion about matters. The whole Parliament might be rather pleased to know some of the real situation.

The selection of the Kwinana site followed an exhaustive selection process beginning in 1998. It included looking at a

Wanneroo site. Site selection was overseen by an international motorsports site committee comprising representatives of motor sports, government departments and local government.

Hon J.A. Scott interjected.

Hon PETER FOSS: Hon Jim Scott must really get that paranoia seen to before it starts giving him florid delusions, if it has not already done so.

Potential sites included the Kewdale freight terminal, the Forrestfield marshalling yards, the site on Gnangara Road, Barbagallo Raceway, a site within Beeliar Regional Park and the Kwinana site. All sites had constraints associated with them, whether social, environmental or economic. Cabinet considered a range of sites in September 1998 and agreed to the Kwinana site subject to environmental and planning approval. The Kwinana site has a number of positive aspects for this type of activity, such as the wide separation from the townships of Medina and Calista to act as a noise and odour buffer, using degraded industrial land for many of the facilities, proximity to the main motorsports catchment area in the southern suburbs, and providing an international recreation facility in the Kwinana region. I am a bit surprised because I would have thought that members like Hon Jim Scott would support something that helps that area. It also will provide jobs in an area of high unemployment. The motorsports proposal at the Kwinana site was the subject of a public environmental review by the Environmental Protection Authority. It was given environmental approval by the Minister for the Environment in December 1999.

The major environmental concern relates to noise and risk. A societal risk is a planning issue rather than an environmental issue. Noise of course is of considerable concern to the EPA. Noise management has been an important component of the existing motorsports operation at Ravenswood and Claremont over many years. The Claremont site in particular potentially affects 17 000 people within a 10-kilometre radius whereas the Kwinana site affects approximately only 700 people. The buffer associated with the Kwinana site makes the impact of noise on residents markedly less. The number of people affected has gone from 17 000 to 700. If Hon Nick Griffiths is concerned about the noise, I am amazed that he is not concerned about the fact that 17 000 people are currently affected and that number will be reduced to 700.

Hon N.D. Griffiths: There is a difference between drag racing and what goes on in the Claremont area. I would have thought that you would know that.

Hon PETER FOSS: I am aware of it. I ask Hon Nick Griffiths to listen to this: The risk to patrons of the motorplex from the adjacent Kwinana industrial area has been closely examined. Three societal risk studies have been carried out for the site, including one for the Kwinana Industries Council. In spite of all the outrageous statements, all of these reports say that the risk is tolerable, and risk is a management issue. Additional work for individual risk assessment undertaken as part of the environmental conditions has demonstrated that the site meets the EPA criteria for individual risk. The reality is that the level of risk from a major accident is in the region of being struck by a meteorite. If that is the case, I suspect that we will probably have to go round putting steel covers over all our walkways, roads and houses. Perhaps the whole of Western Australia should be covered with steel props and covers to stop the risk which Hon Jim Scott is so busy telling us about. He is saying that the motorplex will be a major hazard, but the risk is about the same as being struck by a meteorite. I ask Hon Jim Scott in his reply to comment on the number of people he knows who have been struck by a meteorite; that might give us some idea of how common it is. I am sure he has many anecdotes. One of the good things about being a member of the Greens (WA) is that he does not need to have real science; it is sufficient if somebody tells him about it. Members of the Greens accept facts if they fit in with their case and they discard them if they do not. It does not matter how good the science is, if it does not accord with their faith it is out. Theirs is a faith, not a matter of science. They have lost their god and gone green instead. They do not like saying that they do not believe in God; they must have something to believe in, so they believe in any garbage story given to them by anybody. That is faith. The other group that supports them are professional pessimists. They do not like saying that they are against everything and that they are professional pessimists. If they say that they are greens, it sounds more positive. They are positive pessimists. The Greens (WA) are using their professional positive pessimism. That is the real risk we are talking about.

The Western Australian Planning Commission considered the planning aspects of the proposal and recommended a range of measures to manage risk and noise. The Crown Solicitor's Office advised the WAPC that the proposal is a public work within the definition of "public work" in the Public Works Act. I am glad we agree on one thing - it is a public work. Therefore, it is a public work for the purposes of section 32 of the Town Planning and Development Act. In addition, the trust is an agent of the Crown by virtue of section 4(3) of the Western Australian Sports Centre Trust Act. At least we agree on the first part. On the second part, the member made the point about the ownership of the land. The important part is section 32 of the Town Planning and Development Act, which refers to the work rather than to the person who is carrying out the public work. For these reasons, the proposal was exempt from approval under the local government scheme by section 32 of the Town Planning and Development Act. This is duly set out in compliance with the requirements of sections 32(a) and (b) subject to compliance with the local government scheme and taking all practical measures to minimise the impact and not to destroy the amenity of the town planning scheme. In the recent decision of the Supreme Court in the case of the City of Bayswater and the Minister for Family and Children's Services, on 18 October 1999 Justice Murray held that section 32 also operates to exempt the Crown obtaining the development's approval under the metropolitan region scheme. It could be partly under zoning and partly under reservation, but it also applies to the metropolitan region scheme. Instead, it requires the Crown to comply with section 32 of the Town Planning and Development Act. It should be noted that this is a far-reaching decision which exempts all public works by government agencies from the need to obtain development approval under the metropolitan region scheme. Sections 32(a) and (b) requires the Crown's agent to consult with the responsible authority - in this case, WAPC - to ensure that, as far as reasonably possible in the interests of the public, the

undertaking of construction or provision of the public work is carried out in a manner which is in keeping with the design and intent of town planning schemes, so as not to destroy the amenity of any relevant town planning schemes. For this reason, the WAPC acted only in a consultative role to ensure the requirements of section 32(a) and (b) were met.

The point I raised earlier was that while carefully reading to us from sections 16(1) and (2) of the metropolitan region scheme, Hon Jim Scott did not refer us to 16(1)(c), which states -

- (1) Reserved land owned by or vested in a public authority may, except as provided in subclause (2) of this clause be used without the written approval of the Authority referred to in Clause 13 if the land is used:-
 - (c) for any purpose for which the land may be lawfully used by the public authority.

A public authority in this case is the Western Australian Sports Centre Trust. With regard to Hon Nick Griffiths' comments, the Kwinana Industries Council is severely split in its attitude toward this. Some members are concerned, but my understanding is that that is not the universal opinion. Some members are concerned that they may have given the impression that Kwinana is more dangerous than it really is. Societal risk has been invented by insurance assessors. Along with probity auditors, they appear to be another group of people who made up a marvellous little job which keeps them in an occupation and spending lots of money. However, I do not think they are doing a great deal for society. If it were not for organisations like Lloyds and Det Norske Veritas, we would not have concerns about this. The reality is that it is a wonderful way of keeping these people in an occupation. However, in this instance, the risk which is being created is the same as people being hit by a meteorite. What has been said has been grossly exaggerated or, in the case of Hon Jim Scott, subject to paranoid delusions.

HON NORM KELLY (East Metropolitan) [4.14 pm]: The Australian Democrats are extremely disappointed with the announcement of this decision by the Minister for Planning. I will go through some of the realities which the construction of this motorplex will have on that area. The minister's media release acknowledges that there were concerns over public safety. He said that the site is not risk free but that the risk is tolerable under the existing guidelines and that a comprehensive emergency plan will be in place. One of the reasons for needing that comprehensive emergency plan is the regular cases of toxic gas releases from the Kwinana area. In the past 17 months, there have been 10 such releases. On 13 May 1998, a hydrogen chloride release involved workers having to go into a safety refuge area. On 11 August 1998, an ammonia release resulted in injuries and irritation to three contractors who had to be taken to hospital. A release of 54 tonnes of liquefied petroleum gas involved roads having to be closed and workers evacuated. Half a tonne of ammonia poisonous gas was also released and contractors were physically affected. The list goes on. These incidents and the injuries that were involved will be different from that which would occur with a crowd at a motorplex further from the site of that release. However, it highlights the fact that this motorplex would be sited so close to a heavy industrial area for which an appropriate buffer zone has been provided. Placing this motorplex within that buffer zone is a dangerous exercise. The buffer zone is there for the residents of Hope Valley and Medina. The Attorney General talked about 700 people; obviously he is not talking about the population of Medina when he talks about the people who will be affected. The Attorney General, as usual, very conveniently chooses to be selective with the figures he cites. I will cite the figures for the noise level effects on the local residents of Hope Valley and Medina. Currently, the regulations for residential areas stipulate that between the hours of 7.00 and 10.00 pm, noise levels are not to exceed 40 decibels. The noise levels for Medina, which is further away from this complex than Hope Valley, in the most common conditions would be 48 decibels for the speedway and 72 decibels for the dragway. In the worst wind conditions, such as evenings in summer when the sea breeze comes in, it is up to 62 decibels for the speedway and 88 decibels for the dragway, which is a huge increase over acceptable noise levels. For Hope Valley residents it will be far worse. The figures for the worst case scenarios are the same; that is, 64 decibels for the speedway and 97 decibels for the dragway. Although the Attorney General says that the number of people who will be affected by these high noise levels will be reduced from 17 000 to 700 people, it is conveniently taking the effect away from one group of people in the western suburbs and placing it on another group in the south western suburbs. It is interesting that a coalition Government has decided to make the switch to affect this different sociodemographic area of Perth.

Hon M.J. Criddle: Where would you put it?

Hon NORM KELLY: I have not gone into the detail of other areas such as Wanneroo. Henderson has been ruled out because of the impact it would have on the Beeliar Regional Park. The Forrestfield marshalling yards were ruled out at an early stage in 1998 because of the adverse impact they would have on that area. I believe that just because the Government is having difficulty finding another suitable site is no reason for saying that this site, one that I believe to be an unacceptable site, should be chosen. We must remember that it is through previous poor planning decisions that Ravenswood International Raceway is no longer regarded as a suitable site. That was originally located there because it was removed from residential areas; it was out in the country. Poor planning decisions have meant that residential encroachment on the area by latecomers, the residents who have come in since the establishment of the Ravenswood dragway, are the ones who have the power to say that they want the raceway removed from the area.

Hon N.F. Moore: The races are being kicked out of Claremont because they do not own the land.

Hon NORM KELLY: That is why the Government, up until now, has been allowing the exemption to the noise regulations that has allowed Claremont Speedway to go on at unacceptable levels.

Hon N.F. Moore: The Royal Agricultural Society wanted them to shift and gave them a couple of years to do so. It is the society's property.

Hon NORM KELLY: The Government has failed to come up with an appropriate response. The shift totally ignores the impact that the motorplex will have on the Kwinana area. The Kwinana area has a significantly higher percentage of people doing shift work because of the nature of the surrounding industry, and having these late-night noise problems will significantly impact on those workers. The averaging done to calculate the noise levels for the area has been done in such a way that it does not take into account sufficiently the fact that there are intermittent very high noise levels over an entire evening. Even though the unacceptable noise level may be for just a few minutes every 10 to 15 minutes, the disturbance that occurs over the entire night has not been factored into this decision. As one might expect, the opposition in the area to this proposal has been great. About 70 per cent of respondents have expressed their opposition to locating the motorplex on the proposed site. There was some consultation done by the proponents in the area and it appears that in undertaking the telephone survey, the questions were directed to males in the households. People would ring up to ask questions obviously realising that the level of acceptance of motor sports would be greater with males.

Hon Simon O'Brien: That is a blatantly sexist survey.

Hon NORM KELLY: I am glad the member acknowledges that such a survey is blatantly sexist, and that, as such, the level of support that came out of the survey should be disregarded, if it did show a higher level of acceptance than is the reality.

The Australian Democrats still intend to go along the lines of the opinion of the Minister for Resources Development, who last November made clear his concerns about locating the motorplex in Kwinana. He told Parliament about his concerns; he could see that it would act as a disincentive to further capital investment in Kwinana. Hon Nick Griffiths referred to \$250m of possible capital investment going into the Kwinana area being under threat because of the Government's shortsighted decision to place this motorplex there. I also noticed in the announcement today by the Minister for Planning that the construction will be undertaken by Entact Clough, a reliable donor to the coalition parties. We support Hon Jim Scott's motion and we remain opposed to the motorplex being located in Kwinana.

HON SIMON O'BRIEN (South Metropolitan) [4.25 pm]: I have heard from members opposite in addressing this motion two quite different points of view, both claiming to support the view that the Government has exhibited bad handling of this issue. It is interesting to note that Her Majesty's official Opposition, the Australian Labor Party -

Hon Ken Travers: Loyal.

Hon SIMON O'BRIEN: Her Majesty's loyal Opposition, and official Opposition - let us not labour the point - is always happy to offer some potshots at the Government but does not seem to be able to offer any alternatives. In view of their claimed support of such a sporting complex being made available to the people of Western Australia, they might be able to offer an alternative site. The Greens (WA) and the Australian Democrats exhibit slightly different characteristics. As usual, the Greens do not want any sort of development anywhere, which at least shows an admirable consistency in their approach to matters of community interest. The Australian Democrats seem to want to have two bob each way. In relation to the motion, and we seem to digress a little bit, but that is possible because the actual meaning of the motion is not that clear, apart from the minister representing the Minister for Planning, previous speakers have focused almost entirely on the words "the Government's bad handling of the proposed Kwinana motorsports complex" and have sought to elaborate on that to attack the Government generally. I remind the House that it was the Premier who intervened to acknowledge serious community concerns which were being expressed by the Kwinana Industries Council and others. The Premier sought to intercede to have examined, once again, the whole issue. That is something the Government did not want to do, in the sense of its wanting to progress the provision of this sporting facility. It was done specifically in response to some of the concerns of certain sectors of the community. It seems that there is always a cry by those who do not get their own way that there has not been adequate consultation.

Hon J.A. Scott: What about unlawful process?

Hon SIMON O'BRIEN: The member needs to be able to demonstrate that there was either an unlawful process or a lack of lawful process. Quite frankly, he has not come up with anything to support either.

On the subject of consultation, Hon Norm Kelly referred to his own sexist remarks in suggesting -

Hon Norm Kelly: Referring to what?

Hon SIMON O'BRIEN: He suggested that men were more concerned about the provision of a motorsports facility than women. I can assure members that this is a cross-gender issue. The member needs to be aware that there were other consultations such as questionnaires, displays at the Kwinana Hub shopping centre, and so on. The information provided was evenhanded. I suggest members obtain results of the information that was gathered as a result of that process; they will find that there is significant support for the motorplex from Kwinana itself, and great support from throughout the rest of the region, especially Rockingham and its environs.

Motion lapsed, pursuant to standing orders.

ACTS AMENDMENT (EVIDENCE) BILL 1999

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Attorney General), and transmitted to the Assembly.

ACTS AMENDMENT (SEXUALITY DISCRIMINATION) BILL 1997*Committee*

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

The CHAIRMAN: Members, as you will see from the Notice Paper, this Bill is to be considered in conjunction with report No 45 of the Legislation Committee. Therefore, I am required, under Standing Order 234A(2), to put the question -

That the amendments recommended by the Standing Committee on Legislation be read into and deemed part of the Bill.

Hon PETER FOSS: There are a number of amendments to be made to the Bill by the recommendation of the Legislation Committee. The attitude of the Government is that this Bill is irredeemable. We will be opposing the Bill in every single respect. However, because we really believe that the Bill is irredeemable, it is probably of little consequence to us whether the amendments recommended by the Legislation Committee are made or not made, because no matter what is done to this Bill, we will be opposing it. We believe that this Bill, for the reasons outlined in the committee report, is totally unacceptable. I will refer members to some of the matters referred to by the committee report.

The CHAIRMAN: I remind the Attorney General that he has the opportunity to put these views when debating clause 1 perhaps.

Hon PETER FOSS: As long as I can. I wondered whether I could refer to the committee report in those circumstances.

The CHAIRMAN: Yes.

Hon PETER FOSS: In that case I will do that.

Hon HELEN HODGSON: As the person who introduced this Bill, I appreciate the work that the Legislation Committee has done in putting forward these recommendations. They are technical amendments in all cases which clarify wording and do not in any way change the intent of the Bill. For that reason I will accept the amendments.

Question put and passed.**Clause 1: Short title -**

Hon PETER FOSS: As I indicated previously, the Government opposes this type of legislation. In particular, we oppose the amendments to the Criminal Code and those to repeal the Law Reform Decriminalisation of Sodomy Act 1989. That Bill was a matter of some considerable public contention. It originally came before the Legislative Council as a Bill called the Criminal Code (Decriminalisation of Homosexuality) Bill. One of the problems about it was that the name itself was somewhat misleading because, of course, to be homosexual is not illegal; it was certain sexual practices that were illegal, particularly the one that is now in the title of that Bill, sodomy.

There are many people in the community who have a firmly held belief, usually based on some religious ground, against sodomy - for the obvious reason that it is quite plainly stated within their scriptures that sodomy is wrong. The problem that arose was that for some people it was obviously a matter of moral objection that sodomy should happen, but not everything which is morally objected to is criminal. The point quite plainly made within the community was that, yes, while some people may disapprove of some behaviour, is there any need for those people to go into the bedrooms of consenting adults and turn that behaviour into something criminal? That was the argument that was made in favour of repealing the criminal provisions. One concern that was expressed by the people who were against the decriminalisation of sodomy was that it would lead to it being taught favourably in primary and secondary schools, that it would be subject to government subsidy and funding, and that there would be a considerable amount of proselytising in respect of it. There was also considerable concern that it would give a moral imprimatur to the behaviour, as opposed to it being merely decriminalised. People predicted that if it were decriminalised, it would soon become not merely decriminalised but also respectable and morally supported. The two views at first appear to be totally implacably opposed, with those who say it should not be decriminalised and those who say it should not be morally approved.

One of the reasons I felt that the legislation should be passed was that it seemed to me that there was a way in which both requirements could be met. The objection that was raised by the people in favour of decriminalisation could be met by making it no longer a criminal offence. That would answer their argument that people should not go behind closed doors and look at the sexual behaviour of consenting adults. It was also possible to meet the concerns of a very substantial religious majority who said that they did not want it to become morally approved. They do not want it taught with approval in primary or secondary schools and they do not want government money spent on promoting it; nor do they want it to become, because they concede to allowing it to be decriminalised, something not merely no longer not a criminal act but also not considered to be wrong and in fact ends up being approved.

I say this with some knowledge of the circumstances because, having been involved in it, I drew up some of the amendments proposed to be repealed. I came under enormous castigation from everybody. That is something one can sometimes test to see if it is right; that is, everybody disliked it. The religious groups said it was terrible that I had agreed to the decriminalisation, and the homosexual groups said it was terrible to put in the preamble. That often is a test that it has been done right because it seems to have done everything for everybody. That was put through to satisfy those people who would go along with the proposition that perhaps not everything immoral should also be illegal, and we passed the law

in those terms. So far as those people are concerned, this whole Bill is quite contrary to their religious scruples. By repealing the preamble, we are taking away the statement the Parliament made at that time that it accepted the argument by those in favour that we should take away the criminal sanction. Why not do that? However, we were not violating the religious beliefs of those people by saying that we approved of it.

People from all parts of the religious spectrum are offended by this. Within the Christian religion, Roman Catholics to fundamentalists are opposed to it. Members of other religions, such as Muslims, are opposed to it and feel it is a moral insult to them. We must keep in mind that degree of opposition when we consider this Bill. I do not have the same attitude as those people, but I certainly sympathise with that attitude, and I understand and certainly empathise with the moral assault they feel. Having spoken to some of these people at some length during the course of the previous debate, I know how firmly they feel morally affronted in their religion. They look to the Parliament not to take one side, but to try to steer a fair course between the two. I am not seeking to condemn anyone for their behaviour, but I respect that some people in our community do because of their religious beliefs, and they are entitled to. I do not want to disturb the balance we have achieved with the 1989 Act.

This becomes all the more important because of the remaining provisions of the Bill which make it an offence to discriminate. Having had an equal opportunity law for so long, we forget what an equal opportunity law is. The term "discrimination" has certainly become pejorative, but only in recent times. Discrimination makes us human beings; our ability to discriminate good from bad and something tasteful from something that lacks taste. Every day we, as human beings, are required to discriminate. Mere discrimination is not, in itself, wrong; it is a human activity that makes us humans. We condemn it where the basis upon which a person discriminates is morally wrong. When we discriminate because we consider something is morally wrong, we interfere with civil rights.

We always talk in this Chamber about civil rights, and the Greens (WA) and the Australian Democrats probably go on about it more than most members. They continually tell us that we cannot do this or that because it interferes with civil rights. Of course, among civil rights are rights of property and rights of association. These are the most fundamental rights. The Labor Party fought for years for the right to associate because the laws used to prevent associations between people; they prevented people freely associating with each other in the way they wished to associate. I am glad Hon Tom Helm is in the Chamber; he is one of the most staunch supporters of the right to associate. I agree it is an important right and it is one that should not be lightly interfered with. There must be good reason to interfere with it.

The right to use one's property in the way one wishes is a fundamental part of our rights, and yet those are the rights that are interfered with in the Equal Opportunity Act. I do not for one moment disagree with that Act. Many of the worthy things we do interfere with civil rights; there is no doubt about that, and we do it every day in this place when we balance one consideration against another. However, members should not for one moment think because there is a warm and fuzzy feeling about the words "equal opportunity", that by merely using them as a shibboleth, we can defend as in some way worthy any addition to that Act. What if we said that people cannot discriminate against people on the basis that they are politicians? That would be lovely - I am not for one moment suggesting it. It would be very pleasant, and we could probably show that we are continually discriminated against.

Hon N.D. Griffiths: You will say anything to get support!

Hon PETER FOSS: Obviously, there are worthy recipients of our discrimination, and unworthy recipients. In fact, we must be discriminatory in deciding what we as a Parliament put into legislation and what we do not. That is one of the first things we must do with this Bill. We must discriminate about what we will forbid and what we will not. My concern and the concern of the Government is that we have gone very rapidly from the situation in 1989, when all sorts of assurances were given that this was not the beginning of the end and people wanted only not to face prosecution. We were thoroughly assured that it was a matter of giving ordinary human rights to people for their sexual preferences. Yet, we now see this not merely as being no longer criminal, immoral or neutral, but as something we want to actively encourage and assist as being morally right. There has been a slight change in the argument.

I must confess to feeling to some extent slightly duped because the people who persuaded me to vote for the 1989 Bill indicated that all they wanted was to have the stigma and fear of criminal prosecution taken away. In a decade they have gone from that position to wanting to be morally endorsed and supported by removing other people's civil rights in order to support the anti-discrimination. The people with their firmly held religious beliefs were right; we are now being asked not only to give ordinary rights - perfectly deserved rights - to those people, but also to further offend the moral sensibilities of a significant part of our society in order to give this Bill its standing. I am sorry, but the underlying arguments are not supportable. There is no basis upon which we can say to our community that this has the same moral rectitude as not discriminating against people on the basis of disability, race, gender or membership of a union or political party. This legislation does not have the public support necessary for such a measure. It violates and rides roughshod over the sensibilities and religious scruples of other people.

This legislation is being introduced in the belief that it will achieve something warm and fuzzy for a section of the community. However, it is imposing something outrageous on a larger section of the community. Do members not think that religious sensibilities count for anything? Do they not believe that we should have some regard for those who have faith in God and who are prepared to stand by it? Yet, this legislation is prepared to disregard that belief because another group wants the same protection as that afforded to people from different racial backgrounds and those with a disability. I do not agree with that. It is divisive and it is pandering to a particular group without having regard for the sensibilities of a far larger group. I do not intend to make any judgment about the worth of those two groups; I will not make odious

comparisons. However, I am happy to say that those whose wishes and views this legislation seeks to disregard should be encouraged and their ideas should be respected.

While I accept that in the appropriate case anti-discrimination legislation should be on the statute books, there must be sufficient agreement within the community as to the moral worth of that object for legislation to be passed. It is not that it must necessarily have overwhelming support. This sort of legislation tries to change attitudes, and I accept that as a legitimate basis for its introduction. We do not have to wait until everyone accepts a principle before passing legislation. There would be no point in having the legislation in that case. It is not designed simply to convince the small group left who have not taken up the prevailing attitude. This type of legislation is an important mechanism in changing attitudes. However, it must have the support and agreement of at least a moral majority, and this legislation does not have that support and agreement. That is the fundamental reason that the Government will oppose it.

I will deal with a couple of minor matters, which in terms of the principal objection are inconsequential, but they are important to keep in mind. Many of the people arguing this issue ask whether the Government approves of discrimination. I do not approve of discrimination. I do not have any problem with people having a different gender preference to mine, nor do I approve of discrimination against them. However, voting against this legislation is not approving of discrimination; it is indicating that I do not approve of impinging on people's civil rights to achieve this objective.

I am also told that my objection to the legislation means that I therefore approve of people being assaulted because they are homosexual. It is probably obvious that I do not approve of people being assaulted for any reason. Nor is this legislation necessary to stop such behaviour, because any assault is illegal. Nearly all the examples that people cite, because that is the way people argue, are extreme cases, and they are currently covered by the Criminal Code. Any such enormous violation of another person's civil rights is already covered by civil and criminal law.

However, this legislation removes an existing right. There is currently nothing to stop proper civil and criminal action being taken against the civil rights of an individual. Whatever the motivation, we can do that. This legislation will create a new civil right and a new crime. It will impinge on the civil rights of individuals in this community, notwithstanding that those people, according to their religion, believe that sodomy is anathema. I defy members to say that people are not entitled to that religious belief. I defy members to say that those religious beliefs are so out of touch with modern civilisation that those who hold them should have their civil rights impinged. People who support this legislation believe they are merely protecting one side. This legislation will create a criminal offence where there was not one for people who hold a belief because of religious convictions. It will create new civil rights contrary to the beliefs of those people.

I find it interesting that some people have not thought through this legislation very well. One of the fascinating things about it is that it is designed to outlaw discrimination based on sexual preference and not, as much of the correspondence states, to stop discrimination against homosexuals and lesbians. It outlaws discrimination based on any sexual preference. Perhaps people have not thought through the source of that discrimination. Discrimination can take place by aim or can be shown by effect.

Hon Giz Watson interjected.

Hon PETER FOSS: That is a point. People supporting this legislation will have to keep in mind that places such as gay bars and clubs will most likely be deemed illegal. Most of the overtly discriminatory organisations are in fact gay organisations. Those organisations will be outlawed by this legislation.

[Questions without notice taken.]

Hon PETER FOSS: I agree that the question of preventing any form of discrimination on the basis of sexual preference is nowhere near as important as many other matters, but I raise this matter because I think many people do not know and it is important to draw it to their attention. I do not know how many people have raised the need for the legislation by talking in terms of legislation to prevent discrimination against homosexuals. It is not that at all. It is non-discriminatory to the extent that it does not discriminate on the basis of any person's sexual preference, whatever it may be; that is, a person may not discriminate for or against others on the basis that they are homosexual or heterosexual.

I should point out that, although there have been some interesting cases, it does not matter whether a person intends to discriminate, it is the effect that matters. In other words, is the result achieved by virtue of the policies in place affecting discrimination? If people have in place a process by which they discriminate against others, they can be in just as much difficulty under the Act if they did not intend that result but intended the action that caused the result. Some people who think they can say it just happens that way, might very well find themselves in difficulty under this legislation because they had put in place certain procedures which ended up with the result of discrimination, as opposed to their intentionally wanting that result in the first place.

The Government will vote against the first clause to indicate its basic objection to the Bill. On an occasional clause in committee the Government will divide, again not in large numbers but because I want to indicate the Government's position. I do not intend to hold up the speedy process of this Bill. The positions are fairly clear at this stage.

I particularly thank members of the Standing Committee on Legislation who did a very good job in examining the Bill. I hope we deal with the matter fairly expeditiously. The Government does not intend to delay it, but it intends to oppose it at every stage and elsewhere.

Hon B.K. DONALDSON: It is important to remind ourselves of the process involved. The role of the Committee after

the Bill itself has passed through the second reading stage of this House, when the policy and principles of the Bill have been set, is clearly stated at page 7 in chapter 3 of the forty-fifth report of the Standing Committee on Legislation. It is not the role of the Standing Committee on Legislation to in any way rewrite that policy; its role is to ensure that the Bill reflects the second reading speech by the proponent of the Bill, Hon Helen Hodgson, and that it is technically correct. As we went through the Bill we found a number of areas where it was not correct, and we recommended that the Bill be amended in certain stages. Although a number of members on the government side opposed the second reading of the Bill, when a Bill is referred to the Legislation Committee members must put aside their personal views on the Bill and deal with it in a responsible manner, as should be the case with every Bill even when it goes against a member's personal views.

The committee tried a new reporting procedure to address the divergence of opinions within the committee. There were lengthy debates in the deliberations on the Bill. We all respected one another's viewpoints, without animosity, and tried the new reporting system. The committee decided that rather than its attaching a number of minority reports to the main report, the report should indicate whether there was minority agreement or majority agreement on certain points. It is important that people carefully read the committee's report. I refer to one paragraph from this report at page 7 which states -

Some members of the Committee opposed the second reading of the Bill and continue to oppose the general policy and principle of the Bill. These members support the work done by the Committee in the course of this inquiry, within its limited terms of reference (as discussed in this Chapter).

It was not the role of the committee to rewrite the policy set in this House, as read by Hon Helen Hodgson. At page 2 of the report reference is made to life insurance. The second paragraph on page 2 states -

The minority cannot support the weakening of the right of an insurance, assurance or superannuation provider to assess its liability on the basis of its own policy criteria and methodology. In the minority view, the right of an insurance body to discriminate is essential if it is to match acceptable risk to acceptable premiums for the vast majority of the insuring public.

That is not inconsistent with the current situation in the case of people who smoke. The premiums for life insurance for those who smoke are twice as high as those for non-smokers. There is also discrimination on the basis of age when people take out certain types of life insurance policies. They are broken down into units of five years. Many people building up a business or those who have a large mortgage, in order to protect their families take out this type of life insurance to cover their debts in the early years until they become more successful and can afford to put aside other assets to protect their families. One of the most interesting features of these policies is how the cost accelerates in five-year blocks as one gets older. If a person continues paying premiums until the age of 75, he has probably paid in more than he will receive. Some companies have a built-in indexed inflation rate, which, of course, costs extra each year. Two members of the committee - we did not identify those in the minority and those in the majority - felt very strongly that the insurance companies should have that right to assess the risk, irrespective of the concerns.

Page 3 of the report deals with the uniform age of consent. There was much discussion about the inconsistency of the commonwealth legislation. A minority of the committee took the view that inconsistency with commonwealth legislation would be best overcome by adoption of the Bill's proposed uniform age of 16. However, the minority recognised that the important principle of equality and a uniform age of consent could be established with a uniform age of 17 or 18 years. The last paragraph on that page is important because it states -

The majority does not agree. They acknowledge the need to establish consistency with Commonwealth law but do not accept there is a compelling reason to lower the age of consent for male to male sexual activity to make it consistent with the age for lawful consensual heterosexual intercourse.

As I explained earlier, the reporting procedures used on this occasion were different. One must read a report such as this thoroughly to pick up the different points of view. I would not wish to follow this procedure again in an inquiry into a subject on which people have very strong opinions. Every member should have the right to include his or her views in a minority report. This was not a successful manner in which to present a report to the Parliament. It makes it tidier, but it can lead to people jumping to conclusions and misinterpreting a report. Not every member has the time to scrutinise a report that this committee or any other committee tables, and the fine detail of a report makes it more difficult to absorb.

I refer to the last paragraph on page 61 of the report, which deals with the appropriate age of consent. In considering the committee's finding of inconsistency with commonwealth law it was important to take into account the High Court challenges and so on. An addendum points out that the High Court overturned an appeal relating to an inconsistency in Tasmanian legislation.

Page 67 of the report is very pertinent, and I am sure every member has read it. It is important that this be recorded. It states -

The Bill will remove the Preamble to the *Law Reform (Decriminalisation of Sodomy) Act 1989* from Western Australia's statute book.

The Attorney General has already pointed out very clearly the reason that was included and the reason it has been retained.

The CHAIRMAN: I remind all members, not this particular member, that this is a debate on the short title, so members should not revisit the second reading debate.

Hon DERRICK TOMLINSON: I listened with considerable interest to the Attorney General. I feel obliged to point out

that one section, and one section only, of this Bill deals with a part of the Criminal Code in which sodomy undertaken by male persons under the age of 21 is deemed to be an unlawful practice. The rest of the Bill is about discrimination against persons based on their sexuality. The Bill is not about the decriminalisation nor the legitimisation of sodomy, cunnilingus, fellatio, mutual masturbation or that wonderful, rich variety of sexual congress in which I was once able to participate. It is about discrimination on the grounds of a person's sexuality, whether that sexuality be as the definition in the Bill provides -

... the quality of being self-identified as bisexual, heterosexual, homosexual or lesbian;

I am still waiting for an explanation as to why we discriminate in favour of or against lesbians by not declaring them to be homosexuals. It sounds like a continuation of the Queen Victorian practice of denying that women can be homosexual.

I do not believe that this society can continue to condone discrimination against persons because they are homosexual. We may find some sexual practices distasteful - for example, the sodomy to which the Attorney General referred - but they are not confined to homosexuals.

I am grateful to one of my colleagues who, when I asked why she felt it so important that we legislate to make discrimination on the grounds of sexuality unlawful, replied, "Why should practices against us be allowed when they serve only to make us feel less human?" Is that any different from discriminating against a person who is blind, and therefore making him or her feel less human? Is it proper to discriminate against a person because his or her skin is black, and by so doing make him or her feel less human? Is it proper to discriminate against a people because they are Muslim, and by that discrimination make them feel less human? All this Bill attempts to do is to make unlawful those practices which make equal persons in our community feel less human. We have had the debate on the principle of this Bill and, as Hon Bruce Donaldson pointed out, the principle of the Bill was established in the second reading speech. It was established unanimously by the Opposition in this House. It is within the power of the Government or any member in this place to vote against the Bill in the first clause, the short title, or in the third reading. The debate at the committee stage is about the detail of the Bill. It was the detail of the Bill that was considered by the Standing Committee on Legislation. As Hon Bruce Donaldson has pointed out, the Legislation Committee was not unanimous in some of its recommendations and when we come to the detail of the Bill, I will explain my position on particular items. At this stage, I think it is important to remember that we are discussing a Bill which is about discrimination, and rendering unlawful discrimination on the grounds of sexuality; principally, discriminating against homosexual persons and making unlawful the denial of their rights to education, accommodation, employment, and so on, which are the rights of all citizens of this State.

If we are to oppose the Bill at this stage, I suggest that we not do so based on the issues on which the Attorney General focused. There are matters in this Bill which render it unworkable. There are unintended consequences of this Bill which make it unworkable. It is on those unintended consequences which I hope Hon Helen Hodgson will move amendments. If she moves those amendments and renders this Bill workable, then I will consider my position.

Hon PETER FOSS: Unfortunately, we will not be discussing this Bill clause by clause. As it has been to the Standing Committee on Legislation, we do not get that luxury. I think that we should deal with one point that I meant to deal with in the first instance and that is to do with what is termed "the age of consent". I find that term totally inapplicable and it totally misses the point of what was done in 1989. It also misses the point of people who have an opposition to the decriminalisation of sodomy. Despite what Hon Derrick Tomlinson says, it has a very significant effect on the decriminalisation of sodomy because it purports to lower the age from which people will not be prosecuted to 16 years.

If one goes back to the logic behind this, and it is right that sodomy is sodomy and it does not matter whether it is homosexual or heterosexual, I made a point about that in 1989. It is not a matter of talking about equal ages for consent because until 1989 sodomy was regarded as illegal, irrespective of age. It was the act of sodomy that was considered at the time to be equally bizarre as bestiality, incest and paedophilia. It was considered to be an unnatural act. All that was done in 1989 was to say that that particular unnatural act would not be investigated in the case of adults. It was not a matter of saying that sodomy was no longer an unnatural act and that sodomy and vaginal sex were the same. That was never the intent of the Act or of the people involved in drafting it, and would never have been accepted by the people opposed to the legislation. What it said was that sodomy is an unnatural act but we will not prosecute it. It is not a matter of equity of age of consent - it is nonsense to talk about an age of consent in that context. It is not about saying what is a proper age for someone to consent to it. It is a matter of asking at what age will we not prosecute an unnatural act.

I do not have a problem with that: That is one of the reasons that I crossed the floor on that occasion, unlike Hon Derrick Tomlinson. I supported that legislation because I could not see any purpose in that unnatural act being prosecuted. It seemed to me silly to do so. We talked about what age it should be. I find anything below 18 years of age to be bizarre. If we say that we should not prosecute because we should not be dealing with acts between consenting adults in private, we should remember that under our law, 18 years is the age at which one becomes an adult. It is therefore nonsense to talk about 16 years as being an appropriate age and that therefore, by the strange argument based on the analogy that homosexuals should have the same age of consent as heterosexuals, it has nothing to do with it. One is considered to be a natural act and one is considered to be an unnatural act. Whether one agrees with that or not is inconsequential.

The fact is that the law as it is and as it has been amended retains the distinction between a natural and an unnatural act. There are good reasons for that because, being an unnatural act which one does not wish to encourage, it is not put in quite the same situation as the natural act, which one would hope would eventually become a fairly normal part of a person's life, as opposed to the unnatural act, which we are not so keen to encourage. It is no secret that many people are voracious homosexuals and spend their time looking for young people who are vulnerable. They are vulnerable and impressionable,

and that applies whether they are heterosexual or homosexual. The benefit of the heterosexual sexual act is that it will hopefully set them on the way to a heterosexual life. Sodomy is something that one does not particularly wish to encourage. I reject the term "age of consent" totally.

Hon Tom Helm: So someone who is 18 years and one day is not vulnerable?

Hon PETER FOSS: No, 21 years is the appropriate age of consent. It is a good point though. I could say, however, that if one wants to be really certain that a person has a degree of maturity about his or her sexual practices, 25 years of age would be more appropriate. I said that in 1989.

Hon Tom Helm: What about 25 years and one day?

Hon PETER FOSS: That misses the basic point: One can draw the line at the point either at which most cases, half the cases, or some of the cases would be covered. I would like to know from Hon Tom Helm at what age he thinks heterosexual sex should occur? Perhaps for some people it should be 16 years of age if they are mature enough. One of the unfortunate things about the law is that one always has to have some certainty and draw some lines. One of the things that we do not allow is incest. However, incest at 70 years of age may not have a bad effect on people. Perhaps incest after 70 years of age incest could be okay. That is a possibility because it is unlikely that a person of 70 years of age will be affected by it. That, however, is not the point.

Sitting suspended from 6.00 to 7.30 pm

Hon PETER FOSS: I will not continue my discourse with Hon Tom Helm. We had an interesting discussion during the dinner break.

Whatever Hon Derrick Tomlinson says, the Bill proposes a significant change relating to sodomy, which is to change the relevant age, and that is of considerable concern. More than anything else in the Bill, that would make it offensive to a large number of people and certainly it would make many people quite implacably opposed to it. It is unfortunate that the two issues were put together. Hon Derrick Tomlinson has made a point which is quite inconsistent with the other point of the Bill.

I want to raise the question of whom we should treat as human beings and whom we should not discriminate against. I hope that we treat all people as human beings no matter what we may think of their behaviour. One of my big problems with my portfolio of Justice is getting people to treat prisoners and ex-prisoners as human beings. Some people seem to regard them as forever cast into the outer darkness and therefore to be discriminated against. I believe the mere fact that they are treated as human beings will make a huge difference to the way they respond and the way they treat the world. No matter who a person is, all human beings should be treated as human beings. That does not mean that one picks every single basis upon which a person could be discriminated against or treated otherwise than equally with everybody else and makes it illegal. One must leave something in life to freedom of choice and discrimination by people. We must make certain that the basis on which we give special supporting powers is supported by a reasonably large number of people in the community. One could make the proposition for almost anything that a person should be treated properly without discrimination. I have taken an extreme example of people who have committed crimes.

Irrespective of what people may be or what they have done, we must treat them as human beings if we wish them to behave like human beings. That is an excellent argument for treating people like human beings but I do not think it is an argument for amending the Equal Opportunity Act. I would not like to take a particular characteristic of any person and say that is a ground for not treating him or her as a human being. One could say that we must not discriminate against anybody for anything. Obviously one must retain some ability to discriminate.

As we go through the Bill, I am not sure what opportunities we will have to vote on this. I do not think there will be too many. Obviously the first clause would be the main one. As I said earlier, I hope that we will not be spending too much time debating this Bill. I believe the objections that this side of the Chamber has are fundamental.

Hon TOM HELM: I have listened to the Attorney General quite carefully. It is very difficult to understand whether he is opposed to the argument contained in the Bill or whether he agrees with it. Most of what he said is relevant to the policy of the Bill and its aim of stopping discrimination in sexuality.

Leaving the Attorney General for one moment and turning to the committee member who talked about his anxiety in making sure that the committee did not discriminate against minorities, the report was presented in a way which is quite unusual in this place. Because the committee was anxious not to discriminate against a minority, its report was innovative in a way which allowed those minorities to have a say. That was very good. Surely that is germane to the present argument. I did not intend to make a contribution to this debate but the Attorney General used my name. He covered a number of points. He alluded to my trade union background since 1957. As I have said a couple of times, during that time I have been discriminated against both in this country and in the country from whence I came. It still happens.

It is quite relevant to this debate that discrimination was displayed quite recently in Newman when police using their batons charged the picketers to prevent them lawfully picketing their place of employment. No-one ever accused the picketers of acting unlawfully. I was there when the senior officer heard on his mobile phone that he was to use all reasonable force to allow people who had chosen to go to work during that dispute to pass through the gates without giving an opportunity to the trade unionists on the picket line to talk to those people and try to explain to them the merits or otherwise of the case.

Hon Simon O'Brien: It would be intimidating them from going to their normal place of employment.

Hon TOM HELM: Here we go! We always get the potherb who has never been there, who would not understand the first thing about the Act of Parliament we act under, the assurances that were given, the number of police who were there, and the goons and thugs who were hired by Broken Hill Proprietary Co Ltd to escort people through the picket line. For Hon Simon O'Brien's edification, the law allows for picketers in an industrial action to present the case. If others choose not to agree or do not wish to join them, the picketers can take no other action than to get out of the way and let those people go to work.

Several members interjected.

The CHAIRMAN: Order! We are probably straying from clause 1 just a little. The interjections have taken us even further.

Hon TOM HELM: This Bill is an attempt to avoid discrimination. I used to believe at one time many years ago before I became a member of Parliament that politicians were important people who could set the pace for the community. This Bill does not do that. I would like to think that I was part of the means of changing society but I do not think I have been to any great degree. This Bill helps society to understand that we as politicians believe it is not healthy to discriminate. We need some sort of indicators about how society should react to people who are discriminated against on the ground of sexuality. The Attorney General referred to my activities as a trade unionist and the civil liberties and rights of people whose religion made them abhor homosexuality or anything they saw as being sexually deviant.

Hon Peter Foss: It is sodomy more than anything else.

Hon TOM HELM: Yes, but I understand that some people's religions do not allow them to accept the fact that there are homosexuals among us. Surely this Bill will not discriminate against them and take away their rights, or say to those people in society, who until now have never had that sort of protection and understanding which society is obliged to give them, that their religion is wrong or that we disagree with that; therefore, we discriminate against them. I do not believe that is the case. The only problem I have is with that religion which allows female circumcision. That abhors me, and if I could do something about it, I probably would.

Hon Peter Foss: It is illegal.

Hon TOM HELM: Good, but we know it goes on. That is a discrimination which we should probably be active in removing.

Hon Peter Foss: There is argument that male circumcision is also illegal unless it is for medical reasons, which causes problems.

Hon TOM HELM: That is stamping on people's civil rights. That is being discriminatory. As a trade unionist, I am discriminated against in many ways and have been all my life, and I probably expect it. However, by the same token, I wear that discrimination as a proud badge, because as a trade unionist I have been active in supporting all sorts of issues, in particular religious freedom in all sorts of countries, including our own. We should pursue those matters, and this Bill helps us to do that. The arguments that the Attorney General has put forward are perfectly legitimate and can and should be used to support this Bill. If Hon Derrick Tomlinson has some problems with clauses, we must look at those. However, the overall policy of the Bill is quite simple and if we stray from that, maybe we will have a problem. In the meantime, the policy must be applauded and supported by everyone in this Chamber.

Hon GIZ WATSON: I am in two minds about how much to say at this point in the debate, because members have made their contributions to the second reading debate and we have all heard before the issues raised by the Attorney General. I must respond to a couple of things that have been said. The first is the issue of morality that was raised by the Attorney General and the argument that if this Bill went through, it would somehow be offending the morality of an unspecified, small or vocal section of our community. By way of comparison, I object strongly to some of the religious practices of the fundamental Muslim religion, but I will defend those people's rights to practise their religion anywhere. The separation must be made between accepting that a person might have some moral opinion about what people do and whether members of our community are entitled to be protected from discrimination. It is not linked in the way that the Attorney General suggests. I am amazed that someone like the Attorney General, who is obviously an intelligent man, can run these arguments that somehow we are giving special rights to gays and lesbians in our society by saying that they cannot be discriminated against. It is absolutely beyond belief that the Attorney General is representing his side of politics in this argument, but I am also amazed that someone who has practised law as he has can continue to mount such an argument. It defies sense.

The other issue to which I will respond was the comments made by Hon Bruce Donaldson. He mentioned the insurance issue and made the point that the committee was divided on that issue. As a member of that committee, I also note a couple of points in the committee report which explained clearly, and led to the committee's majority recommendation, that the committee did not recommend that insurance companies be allowed to make blanket discrimination on the basis of sexuality.

Page 1 of the committee report states -

Insurance . . . providers are currently not prevented in Western Australia from discriminating against a person on the basis that they are homosexual or in a same sex relationship.

It goes on to say that the Bill will alter this. Members must be aware that state law currently allows insurance companies to refuse to offer policies to homosexual men or to offer such policies on less favourable terms and conditions. The point

that was debated at length in the committee is that this provision is not only discriminatory but also unnecessary, because insurance companies are not limited in accessing medical records and requiring people who want insurance to disclose their health status. That gives insurance companies all the leeway they need to set a different rate or to refuse insurance. A blanket discrimination on the grounds of sexuality is discriminatory because there should not be an assumption that, just because a person is a gay man, that person will have HIV-AIDS, when companies have the ability to make that judgment on health information or on medical records.

Hon Peter Foss: Should it be able to discriminate against people who self-inject illicit drugs?

Hon GIZ WATSON: For example, the form a blood donor must fill in - which I am, so I know the form well and I must read it every time I go in - asks a series of questions which relate to injecting drugs, a person's sexual behaviour, a person's partner, etc. The information that is gathered in that process is obviously enough to provide the legal security for the blood bank.

Hon Peter Foss: What if it ends up discriminating against homosexual people even though it is only on the basis of their behaviour? Wouldn't that also be caught by this irrespective?

Hon GIZ WATSON: No, it would not.

Hon Peter Foss: Why?

The CHAIRMAN: Order! Hon Giz Watson has the call, not the Attorney General.

Hon GIZ WATSON: I suggest that the Attorney General revisit the committee discussion on that because it is covered thoroughly. On that point, I acknowledge the excellent work done by the research officer to the committee, Michael Coleman, who was very thorough in his investigations. I will not add any more at this point in the debate, but I needed to respond to some of the more ridiculous arguments that have been made by those on the other side of the Chamber.

Hon PETER FOSS: I am concerned by the statement about how one can get around it. Let us take sickle cell anaemia as an example. If it were decided to discriminate against sickle cell anaemia, a person could just pick up sickle cell anaemia. However, in the United States, if sickle cell anaemia were discriminated against, people of Negroid background would be discriminated against because sickle cell anaemia is hugely predominant among Negroid people. If we pick a factor which de facto will discriminate against people on the grounds of race, we will end up discriminating under the Act. The suggestion that we do it only on the basis of health, and if one of those factors is HIV-AIDS, in this country we will end up discriminating against two classes of people: Those who are intravenous drug users and those who are homosexual. The net result is that we are discriminating against them. To say that we are discriminating only against people with HIV-AIDS is hardly an answer. We would be overtly discriminating and it carries with it the discrimination against people who are homosexual. Whether people like it or not, that is the result it will have. That has always been the problem in the insurance industry. People have said that they wish to discriminate on the grounds of risk and I think they should be allowed to do that. If they cannot discriminate on the grounds of risk, it ceases to be insurance. Insurance is a system in which a person takes a calculated risk against an eventuality, not a certainty. That is why insurance has always been a problem area. If we asked people whether they engaged in male to male sex, surely by definition that would be answered yes only by people who were homosexual.

To say they would be asked that to determine the risk but not to be discriminated against on the basis of the actual health risk is nonsense. Questions asked in the blood bank identify whether people are homosexual. The people who are identified as homosexual are people the blood bank is reluctant to take as blood donors. The net result is that, as blood donors, they will have been discriminated against on the grounds that they are homosexual.

Hon Giz Watson said it could be done another way. One of the essences of this legislation is to stop people getting away with discriminating in another way. They purportedly discriminate on various grounds while they are trying to discriminate against people because they are female, black or unionists. A series of questions can be compiled that do not ask whether someone is a unionist but which seek to find grounds for discriminating against them. That will not be allowed as an excuse. An employer may say he was not intending to discriminate against someone because he was a unionist, but the fact is he set up questions to enable discrimination. Rightly, employers are not allowed to get away with that. Hon Giz Watson's suggestion that the situation be circumvented by asking the same questions as those asked by people in the blood bank is even less veiled than the unionist example.

Hon Giz Watson: Across the board.

Hon PETER FOSS: It is discriminatory. If people were asked questions the same as those asked at the blood bank, that would be discriminatory because they would be seeking to identify unsafe sex practices. As soon as that occurred, a predominant number of people would be identified. One of the most unsafe practices seems to be anal sex. By definition, we are back where we intended to be in the first instance. Given Hon Giz Watson's acknowledgment of the problem, her solution would offend the Act.

Hon HELEN HODGSON: I have allowed the debate to run fairly freely until now. I thank everyone who has contributed. It has probably ranged a little widely for a clause 1 debate. However, given the time since the second reading, that was probably justifiable. To begin with, Hon Peter Foss made a number of remarks about religious beliefs and how they can be a basis for discrimination. Although I respect the fact that people within various religious communities may have beliefs against certain practices or against homosexuality as a whole, these days that number is becoming far fewer. I have some comments the Anglican Archbishop Dr Peter Carnley made in December 1994 when he said -

WA legislation relating to the age of sexual consent is in complete confusion because it discriminates between men and women. The principle of equality between the sexes [is good reason] to make 16 the common age of consent for heterosexual and homosexual sex.

I am a member of the Uniting Church and I am aware that my Church Synod, which represents the broad views of the church community, had a spirited debate at its annual synod last year which, from recollection, was in September-October. It made a recommendation to support the principles underlying this Bill. Although there are some issues with the Catholic Church, in May 1996 the Most Reverend Barry Hickey said-

In the areas of employment, housing and basic human rights, the Church does not support discrimination against homosexuals.

Recently, a fairly well-publicised statement was released, in which the church acknowledged that it has done harm to some minority groups. Not having seen the statement in its original form, I cannot clarify whether gays were specifically covered in it. However, I understand that, to a limited extent, it has been interpreted to mean that discrimination has occurred against gay people by the Catholic Church.

I do not have specific quotes relating to the Muslims, but I understand that the same principles apply within that community. Some people support the principles of equality underlying this Bill just as some people do not.

Hon Peter Foss referred to the "moral majority". Who should we be listening to here? Should it be the so-called moral majority, who tend to be very vocal, but who are not necessarily a majority of the citizens of this State. The moral majority tends to be recognised as a group of people who stand on a number of issues and who raise their voice. However, they are not necessarily representative of the community as a whole.

Surveys were undertaken in 1989 and 1992 that show that, across the community, well over 50 per cent of people support not only the decriminalisation but also the provision of equal opportunity protection for homosexual people; that is, gays and lesbians. The Attorney General must define which majority he is talking about. I understand that he is representing the views of the so-called moral majority, but I do not see that section of the community as being a majority of the citizens.

A certain amount of discussion has occurred on the decriminalisation that was supported in 1989 changing to discussion on approval of the behaviour. I do not believe anything in this legislation goes to the point of approving the behaviour, or even making it compulsory. This legislation provides some redress when discrimination is occurring. We, as parliamentarians, cannot prevent discrimination. However, we can create a climate in which it is known that this sort of discrimination is not appropriate and is not approved by the State.

The Attorney General referred to what is good and bad, tasteful and distasteful. I agree with his comments. In earlier debate on the Bill, reference was made to older men with young girls. I find that just as distasteful as I find the thought of elderly men with young boys. That is a matter of taste and has nothing to do with this legislation. This legislation is to remove discrimination against homosexual people.

What happens when what are known as "civil rights" come into conflict with human rights? Where should we stand and where should we lead on the issue? I will come down on the side of human rights. In many cases, the two are the same. When we are talking about some of the more intrusive forms of scrutiny that governments can place on people, it may be their human right to have that intrusiveness curbed. However, if we are talking about the right of a person to discriminate, I will come down on the human rights side and say that discrimination should not be permitted.

There is a widely held perception that protection is already in the legislation. I cannot recall in what context this was raised, but I have written a comment to remind everybody that most people believe that equal opportunity protection is already available on the basis of sexuality. However, although numerous complaints are made to the Equal Opportunity Commission each year, those complaints cannot be acted upon because there are no grounds to do so under the Equal Opportunity Act. We are trying to make the reality match the perception.

The Attorney General made a comment that I found interesting. He seems to think that an offence under the Equal Opportunity Act becomes a criminal matter. It is my understanding that although it may be an offence under that Act, it does not have criminal sanctions; therefore, it is not a criminal offence.

Hon Peter Foss: It may cost you a lot of money.

Hon HELEN HODGSON: That is not the same as a criminal offence. I will check the *Hansard* to see whether my note is correct and the Attorney did refer to it as being a criminal offence.

The Attorney General seems to believe that sexuality is a matter of choice. That is evident from his attitude to the age at which the sexual penetration of a man ceases to be a criminal offence. From all my work and reading on this issue, the jury is still out. Some people apparently choose their sexuality, but many people know from an early age - pre-puberty - that they are different -

Hon Peter Foss: There is a spectrum in all sexuality.

Hon HELEN HODGSON: That is right, but we cannot simply say that it will affect people's sexuality if the age of consent is changed from 21 to 16. Some people know pre-puberty what their sexuality is, and that will not change between the ages of 16 and 21. I ask members: When did they first know what their sexuality was and whether they were attracted to people

of the same or the opposite sex; and if the age of 16 or 21 made no difference to them, why are they seeking to impose it on gay men?

With regard to the protection of different sexualities under this legislation, I agree that the amendments have been drafted to ensure that people are protected whether they be heterosexual, homosexual, bisexual or transgender. That is the aim of the design of the legislation and of the Equal Opportunity Act. For example, discrimination on the basis of marital status does not apply only to people who are married. A single person can take action under the EO Act if he or she has been discriminated against because the employer wants a married person for the job. Discrimination on the basis of race does not apply only to people who are Aboriginal or Afro-American, or whatever, but can apply to a person of any racial origin. It is the same with discrimination on the basis of sexuality. We are not singling out one section of the community for special treatment. We are saying that all sections of the community should be treated equally.

The Attorney General referred to the issue of health and testing for insurance purposes. I wonder whether the Attorney has read the latest statistics on the transmission of HIV-AIDS, which indicate that over 40 per cent of HIV-AIDS is occurring in the drug-using population. If I remember correctly, the fastest growing section of the community with HIV-AIDS is heterosexual women. If the risk factor is anal sex, which is one of the theories, that means that women who engage in anal sex are equally at risk. I have not read the Red Cross blood donor form for some months, but my recollection is that when people sign it they are also attesting to their belief that their partner can also attest to those things. There is an individual risk pattern, and the Red Cross screens by looking at all the factors. We cannot simply say that the odds are that a homosexual person will have a risk profile of AIDS. A large number of homosexual men do not engage in anal sexual penetration. There is a huge campaign to promote safe sex, and many sexual practices can be engaged in that do not involve sodomy. That raises another interesting point in the Attorney's comments. I recognise that the Attorney made his amendments to the 1989 Criminal Code, which had a definition of sodomy. However, he seems to have lost track of the amendments that were made in 1992.

Hon Peter Foss: They were made by the ALP.

Hon HELEN HODGSON: The 1992 legislation has the offence of sexual penetration, not sodomy, and the definition of sexual penetration includes a number of activities that do not involve anal sex; for example, introducing any part of the penis of a person into the mouth of another person - oral sex - and cunnilingus or fellatio. I am straying into the medical area here, but I understand these are not high-risk activities for HIV-AIDS, although there is always some transmission risk. To say that because a man is gay he must engage in anal sex and that is sodomy is not the way it works. Firstly, a homosexual man does not necessarily engage in anal sex; and, secondly, the activity with which we are dealing here - sexual penetration - goes far beyond sodomy.

I thank Hon Bruce Donaldson and Hon Derrick Tomlinson, who discussed the role of the Legislation Committee. I did say earlier that we are adopting all of the unanimous recommendations of the committee, and that is the reason we are having such an extensive debate on clause 1, because with the procedures that will be in place, the remainder of the debate will take place very quickly. I have addressed the issue of insurance in the context of the Attorney General's comments; that is, the assumption of health risk versus sexuality. Hon Giz Watson raised the practice of the Red Cross with regard to risk assessment.

With regard to the vulnerability of males and females, I do not know why there is such an insistence on the belief that there is a five-year difference in maturity between young men and young women. As I have said already, a 16-year-old woman may also be very vulnerable, and some of the behaviours that are perfectly legal, although not necessarily socially acceptable, involving an older man and a very young woman, may be just as distasteful as those involving an older man and a very young man. I do not accept the argument that there is a five-year difference in maturity between males and females.

Although people have raised the issue of workability, this is the only State in Australia that does not have equal opportunity protection for gay and lesbian people. Tasmania used to be the pariah. It is now Western Australia. Western Australia is also the only State in Australia that has maintained an age of consent for gay men as high as 21. The ages in the other States range from 16 to 18. Debates are raging in other States about equality, and we now have the opportunity to go from being the worst State to being the best State by having genuine equality, not only under the Equal Opportunity Act but also with regard to the age of consent under the Criminal Code. I believe I have addressed all the issues to which I need to respond, but if any member has further issues, I will be happy to address them as we proceed.

Clause put and a division taken with the following result -

Ayes (12)

Hon Kim Chance
Hon J.A. Cowdell
Hon E.R.J. Dermer

Hon G.T. Giffard
Hon N.D. Griffiths
Hon Tom Helm

Hon Helen Hodgson
Hon Norm Kelly
Hon Ljiljana Ravlich

Hon J.A. Scott
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (12)

Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Ray Halligan
Hon Murray Montgomery

Hon N.F. Moore
Hon M.D. Nixon
Hon Simon O'Brien

Hon Greg Smith
Hon W.N. Stretch
Hon Muriel Patterson (*Teller*)

Pairs

Hon Tom Stephens
Hon Christine Sharp
Hon Ken Travers
Hon Cheryl Davenport

Hon B.M. Scott
Hon Derrick Tomlinson
Hon Barry House
Hon M.J. Criddle

Clause thus negated.

Report

The Chairman reported that clause 1 of the Bill had been defeated.

As to Consideration of Report

HON HELEN HODGSON (North Metropolitan) [8.13 pm]: I move -

That consideration of the report be made an order of the day for the next sitting of the House.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon E.R.J. Dermer
Hon G.T. Giffard

Hon N.D. Griffiths
Hon Tom Helm
Hon Helen Hodgson

Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljana Ravlich

Hon J.A. Scott
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (12)

Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Ray Halligan
Hon Murray Montgomery

Hon N.F. Moore
Hon M.D. Nixon
Hon Simon O'Brien

Hon Greg Smith
Hon W.N. Stretch
Hon Muriel Patterson (*Teller*)

Pairs

Hon Tom Stephens
Hon Ken Travers
Hon Cheryl Davenport
Hon Christine Sharp

Hon B.M. Scott
Hon Derrick Tomlinson
Hon Barry House
Hon M.J. Criddle

Question thus passed.

REAL ESTATE LEGISLATION (FIDELITY GUARANTEE FUNDS) AMENDMENT BILL 1999*Second Reading*

Resumed from 23 November 1999.

HON BOB THOMAS (South West) [8.17 pm]: The Opposition supports this Bill. The Government has dragged its feet with this legislation, as it should have been introduced into Parliament a long time ago to provide some protection to people who have purchased businesses or houses or who have had some interaction with conveyancers. Nevertheless, the Opposition is happy that, in some cases, the statute of limitations has been increased from a one-year minimum to a maximum of six years. That is a good thing. However, the legislation does not go far enough. The Government should have done more and included other types of agents and people involved in the real estate and mortgage industry in the scope of this Bill. A lot of debate is taking place in the community at the moment about mortgage brokers and other forms of investments. This legislation should have taken into account some sort of further controls over those people. The Opposition supports the legislation, although, as I have said, it believes the Government should have introduced it much sooner.

HON NORM KELLY (East Metropolitan) [8.19 pm]: The Australian Democrats support this Bill, the purpose of which is to extend the period during which people are able to make claims against defalcation. That period is extended from one year to three years. The Bill also gives the Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board discretion to accept claims that have been lodged in a period of between three years and six years after the defalcation has become known. The Bill provides for suitable transitional provisions for people who have made claims and whose claims have been rejected on the basis that they fall outside the current 12-month period. This will allow those people to obtain some relief through the claims they have previously made.

This Bill contains retrospectivity provisions which allow people to make claims that they previously would not have been able to make. In considering the implications, I looked at the available amounts in the fidelity guarantee funds. The 1998-99 annual report of the Real Estate and Business Agents Supervisory Board showed that at the end of June last year its fidelity guarantee fund contained almost \$23.5m. According to that annual report, current unresolved claims amounted to just over \$5.5m. Dealing with the Settlement Agents Supervisory Board fund, the reserve at the end of June last year was

\$6.9m, with claims - the annual report is confusing - of over \$1.8m, or a total of almost \$2m. On reading through those annual reports, it is apparent that those funds have suitable reserves to cover any additional claims to which this Bill will entitle people.

Like Hon Bob Thomas, I am also concerned about those matters which probably fall beyond the parameters of this Bill regarding the actions of particularly the Real Estate and Business Agents Supervisory Board. This is relevant to this Bill, because we are talking about available reserves in the fund to cope with these claims. I notice that in the Cohen decision of June last year, the Full Court of the Supreme Court ruled that mortgage broking activities were within the lawful scope of the activities of a licensed real estate agent. This has opened up a real hornet's nest about whether those people who have been affected by the failures of Global Finance Group Pty Ltd and Graeme Grubb Finance Broker - those investments total \$132m -

The PRESIDENT: Order! To which case is the member referring?

Hon NORM KELLY: To the Cohen decision of June 1999. I am citing this from the annual report of the Real Estate and Business Agents Supervisory Board.

Hon N.F. Moore: It hasn't got much to do with this Bill, has it?

Hon NORM KELLY: It has something to do with the Bill, as it relates to the ability of the fidelity guarantee fund to have sufficient reserves for the people who are making claims against it.

Hon N.F. Moore: Are you suggesting that we get rid of the retrospectivity aspect?

Hon NORM KELLY: No, not at all. I reassert my opening position that the Australian Democrats support this Bill. I am just pointing out that unfortunately this has opened up a far wider scope. When I met with the Real Estate Institute of Western Australia last year, it was concerned about real estate agents being required to look at the amount contributed to the fund if the scope were broadened.

I am happy that the Real Estate and Business Agents Supervisory Board has tidied up its proceedings so that it now institutes formal hearings for all claims. This followed a District Court of Western Australia decision which highlighted that previously these claims could be looked at in an informal manner, but the board is now taking a far more professional approach by conducting formal hearings. The Australian Democrats support the Bill. It is sensible legislation which will increase the rights of legitimate claimants to access the fidelity guarantee funds.

HON J.A. SCOTT (South Metropolitan) [8.25 pm]: Much of what needed to be said about this Bill has already been said. The Greens (WA) support the Bill. It will be good to extend the time given to the consumers of real estate services to make claims against the fidelity guarantee fund when there have been actions which worked against them. I find no problems with the Bill, and we will support it. I think the only problem I had was with the word "defalcation". At first I had a few misunderstandings about what it meant. However, it is good to learn a new word.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [8.26 pm]: I thank members of the opposition parties for their support of this Bill. It is obviously heading in the right direction in respect of the rights of people who may have had a problem with a real estate or business agent or a settlement agent. As members have said, this Bill extends the time within which people can make a claim against the fund. It is retrospective, which means that people who have in the past been ineligible because of the 12-month limit will now be eligible. We understand that something like 15 claimants may now wish to proceed because of the new time frame. It will be good news to them that this Bill is being passed through the Parliament, because they will now be able to have their claims heard, whereas otherwise they would not have been able to do so.

Dealing with the available funds, the figure is now about \$24m for the Real Estate and Business Agents Supervisory Board fund, and I am told the figure for the Settlement Agents Supervisory Board fund is about \$7.5m at the moment. Therefore, there seems to be adequate money for any retrospective claims that might be made on those funds. Hon Norm Kelly raised the decision in the Cohen case. That is an interesting decision which will need to be contemplated in the future. I understand that the potential liability there is about \$2.5m, which will not send the fund broke - certainly not in the short term.

This is a good piece of consumer legislation. It gives consumers of the services of real estate and business agents and settlement agents the ability to make further claims against the funds in the event that they suffer from the fraudulent activities of any agents. I am pleased that the House did not dissolve into a dispute about finance brokers or mortgage brokers, because, frankly, the Bill has nothing to do with that. Therefore, I thank members for their support and commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [8.29 pm]: I move -

That the House do now adjourn.

Eaton High School Construction - Adjournment Debate

HON BOB THOMAS (South West) [8.30 pm]: I will not delay the House unduly. My colleague Hon Tom Helm has indicated that he wishes to make a contribution to this debate, and he is on his way.

I commend the Leader of the Opposition, Dr Geoff Gallop, for making an announcement in Bunbury on Sunday that if a Labor Government is elected at the next state election, it will proceed with haste to build a new high school at Eaton. This will be a staged development beginning with a year 8 to 10 facility, with the capacity to expand to years 11 and 12 if and when demand warrants it. This is good news. The latest Australian Bureau of Statistics figures indicate that Eaton is the fifth fastest growing suburb in Australia. It is exceeding all the population growth predictions made from the previous census figures. The townsite of Eaton has over 6 000 residents, and it was not predicted to reach the 6 000 mark until about 2011.

Eaton is close to Australind, and most students from Eaton attend Australind Senior High School, which was built for about 1 000 students. Australind had 1 370 students at the beginning of this school year, and it utilises 13 transportable classrooms. It is well and truly overcrowded. Australind, a fast growing area, was predicted to have about 17 000 residents by the end of next year, and it has well and truly exceeded that figure already. It recently took on upper school students from Harvey. Therefore, its capacity to meet the increased student numbers is poor because of this overcrowding. There are 340 students already travelling from the Eaton township to Australind Senior High School, and that figure will increase as population growth continues. This will compound the problem of overcrowding with students from the fast-growing Australind and Harvey areas.

It makes sense to build a school in Eaton. It is good news for Eaton as this new suburb has few social and sporting facilities. This decision will allow a Labor Government to provide extra facilities for Eaton through a shared-facility arrangement with the Dardanup Shire Council. A state-of-the-art library will be provided by amalgamating the existing shire library with the school library. We will also provide playing fields by sharing those facilities with the Dardanup Shire, and the Eaton Boomers - members would remember this Boyanup-Capel-Dardanup team - will be housed at this shared facility. It makes a lot of sense to build the school in that area. It further indicates that Labor Governments recognise the needs of the fast growing areas of the northern suburbs of Bunbury. While in government, we built three new schools - namely, Australind Senior High School and Clifton Park and Parkfield Primary Schools. We also built a university within Bunbury. The Labor Government recognised the demand for facilities in this fast growing area of north Bunbury. The decision to build a school in Eaton is a continuation of the Labor Party's policy to meet the needs of the area. I commend the Leader of the Opposition, Dr Gallop, for making the announcement on Sunday.

Newman Dental Services - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [8.35 pm]: I thank my comrades for being patient, and I am sure they are keen to hear my comments on health services in rural and regional areas, particularly in the town of Newman. I released a press statement recently about circumstances not heard of in this country for some years; namely, the need for a man to pull out his own front tooth in his home because of an abscess under the tooth. Some severe changes have occurred in the provision of health services in rural and regional areas. A major issue in the town of Newman is the provision of dental services. We have not had a dentist in Newman for about eight months, and visits by dental practitioners were intermittent before that time. Our nearest dentist is located in Port Hedland, which is 400 kilometres from Newman.

The person with the tooth abscess is a single father of two small children and owns a car which probably would not travel 400 kilometres. After eight days of pain from the abscess, he took the tooth out himself to provide relief. He had as much relief as could be provided by the staff of the local hospital, who also feel the effects of the reduction in the patient assisted travel scheme for people with illness in Newman. The PATS guidelines are so narrow that it is difficult for people to access this service. This man was not eligible. Also, if he had taken the bus to Port Hedland, he would probably have needed to spend four or five nights there after treatment. Therein lies the problem.

For the past six months at least, my office has been trying to locate a dentist prepared to establish in Newman. We have searched high and low for some assistance. We talked to the Health Department, the local shire - whoever we could find. I have tracked down a dentist who is prepared to come to Newman given that some assistance will be available to him to operate a surgery for one or two days a week - whatever is necessary. I spoke to a person in the Health Department's dental division. When I asked about the assistance he could provide, he said he could provide none. I put the phone down and thought about this matter for some time. I wondered about the purpose of this health service. What is it supposed to do? I was advised that it provides assistance with dental care in rural and regional areas where it is needed. Newman is close to a number of communities in the Western Desert, such as Punmu, Cotton Creek and Jiggalong. Enough people reside in the area to warrant the provision of government assistance so a dentist can set up a surgery in Newman. A decent wage should be provided, and he or she could practise privately within the community at the same time. It appears that out of sight is out of mind.

Newman has a population of about 3 000 people, and has suffered a severe downturn in population since BHP carried out its rationalisation trick. People in Newman accept the fact that by choosing to live there, some disadvantages as well as advantages are involved. Nevertheless, it is totally unfair to expect people to provide their own dentist. We are not in the wild west on the wagon train, and this town produces a great deal of wealth for this State. One would expect that someone would have wised up after eight months and thought about providing a mix and match of public and private dental services. I hear stories about the local doctor pulling out young children's teeth. Health practitioners, if that is the right name for them - doctors and nurses - say that if one's oral health is inadequate, there is a good chance it will affect one's general

health and one will become seriously ill if one does not receive some attention. We have not had a school dental nurse in Newman for quite some time although we understand from the Education Department that there are funds for one. We are not impatient; we understand that Newman is not the best place in the world to staff, but after a certain length of time one begins to wonder whether the Government is dinkum about providing services. Towns smaller than ours have a dentist. A dentist visits Tom Price and Paraburdoo once a week and I might encourage him to visit Newman. However, until we can get some sort of understanding about the terms and conditions on which he might come, we will be left without a dentist.

In taking the opportunity to bring this matter to the attention of the House during the adjournment debate I am not necessarily having a go at the Government; I might just be having a go at the Health Department as that is where the confusion appears to lie. The Health Department has a section whose role I believe is to look after the dental needs of people, yet it says it cannot play a role in meeting the needs of Newman. Apart from the fact that the people in Newman can afford to pay for a dentist - that goes without saying - many indigenous people have a real problem in getting to Port Hedland and do not see a dentist at all because there is not one in town. I hope the Government takes notice of this and is able to look at the position we are in. I have tried to do this at a local level and keep it at the local level but I am not getting anywhere. This is a cry for help on behalf of the people of Newman so we can receive some services which are, and should be, taken for granted in the metropolitan area.

Question put and passed.

House adjourned at 8.43 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT VEHICLES, SALE TO WESTFLEET

332. Hon LJILJANNA RAVLICH to the Attorney General representing the Treasurer:

- (1) How much did the State Supply Commission sell the Government passenger and light commercial fleet to Westfleet?
- (2) How much has it cost for the State Supply Commission to hire the vehicles from Westfleet and on-hire them to Government agencies?
- (3) What was the total sales shortfall for retiring vehicles at present?
- (4) What is the benchmark interest rate at which Treasury can borrow under the funding agreement for fleet financing and leasing?
- (5) What is the aggregate cost of Financial Institution and Stamp Duty at present which the State Supply Commission is obliged to reimburse Matrix?
- (6) Will the Minister for Services table the 31 key economic assumptions which form the basis of the fleet financing and leasing funding model?
- (7) Will the Minister table the risk assessment undertaken by CAMS which identifies the key risks the fleet contracts present to Government?
- (8) How many vehicles have not been returned to the responsible fleet manager on time and what has been the cost to the State Supply Commission of these late returns in each of the following years -
 - (a) 1996/97;
 - (b) 1997/98; and
 - (c) 1998/99?
- (9) How much is the Treasurer's Advance to the State Supply Commission to avoid the possibility of late payments of rent?
- (10) How much of this is used at any one time?
- (11) What is the average net sale price achieved for passenger vehicles sold from the Government fleet at present?
- (12) What is the national average trade price for equivalent vehicles?
- (13) What is the average net sale price achieved for commercial vehicles sold from the Government fleet at present?
- (14) What is the national average trade price for equivalent vehicles?
- (15) How much was spent by CAMS for -
 - (a) repairs to restore vehicles to the state of 'fair wear and tear' required under the fleet financing and leasing funding agreement;
 - (b) detailing each vehicle; and
 - (c) providing an SGIO Auto Check;
 in each of the following years -
 - (i) 1996;
 - (ii) 1997;
 - (iii) 1998; and
 - (iv) 1999?

Hon PETER FOSS replied:

- (1) A total of \$115.4 million was paid into Consolidated Fund from the sale of the passenger and light commercial vehicle fleet during 1996/97.
- (2) The aggregate annual rental figures paid by agencies are as follows:

1996/97	\$12.5 million;
1997/98	\$20.1 million;
1998/99	\$26.8 million;
1999/2000 (four months)	\$12.3 million.

- (3) The current value has been actuarially assessed at approximately \$33 million. The actuary has also advised that this shortfall has been offset by a cashflow benefit of \$39 million over the same period.
- (4) The current benchmark interest rate is 5.62%.
- (5) The aggregate monthly cost of financial institutions duty and stamp duty reimbursed to Matrix is presently \$38,174.
- (6) The assumptions referred to are part of the contract documentation.
- (7) The risk assessment is detailed and relates specifically to contract provisions.
- (8) The number of vehicles returned late in the specified years is listed below. While the individual agencies may carry a cost in relation to specific vehicles, depending on market sale price, their payments for overdue vehicles benefit the transaction overall. Consequently, there is no net cost to the State Supply Commission from these occurrences.
- | | | |
|-----|---------|--------------------|
| (a) | 1996/97 | nil |
| (b) | 1997/98 | 173 |
| (c) | 1998/99 | 78 (up to October) |
- (9) The Treasurer's Advance available to support the fleet funding facility has a maximum draw-down of \$5 million.
- (10) The amount drawn down at any one time varies on a daily basis according to need. For the first quarter of the current financial year, the average daily draw-down has been \$421,400.
- (11) The average net sale price for passenger vehicles sold during the last quarter of 1998/99 was \$19,688.
- (12) As the average is dependent on the specific mix of vehicles included in the sales, it is not feasible to compare it with other external sales data that will have different demographics.
- (13) The average net sales price for commercial vehicles sold during the last quarter of 1998/99 was \$23,020.
- (14) See (12) above.
- (15) (a) work to bring vehicles up to "fair wear and tear" condition is the responsibility of individual agencies and the costs are not centrally recorded;
- (b)-(c) the average cost per vehicle was as follows:

	Detailing	SGIO Autocheck
1996	nil	nil
1997	nil	nil
1998	nil	nil
1999 (from May)*	\$105	\$52

* Prior to May 1999 these costs were met out of sale proceeds.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

726. Hon E.R.J. DERMER to the Attorney General representing the Minister for Federal Affairs:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Federal Affairs has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

732. Hon E.R.J. DERMER to the Leader of the House representing the Premier:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Premier has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon N.F. MOORE replied:

As at October 1999, the following information is accurate.

- (1) Western Australian agencies are required to be Year 2000 'ready' not 'compliant'. That is, agencies must be able to continue providing their services in the year 2000. Agencies are required to undertake remediation actions and prepare contingency plans to ensure continuity of services across the transition period. If it is appropriate not to be compliant in some areas, then that is the decision and responsibility of the agency Chief Executive Officer. As at October 1999, Western Australian Government agencies have reported an average state of readiness of 94%.
- (2) Not applicable.
- (3) Western Australian agencies are required to report on their planned inventory processes. As at November 1999, 82% of agencies have reported that they have completed 100% of their inventory process with a further 17% reporting 90-99% completion.
- (4) Not applicable.
- (5) Budgetary allocation of funds for Year 2000 activities is the responsibility of each agency. In their monthly reports to the Deputy Premier, agencies are required to provide an estimate of the amount spent on Year 2000 activities (budgeted and non-budgeted) and an estimate of the amount (budgeted and non-budgeted) further required to expend on Year 2000 activities. As of the end of October 1999, an estimated total of \$143,444,420 was reported by agencies to have been spent on Year 2000 activities with a further \$18,792,648 required to be spent to complete Year 2000 activities.
- (6) Not applicable.
- (7) All agencies are required to prepare contingency plans to ensure continuity of services into the Year 2000. As at October 1999, agencies have reported an average completion of contingency plans of 87%.
- (8) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

741. Hon E.R.J. DERMER to the Attorney General representing the Treasurer:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Treasurer has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what

date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?

- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

742. Hon E.R.J. DERMER to the Attorney General representing the Minister for Public Sector Management:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Public Sector Management has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 732 of 14/10/99.

CENTRAL WEST COLLEGE OF TAFE, BREACH OF RECRUITMENT SELECTION STANDARD

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

I refer to the Independent Review Report into the Central West College of TAFE and I ask -

- (1) Is the Minister for Public Sector Management aware that in September 1998 a selection panel comprising three senior managers was found to have materially breached the recruitment selection and appointment standard twice, including a breach of Standard 1.4 which states "*selection methods and their application are free from bias, nepotism and patronage*"?
- (2) Is the Minister aware that the chairperson of that panel is the director responsible for coordinating the implementation and maintenance of quality processes within the college, which includes the human resource standard?

Hon N.F. MOORE replied:

The following response was correct as at 15 February 2000:

- (1) The Minister is aware that in September 1998, an independent reviewer identified two breaches of the Recruitment

Selection and Appointment standard. The breaches were reported in the Public Sector Standards Commission 1989/99 Annual Compliance Report.

- (2) The Minister is not aware of the responsibility in the organisation of the chairperson of the selection panel.

CENTRAL WEST COLLEGE OF TAFE, BREACH OF RECRUITMENT SELECTION STANDARD

872. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:
I refer to the Independent Review Report into the Central West College of TAFE and I ask -

- (1) Is the Minister for Public Sector Management aware that the Managing Director of Central West College of TAFE concealed the material breach of Standard 1.4 from the claimant and his staff by deliberately misrepresenting the finding of the review?
- (2) Is the Minister aware that the Managing Director has since capriciously obstructed the claimants efforts to scrutinise the veracity of the Managing Director's representations by repeatedly refusing to make available a copy of the independent reviewer's report?
- (3) Can the Minister explain on what basis the Managing Director has justified this action?
- (4) Can the Minister explain why the Managing Director was not aware of his obligations of disclosure under the FOI Act?
- (5) Has the Managing Director's behaviour severely undermined the integrity of this independent review process?

Hon N.F. MOORE replied:

The following response was correct as at 15 February 2000:

- (1) No, however the Minister is aware that the breach of the Recruitment, Selection and Appointment Standard has been publicly reported in the Commissioner for Public Sector Standards 1998/99 Annual Compliance Report.
- (2)-(3) No. The Minister has been advised that in fact the Managing Director allowed the claimant to view the Independent Reviewers Report in his office on 15 September 1998.
- (4) The Managing Director advises that he is aware of his obligations under the Freedom of Information Act.
- (5) No.

CENTRAL WEST COLLEGE OF TAFE, MERIT SELECTION PROCESS FOR LECTURERS

873. Hon Ljiljanna Ravlich to the Leader of the House representing the Minister for Employment and Training:

At the end of last year, several experienced lecturers at the Centre West College of TAFE were displaced from their positions in a merit selection process.

- (1) Is the Minister for Public Sector Management aware that when these lecturers requested an independent review of the merit selection process, the Managing Director refused on the basis that he considered lecturers to be entry level appointments and, as such, were not considered eligible under the provisions of the PSM Regulations (Review Procedures)?
- (2) Is the Minister concerned that lecturing staff may not have any rights of redress for inequitable treatment under the Public Sector Standards Review process?

Hon N.F. MOORE replied:

The following response was correct as at 15 February 2000:

- (1) Yes. The Minister has been advised that the College's normal Recruitment, Selection and Appointment process was followed with the selection panels consisting of both College and Industry members. Several of the lecturers requested an independent review of the process be conducted. The Managing Director advised the staff that in accordance with the Public Sector Management (Review Procedures) Regulations 1995, they were not eligible for an external review. However the College was prepared to conduct an internal review along the same lines as an external review. An internal review was completed and found the recruitment and selection process to be in accordance with procedures.
- (2) Entry level lecturing positions do not have a right of review under these regulations. This is not peculiar as a similar process applies to public service and government officer Level 1 positions, social workers, librarians and engineers. Promotional positions such as Principal Lecturers positions do have a right of review.

CENTRAL WEST COLLEGE OF TAFE, MERIT SELECTION PROCESS FOR PANEL MEMBERS

874. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:
I refer to the Independent Review Report into the Central West College of TAFE and I ask -

- (1) Is the Minister for Public Sector Management aware that two of the panel members, including the chairperson,

underwent a merit selection process for their own respective positions soon after this review process was completed?

- (2) Can the Minister advise whether or not these breaches of the standard were taken into consideration when assessing the suitability of these officers for these senior management positions?
- (3) Is the Minister aware that the PSSC recently conducted an investigation into a number of dubious human resource practices within the college?

Hon N.F. MOORE replied:

The following response was correct as at 15 February 2000:

- (1) No.
- (2) The Minister has been advised all positions in the College are assessed on merit in relation to the skills and knowledge necessary to complete the duties of the position. The abilities required are outlined in the selection criteria for the position and consideration for the position is based on how well the requirements are addressed by applicants. All of the applicants for any one position are assessed in the same manner, against the same selection criteria.
- (3) The Minister is aware of a special review into Human Resource practices conducted at the Central West College of TAFE. A copy of the report was forwarded to the Minister from the Commissioner of Public Sector Standards.

PEARL BAY RESORT DEVELOPMENTS

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

- (1) In the period between February and August 1999 was any contact made by Pearl Bay Resort Developments to the Premier or his staff?
- (2) If yes,
 - (a) who made the contact;
 - (b) who did they speak to; and
 - (c) when was the contact made?

Hon N.F. MOORE replied:

- (1) On 18 February, 1999 the Premier, Minister for Lands, Minister for Tourism and representatives from Land Corp, DOLA, WATC, a probity auditor and the Principal Projects and Overseas Co-ordinator from the Premier's office, attended presentations by two developer proponents, including Pearl Bay Resorts, with an interest in the Gantheaume Point tourism development.
- (2) On or about 16 March 1999, Barry MacKinnon rang the Premier's Chief of Staff, to inquire as to the status of the proposal that was put to the Government.

NATIVE TITLE UNIT, MEETINGS WITH HON MARK NEVILL

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

- (1) On how many occasions since December 23 1998 has the Premier, members of the Native Title Unit or Consultants to the Native Title Unit met with Hon Mark Nevill in respect of the proposed Native Title (State Provisions) legislation?
- (2) In respect of each meeting, what was the date, the duration and who represented the Government at the meeting?
- (3) Was the purpose of each meeting -
 - (a) to seek the views of Hon Mark Nevill on what the legislation should address;
 - (b) to brief Hon Mark Nevill on the content of the legislation; or
 - (c) some other purpose, and if so, what was the purpose?

Hon N.F. MOORE replied:

- (1)-(3) It is the Government's position that discussions and meetings with members of Parliament are confidential.

MINISTERS OF THE CROWN, STAFF, VEHICLES, MOBILE PHONES, PAGERS AND CREDIT CARDS

1099. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

With respect to the Minister for Employment and Training's office -

- (1) Will the Minister indicate for each staff person working in the Minister's office as at 1 December 1999 the following details -
 - (a) name;
 - (b) level; and
 - (c) type of employment contract?

- (2) How many vehicles are attached to the office, what are the names of the staff to which they are allocated and under what scheme are they allocated to the staff member?
- (3) How many mobile phones are available at the Minister's office and to which staff are they allocated?
- (4) How many pagers are available and to which staff are they allocated?
- (5) How many government credit cards have been authorised for use in the Minister's office and to which officers have they been allocated?

Hon N.F. MOORE replied:

The following response was correct as at 24 February 2000:

Please refer to the answer given in response to question on notice 1088 of 9 December 1999.

GANTHEAUME POINT PROJECT, LETTER FROM MR ALLAN GRIFFITHS

1172. Hon GIZ WATSON to the Leader of the House representing the Premier:

With reference to the proposed Gantheaume Point development -

- (1) Has the Premier received a letter from Real Estate Agent Mr Allan Griffiths, of Broome in relation to the proposed Gantheaume Point development?
- (2) Has the Premier replied to Mr Griffiths?
- (3) Will the Premier table a copy of his reply?

Hon N.F. MOORE replied:

- (1) The Premier received a letter from Mr Griffiths dated 13 October 1999.
- (2) The Premier replied to Mr Griffiths on 29 October 1999 acknowledging his letter and referring it to the Hon Cheryl Edwardes, Minister for the Environment, for her consideration and direct reply.
- (3) Yes. [See paper No 809.]

GOVERNMENT CONTRACTS, SCOTT FOUR COLOUR PRINT

1243. Hon KEN TRAVERS to the Attorney General representing the Minister for Federal Affairs:

- (1) What Government contracts did Scott Four Colour Print receive in 1998/99?
- (2) For each contract, what was -
 - (a) the original tender cost;
 - (b) the actual final cost;
 - (c) the award date; and
 - (d) the completion date?
- (3) For each contract, how many companies tendered for the contract?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 1249 of 14/12/99.

GOVERNMENT CONTRACTS, SCOTT FOUR COLOUR PRINT

1249. Hon KEN TRAVERS to the Leader of the House representing the Premier:

- (1) What Government contracts did Scott Four Colour Print receive in 1998/99?
- (2) For each contract, what was -
 - (a) the original tender cost;
 - (b) the actual final cost;
 - (c) the award date; and
 - (d) the completion date?
- (3) For each contract, how many companies tendered for the contract?

Hon N.F. MOORE replied:

I am advised that:

Ministry of the Premier and Cabinet

- (1)-(2) Scott Four Colour Print printed and supplied cards and envelopes in December 1998 at a tendered and final cost of \$2,095.
- (3) Not applicable.

Gold Corporation

- (1) Scott Four Colour Print received the contract for the printing of The Perth Mint history book, "Striking Gold 100 Years of the Perth Mint" in 1998/99. Various other Gold Corporation publications have been printed by Scott Four Colour Print during 1998/99. However, this work has been performed under the direction of various creative agencies, and not under any contractual arrangements with Gold Corporation.
- (2) For the history book:
 - (a) \$57,535
 - (b) \$52,496
 - (c) 8 December 1998
 - (d) June 1999
- (3) Four companies submitted a tender for the printing of the history book.

GOVERNMENT CONTRACTS, SCOTT FOUR COLOUR PRINT

1258. Hon KEN TRAVERS to the Attorney General representing the Treasurer:

- (1) What Government contracts did Scott Four Colour Print receive in 1998/99?
- (2) For each contract, what was -
 - (a) the original tender cost;
 - (b) the actual final cost;
 - (c) the award date; and
 - (d) the completion date?
- (3) For each contract, how many companies tendered for the contract?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 1249 of 14/12/99.

GOVERNMENT CONTRACTS, SCOTT FOUR COLOUR PRINT

1259. Hon KEN TRAVERS to the Attorney General representing the Minister for Public Sector Management:

- (1) What Government contracts did Scott Four Colour Print receive in 1998/99?
- (2) For each contract, what was -
 - (a) the original tender cost;
 - (b) the actual final cost;
 - (c) the award date; and
 - (d) the completion date?
- (3) For each contract, how many companies tendered for the contract?

Hon PETER FOSS replied:

Please refer to the answer given in response to question on notice 1249 of 14/12/99.

GANTHEAUME PT, PEARL BAY RESORTS DEVELOPMENT

1404. Hon TOM STEPHENS to the Leader of the House representing the Minister for Lands:

As six months have now lapsed since the Government selected Pearl Bay Resorts Development to carry out a development at Gantheaume Point in Broome, can the Minister for Lands inform the House -

- (1) Have the developers now provided the Government with a bank guarantee of \$10m as a performance bond?
- (2) If not, why not?
- (3) When does the Government expect this performance bond to be paid?

Hon N.F. MOORE replied:

LandCorp

- (1) No.
- (2) The developer has not been able to provide a bond in the form requested under the terms of the Memorandum of Understanding.
- (3) The Government has notified the developer that its preferred developer status has been cancelled.

QUESTIONS WITHOUT NOTICE

STATE EMERGENCY SERVICE OFFICE, CARNARVON

827. Hon TOM STEPHENS to the Attorney General representing the Minister for Emergency Services:

- (1) When was the regional State Emergency Service office removed from Carnarvon?
- (2) Does the minister accept the local Carnarvon viewpoint that the closure of this office has made more difficult the emergency services coordination in the aftermath of the floods of cyclone Steve?
- (3) Will the Minister for Emergency Services ensure that the regional office is re-established in Carnarvon to ensure that the town and the region are equipped with locally based regional coordination?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) In 1997 the State Emergency Service's mid west regional officer was relocated to Geraldton to ensure provision of a more effective and efficient emergency service to the community.
- (2) Cyclones and floods affect areas, not just specific towns. It is critical for regional officers to be located in areas where they can best coordinate response to an event with all available resources. Mobile resources can be mobilised to any affected area at short notice.

In the recent cyclone-flood event, the mid west regional officer was involved in cyclone and flood activities occurring at up to six locations at the same time. This was done from a properly established regional operations centre with appropriate information technology and communication facilities capable of dealing with widespread emergency scenarios.

The regional headquarters coordinated SES unit activities, personnel, operational equipment and resources in support of local operations across the region. It received additional staff to do this on a 24-hour basis. Immediately following the flood event in Carnarvon, permanent SES officers visited the location in support of the local operation and provided expert advice and consultancy. Additional SES personnel were attached to assist the local recovery committee.

- (3) See (1) and (2).
- (4) Not applicable.

GOODS AND SERVICES TAX, PUBLIC TRANSPORT CHARGES

828. Hon N.D. GRIFFITHS to the Minister for Transport:

I refer to the impact of the goods and services tax on public transport charges.

- (1) Can the minister confirm that public transport charges will increase by 5.8 per cent as outlined by the Howard tax package?
- (2) If not, can the minister confirm whether the price increases will be higher or lower than those outlined in the tax package?
- (3) If the increases are likely to be higher, can the minister advise the House what are the expected increases?

Hon M.J. CRIDDLE replied:

- (1)-(3) The Department of Transport is carrying out an extensive study into the requirements. It will be less than 10 per cent and an announcement will be made in the near future as to the extent of those fares.

DISTRIBUTION ADJUSTMENT ASSISTANCE SCHEME, FULL DETAILS

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

Will the Minister for Primary Industry table full details, on an individual name basis, of every assistance payment that has been made to each milk distributor and vendor or former distributor and vendor under the distribution adjustment assistance scheme.

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. I am sure the member will understand that there is a need to collate the information from several sources and I ask that the question be placed on notice.

FREMANTLE PORT AUTHORITY, NORTH QUAY CONTAINER AREA

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

- (1) Did the Fremantle Port Authority carry out any land rationalisation studies for the North Quay container area designed around the retention of the grain silos; and, if so, will the minister table them?

- (2) What alternative uses did the FPA investigate for the North Fremantle grain silos?
- (3) What is the expected cost of the demolition of the grain silos?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Prior to 1997, the FPA established the need for additional container terminal land to cater for expected trade growth. In April 1997, the FPA engaged a team of national and international consultants with considerable expertise in port planning around the world. Their advice was that the location of the grain silos would prevent an efficient expansion and operation of the Patrick container terminal.
- (2) The analysis established that the land occupied by the silos was required for container handling. Alternative uses were ruled out because of the location of the silos within the operational area of the port preventing public access to the silos for public safety reasons.
- (3) The current estimated cost of the project is \$3.9m.

WALKWAY, OLD SWAN BREWERY SITE TO KINGS PARK

831. Hon HELEN HODGSON to the Attorney General representing the Minister for Planning:

- (1) Are there any plans to build a walkway or walking track from a point at or in close proximity to the old Swan Brewery site on Stirling Highway up to Kings Park?
- (2) If so, will the minister provide details of any such proposals?

Hon PETER FOSS replied:

- (1)-(2) The Western Australian Planning Commission has not received a proposal for a walkway or walking track from the old Swan Brewery site to Kings Park. The commission's approval of the Swan Brewery development application on 14 December 1999 maintains flexibility for such a connection to occur should it be required.

POLICE, COMMUNITY SUPPORT

832. Hon MURIEL PATTERSON to the Attorney General representing the Minister for Police:

Given the difficulty in getting witnesses to come forward to help police solve crimes, what efforts are the police making to ensure that they have greater support from the community; and, in particular, are these efforts being directed into regional areas?

Hon PETER FOSS replied:

I thank the member for some notice of this question. The Crime Stoppers program commenced operation in Western Australia in February 1995. Since its inception in this State, Crime Stoppers has performed a pivotal role in information gathering for many police operations, both large and small. The program is widely publicised in both the written and electronic media, and provides a conduit for members of the community to provide information to the Police Service. Callers come from all walks of life and have a variety of reasons for calling, including good citizenship. A caller need not give his or her name and is known only by a unique code number. This enables the caller to overcome a fear of involvement or retaliation, by remaining anonymous.

The Crime Stoppers program commenced operating in regional areas of Western Australia in February 1998. The Crime Stoppers regional program now operates in 14 regional centres. I will try to provide the member with the names of those centres. At each regional launch, local police were encouraged to liaise with their regional newspapers and other media outlets to publicise target crimes. As in the metropolitan program, requests for information about unsolved crimes are made quoting the Crime Stoppers toll free number, 1800 333 000. The regions are provided with support by members of the Crime Stoppers unit in the form of advice, promotional material and assistance, as required.

DAWESVILLE DEVIATION, COST

833. Hon J.A. COWDELL to the Minister for Transport:

- (1) What is the current estimated cost of the Dawesville deviation?
- (2) Does this include the cost of pedestrian underpasses?
- (3) Are those underpasses dependent on a local government contribution of \$650 000?
- (4) Does the cost estimate cover special noise inhibiting measures?
- (5) If yes to (4), what are those measures and their cost?
- (6) Is it anticipated that traffic lights will be necessary at Dawesville, Iluka and Ocean Roads?

Hon M.J. CRIDDLE replied:

- (1) The current total estimated cost of the Dawesville deviation project is \$12.7m. This includes land acquisition, project management, design and construction costs.

- (2) It includes the construction of two underpasses.
- (3) No. A commitment has been made by Main Roads to provide the underpasses.
- (4) Yes.
- (5) Open graded asphalt will be used as the final bituminous surface over the whole project to assist in reducing noise generated by traffic. Open graded asphalt will result in reduced noise levels compared with the chip seal surfacing used on other sections of the Perth-Bunbury highway. The estimated cost of providing open graded asphalt for the project is \$640 000. In addition, the design of the project includes locations where the road will be constructed lower than the surrounding ground level, thereby reducing traffic noise for adjacent areas.
- (6) Based on recent traffic modelling, no intersections connected to the Dawesville deviation are expected to require traffic control signals.

GOODS AND SERVICES TAX, TIMETABLE FOR PUBLIC SECTOR AGENCIES

834. **Hon LJILJANNA RAVLICH to the Attorney General representing the Treasurer:**

I refer to the six-stage goods and services tax implementation timetable for public sector agencies, as set by Treasury. How many agencies have not completed the following GST implementation stages as set out by Treasury -

- (1) Implementation coordination - which had a recommended completion date of 30 August;
- (2) Project scoping, planning and identification of GST issues - which had a recommended completion date of October 1999; and
- (3) Determination of agency administration changes required - which had a recommended completion date of mid-December 1999?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(2) None.
- (3) By way of context, agencies are free to develop their own goods and service tax plans and these plans may vary from the implementation timetable shown in Treasury's "GST Implementation Guide". The agencies' mid-December 1999 report to Treasury indicated that almost all agencies were in the process of completing tasks associated with the third stage of GST implementation. Treasury is unable to confirm exactly how many agencies have not yet completed stage 3. However, feedback from Treasury's extensive GST visits program, which commenced in January, suggests that only a small number of agencies are still to complete this stage.

KINGSTREAM PROJECT, VALIDITY OF SIGNATURE ON STATE DEED

835. **Hon GIZ WATSON to the Minister for Mines:**

With reference to the 1996 state deed purported to be signed by Leena Merritt in relation to the Kingstream project -

- (1) Has any investigation been carried out in relation to the validity of that signature?
- (2) If yes, what was the finding?
- (3) If no, will the minister initiate an investigation to determine the validity of that signature?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The original copy of the state deed when executed by the minister's delegate was forwarded to the National Native Title Tribunal on 3 July 1996 as required under section 34 of the Native Title Act. The Department of Minerals and Energy is unaware of any investigation into the validity of the signature.
- (2) Not applicable.
- (3) On the basis of the information available to the Department of Minerals and Energy, there are no grounds to query the validity of the signature on the state deed.

COUNTRY RACING CLUBS

836. **Hon GREG SMITH to the Minister for Racing and Gaming:**

Can the minister provide details of -

- (1) The number of country racetracks in Western Australia;
- (2) The number of country race meetings held in 1998-99; and
- (3) The stakes paid by country racing clubs in 1998-99?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) 38.
- (2) 207.
- (3) \$8.8m.

TRANSPORT OPERATORS, FATIGUE MANAGEMENT PLAN**837. Hon TOM HELM to the Minister for Transport:**

Given that the Department of Transport admitted that only 300 of the 1 000 transport operators replied to the written demand last year -

Hon M.J. Criddle: The written what?

Hon TOM HELM: The written demand that operators provide a fatigue management plan, how can the minister say that the non-legislative code of practice is working to provide proper control of fatigue in the trucking industry?

Hon M.J. CRIDDLE replied:

On Sunday I opened an international conference on fatigue management and transport. It is the fourth such conference and we are fortunate enough to have it here for four days; it ends tomorrow. The conference outlines all aspects of fatigue management and transport. It covers the range of transport including air, sea, road and rail. There has been a series of debates throughout the conference about the best way to handle fatigue. The discussion at the conference put to the test logbooks and their use in controlling time schedules and the time drivers spend behind the wheel. They are not necessarily the best way to control such things as some people go outside the guidelines.

We have a management plan in place in Western Australia. I launched the program in, I think, November of last year - it may have been earlier. It is designed to put in place a fatigue management system which will be embraced by the whole industry. We are reaching a stage at which the industry is starting to embrace that method of doing things. I do not think one particular method will deal with the issue across the board. It is a matter of recognising when one is getting close to a point at which one will go to sleep behind the wheel. That was brought out in the conference. There is a difficulty in that area but there are also difficulties in managing the time a person spends behind the wheel. Some people can drive for 14 or 15 hours without any problems. However, another person may have had strains while he was off duty; he might have been put under pressure and not taken time to sleep. If that person gets behind the wheel, he may well run into difficulty very quickly. An example was given to me recently of a truck leaving Perth and running off the road within an hour because the driver had fallen asleep. It is a matter of how drivers manage their time away from the wheel and how they manage their driving activity.

The Government has put in place a management system and there is a general acceptance that it is a way to go. The operators are taking a responsible attitude to the issue. There is a work safety and health requirement and that is how it is checked. We are getting closer to a very reasonable system in Western Australia. I am told that within six months we will be getting close to most of the transport operators having a fatigue management plan in place. That will give us a responsible way of dealing with the problem. There are all sorts of pressures in the trucking industry. Mistakes do not happen only from the driver not doing the right thing. They could also result from his having to deliver produce on time. There are all sorts of pressures on drivers including economic pressures. We are taking all those things into consideration and working towards what we think is a responsible way of handling fatigue management.

CARNARVON, FLOOD ASSISTANCE**838. Hon TOM STEPHENS to the Leader of the House representing the Premier:**

During his recent visit to Carnarvon, the Premier advised the residents of Kingsford that people whose homes were extensively affected by floods would receive financial assistance of \$1 000 per adult and \$500 per child.

- (1) Will the Premier reassure those residents who suffered such damage only to the outside of their homes that they will still be eligible? If not, will the Premier change the guidelines to ensure that they are covered?
- (2) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(2) The personal distress and relief package extends to those householders whose houses were inundated by floodwaters as a result of cyclone Steve and who are assessed by the local recovery committee as being eligible for the relief payment.

HOME AND COMMUNITY CARE SAFEGUARDS POLICY**839. Hon CHERYL DAVENPORT to the Attorney General representing the Minister for Health:**

- (1) In how many languages other than English have the home and community care safeguards pamphlets been produced?

- (2) If none, why not?
- (3) What safeguards are in place to ensure that people from non-English speaking backgrounds and indigenous clients learn about the policy?
- (4) Are clients able to access interpreter services through the 1800 number set up by the Health Department to answer queries about the home and community care safeguards policy?
- (5) If not, what assistance is the Health Department able to provide to address queries relating specifically to the fee structure?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Sixteen.
- (2) Not applicable.
- (3) The provision of pamphlets in 16 languages other than English and of safeguards policy training to all agencies, including those servicing clients from non-English speaking backgrounds and indigenous clients, to enable them to appropriately inform their clients.
- (4) No.
- (5) The Health Department of Western Australia is able to put clients in contact with the HACC agencies delivering the services and/or advocacy agencies to access relevant information as it relates to the HACC agencies fee schedule and/or the industry recommended fee schedule. In addition, the Health Department has established an appeal mechanism in the event a client's issue relating to fees not being satisfactorily resolved with the HACC agency involved.

GUTHRIE CARDS

840. Hon NORM KELLY to the Attorney General representing the Minister for Health:

In reference to Guthrie cards -

- (1) Who retains legal ownership of the blood samples?
- (2) Are samples used for research?
- (3) If samples are to be used for research, is the consent of parents required?
- (4) If researchers are not provided with patient identifiers does the Health Department retain the ability to correlate research material with patient identities at a later date?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The hospital retains ownership of blood samples.
- (2) No research has been, is being, or is planned to be done on Guthrie cards.
- (3) Not applicable. Under the 1999 National Health and Medical Research Council Guidelines, if identifiable samples are used parental consent will be required.
- (4) No.

EDUCATION DEPARTMENT, RM AUSTRALASIA PTY LTD

841. Hon E.R.J. DERMER to the parliamentary secretary representing the Minister for Education:

I refer to the Minister for Education's advice of 15 March 2000 that the assessment of the performance of RM Australasia Pty Ltd pursuant to its contract with the Education Department of WA is ongoing. To date, what deficiencies in the performance of RM Australasia has the Education Department of Western Australia identified or had brought to its attention?

Hon BARRY HOUSE replied:

I thank the member for some notice of this question. RM Australasia Pty Ltd continues to meet its contractual obligations. As mentioned in previous responses, the performance of RM Australasia Pty Ltd will continue to be monitored and forms part of the evaluation of pilot phase II.

HOSPITAL WARD, THEATRE AND CLINIC CLOSURES, EASTER

842. Hon KEN TRAVERS to the Attorney General representing the Minister for Health:

I refer to the Minister for Health's answer last week to my question on ward, theatre and clinic closures that will occur over Easter.

- (1) Why were the details of closures at the Joondalup and Peel Health Campuses not included in the list provided?
- (2) Will the minister now provide the details for closures at these hospitals?
- (3) If not, why not, and how are residents in these areas expected to obtain details of the operation of the public hospitals if the minister will not provide them?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The response was in relation to government-owned hospitals.
- (2)-(3) Joondalup Health Campus: No wards will close; theatres will offer urgent and emergency services only; and all clinics will be closed for the Easter period.

Peel Health Campus: No wards will close; theatres will offer urgent and emergency services only during the period 20 to 26 April; and all clinics will be closed for the Easter public holidays only.

PYRTON PRISON SITE

843. Hon DERRICK TOMLINSON to the Minister for Justice:

As a prelude I note that on Sunday part of the Pyrtton site owned by the Disability Services Commission was proclaimed a prison. Does that proclamation eliminate a requirement that development approval be given by the Western Australian Planning Commission before the site may be redeveloped as a minimum security women's prison?

Hon PETER FOSS replied:

By correction, it was proclaimed on Friday, not Sunday. No.

PRISONS, NURSES

844. Hon BOB THOMAS to the Minister for Justice:

Further to question on notice 999 of 1999 -

- (1) What is the reason for the different cost of nursing per detainee per annum between metropolitan and regional adult detention centres?
- (2) What is the reason for nurses in regional prisons, Bandyup Women's Prison and juvenile detention centres being employed under an award different from that of their counterparts in metropolitan prisons?
- (3) Will the minister confirm the accuracy of his answers to parts (4) and (8) of question on notice 999 of 1999?
- (4) Will the minister complete the answer to part (6) of that question?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Twenty-four hour a day nursing care is provided at Bandyup, Hakea and Casuarina Prisons - these are maximum security prisons; the high turnover rate of prisoners; and Casuarina Prison has an infirmary and crisis care unit.
- (2) The industrial coverage of nurses in Ministry of Justice prisons and detention centres results from longstanding award arrangements in place before the ministry was formed. The coverage of hospital officers in the Casuarina and Hakea Prisons arose from the translation of previous coverage by the Western Australian Prison Officers Union under the Gaol Officers Award following the closure of Fremantle Prison. The coverage of nurses in all other sites was established in the Nurses (Welfare and Corrections) Award No 4 of 1965, an award of the Western Australian Industrial Relations Commission since superseded by the Federal Nurses (ANF - WA Public Sector) Award 1994.
- (3) Part 4: Yes. However during this financial year all regional prisons except Albany Prison have been provided with a part-time medical records officer to assist with records, a duty which was previously performed by nursing staff.

Part 8: Yes. The information is accurate as at 10 December 1999. However, the figures provided are full time equivalents and not actual persons; that is, there may be two or more individual employees held against one FTE
- (4) Regional prisons have adequate after-hours on-call procedures and have constant interaction with the local public hospital to cater for any after-hours emergency. With these procedures in place there is insufficient justification for the cost of 24 hour a day nursing.

High risk health-affected prisoners are transferred to metropolitan prisons - mainly Casuarina and Bandyup - which are equipped with adequate facilities and nursing care to accommodate these prisoners.

GOVERNMENT VEHICLE FLEET, SURVEY

845. Hon G.T. GIFFARD to the minister representing the Minister for Works:

I refer to a vehicle fleet survey initiated in July 1999 to obtain a snapshot of the government fleet prior to the implementation of the Government's new fleet policy.

- (1) Who conducted the survey?
- (2) How many agencies responded to the survey?
- (3) What were the key findings of the survey?
- (4) Will the minister table the survey and the results?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of the question.

- (1) The Department of Contract and Management Services on behalf of the fleet steering committee.
- (2) 142.
- (3) The survey results are still being analysed. Some agencies with a significant number of vehicles are still working with CAMS to complete the survey.
- (4) Yes. The results will be tabled when the analysis is completed.

CARNARVON, SOIL RECOVERY PROGRAM

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

- (1) Will the soil recovery program for flood-affected properties in Carnarvon assist residents, small businesses and growers; and if not, why not?
- (2) Will soil replacement be immediately available; and if not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1)-(2) A subcommittee of the local Carnarvon recovery committee is preparing advice on how topsoil replacement can be best managed and implemented.

WESTAR RULES, COUNTRY TOWNS

847. Hon B.K. DONALDSON to the Minister for Sport and Recreation:

Can the minister advise which country towns will host Westar Rules games this year under the Government's country sport enrichment scheme?

Hon N.F. MOORE replied:

I thank the member for some notice of this question, because it is a very good news story. In conjunction with Westar Rules I announced today that four country centres would host -

Hon E.R.J. Dermer: Why not table a set of fixtures?

Hon N.F. MOORE: Does not Hon Ed Dermer like good news? I am giving the member the story. If he were a country member he would be sitting on the edge of his seat waiting for me to announce which towns will get the games. Obviously the member is not interested in what goes on in country Western Australia, which is typical.

Several members interjected.

The PRESIDENT: Order! I know that some members have asked questions, but other members still have not had an opportunity to speak.

Hon N.F. MOORE: We have arranged with Westar Rules to hold four games this year in country Western Australia. The first will be in May in Esperance when West Perth will play Peel Thunder. On 30 June, East Perth and Claremont will play in Karratha. On 1 July, Subiaco and Swan Districts will play in Kununurra and on 5 August, Perth and Claremont will play in Toodyay.

The Karratha and Kununurra games will be played at the same time as the Olympic torch will visit those centres, and will provide a good opportunity for the towns to celebrate a number of sporting activities on the one occasion. The weekend of 30 June to 1 July will be a big weekend in Karratha and Kununurra from a sporting perspective. The Toodyay game will be held on 5 August in conjunction with the Avon descent. The intention of the Government is to add a number of other activities in Toodyay and the Avon Valley to coincide with the Avon descent and to make it more of a festival in the Avon Valley than simply the race itself. This game will be played on the Saturday afternoon of the Avon descent in Toodyay

and will provide a good opportunity for people who are in Toodyay for the Avon descent to enjoy a game of Westar Rules. The Government appreciates very much the support Westar Rules has provided to the country sport enrichment scheme to which Hon Bruce Donaldson referred. This scheme is a government initiative which provides an opportunity to give money to sporting clubs and associations to hold sporting events of an elite nature in regional Western Australia. Westar Rules was kind enough last year to hold a game in Exmouth and a game in Moora, both of which attracted more spectators than did most games in the city. In addition, there was the interstate game between Western Australia and Tasmania at Kalgoorlie last year which attracted 7 000 spectators, and was a major success. This scheme covers a number of games of other sports - basketball, soccer and cricket - and it is designed to give country people a chance to see elite athletes in action in their home towns. Another significant aspect is that most of these visits also involve clinics and coaching for young sports men and women by the elite players, who become role models for these young athletes. That is another very important part of the program.
