



# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT  
THIRD SESSION  
2000

LEGISLATIVE COUNCIL

Wednesday, 29 March 2000

# Legislative Council

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**THE PRESIDENT** (Hon George Cash) took the Chair at 4.00 pm, and read prayers.

## **TELECOMMUNICATIONS (INTERCEPTION) WESTERN AUSTRALIA AMENDMENT BILL 1999**

*Assent*

Message from the Governor received and read notifying assent to the Bill.

## **FLAME OF REMEMBRANCE**

*Statement by President*

**THE PRESIDENT** (Hon George Cash): The Speaker and I have approved a gas cauldron to be temporarily installed in the main foyer of Parliament House. On Thursday morning 30 March I will light the cauldron in the main foyer at 10.00 am symbolising the passing of the flame from the care of AlintaGas to the people of Western Australia. The flame which is to be used in the dedication ceremony at Kings Park was drawn from the eternal flame at the Australian War Memorial in Canberra in April 1997. The flame has since been kept alight at AlintaGas's research laboratory in Bentley. The flame will burn and be on display at Parliament House just prior to Saturday's ceremony. From 9.45 am on Thursday 30 March, when the flame arrives at Parliament House, until 2.15 pm on Saturday 1 April, an honour guard of scouts, girl guides and cadets will maintain a vigil over the flame.

More than 200 representatives from Western Australia's scouts, guides and cadets have been selected to watch over the flame in the lead up to Saturday's dedication ceremony at the State War Memorial in Kings Park. Groups of four representatives will carry out half-hour long shifts, standing to attention around the flame. The foyer of Parliament House will remain open to the public until 8.00 pm on Thursday and Friday nights. On Saturday 1 April at 2.15 pm, the speaker of the Legislative Assembly will transfer the flame to a specifically designed torch. An escort of veterans, scouts, guides cadets and community representatives and military personnel will then carry the torch from Parliament House to the head of Fraser Avenue. A relay of 20 torch bearers will pass the torch along Fraser Avenue to the State War Memorial precinct in time for Her Majesty, Queen Elizabeth II's arrival. Her Majesty will light the flame of remembrance as part of the official dedication ceremony commencing at 2.30 pm.

## **MONOCULTURE TREE FARMING, BAN ON SPRAYING**

*Petition*

Hon Bob Thomas presented the following petition bearing the signatures of 1 132 persons -

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

We, the undersigned respectfully request the Parliament to urge the Government to take action to ban completely the aerial spraying of intensive monoculture tree farming in the Great Southern. The reasons are; the extreme toxicity of the pesticides used and spray drift which is almost impossible to control. We remind Parliament that the local residents use rain water from their roofs for drinking and that Rogor, one of the chemicals used, is extremely toxic to birds, fish, invertebrates and is highly toxic to mammals and bees.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 823.]

## **STANDING COMMITTEE ON LEGISLATION**

*Forensic Procedures and DNA Profiling, Comments on the Government's Response to the Forty-eighth Report*

Hon B.K. Donaldson tabled the Legislation Committee's comments on the Government's response to the committee's forty-eighth report dealing with forensic procedures and DNA profiling, and on his motion it was resolved -

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

[See paper No 824.]

## **DAMPIER TO BUNBURY NATURAL GAS PIPELINE, TABLING OF DOCUMENTS**

*To be Motion No 1 on Next Day of Sitting*

**HON N.D. GRIFFITHS** (East Metropolitan) [4.04 pm]: I move -

That motion No 14 be motion No 1 at the next day's sitting.

Question put and a division taken with the following result -

## Ayes (16)

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

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

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

Hon Tom Stephens  
Hon Ken Travers  
Hon Giz Watson  
Hon Bob Thomas (*Teller*)

## Noes (15)

Hon M.J. Criddle  
Hon Dexter Davies  
Hon B.K. Donaldson  
Hon Max Evans

Hon Peter Foss  
Hon Ray Halligan  
Hon Barry House  
Hon Murray Montgomery

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

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

## Pair

Hon Cheryl Davenport

Hon Derrick Tomlinson

Question thus passed.

### TENDERING FOR LOCAL CONTRACTS - REVIEW OF GOVERNMENT POLICY

#### *Motion*

Resumed from 23 March on the following motion moved by Hon Tom Helm -

That the Minister for Works and Services reviews state government policy of amalgamating small and medium sized contracts which ties local contracts to similar contracts statewide and prevents local contractors and suppliers tendering for local contracts.

**HON GREG SMITH** (Mining and Pastoral) [4.13 pm]: When the debate on this motion was adjourned last week, I was recapping on the fact that before we came into government, a lot of the contracting in this State was done by government bodies. However, because most of the people in this Government come from a business background, this Government has the fundamental belief that business people are the best people to run business, and the job of the Government is to provide the core services for which the Government has responsibility. We formed a structure where businesses could take over much of the contracting that the Government had been doing. We have given businesses in regional areas the opportunity to access work that they did not have the opportunity to access previously. Many of the small business people to whom I have spoken in my electorate are very happy with the way the Government has conducted its tendering business. However, as always happens in a tendering process, some people are not successful in getting a tender. The penny dropped last week when the Leader of the Opposition referred to some people in Carnarvon who had missed out on something, and it dawned on me after I had done a bit of homework that members of the Australian Labor Party believe that their friends should get all the work, because that is the way they used to do it and is what was accepted when they were in government, and they cannot understand why their friends are not getting the contracts now. We do not give the contracts to our friends. We carry out a thorough tendering process that is completely transparent. A few questions have been raised, but there has never been any proof of any malpractice in the tendering process.

Hon Kim Chance: Of course not, because we can never get to see the contracts.

Hon GREG SMITH: They are all on the Internet.

Hon Kim Chance: Come on! Is the Matrix contract on the Internet?

Hon GREG SMITH: The Department of Contract and Management Services posts on the Internet all of its contracts, and the successful tenderers, and I think it even goes as far as posting the prices. We cannot be any more transparent than that.

Hon Kim Chance: I will have a look for the Matrix contract then.

Hon GREG SMITH: Originally when I looked at the motion I thought it was fair enough and we could review the policy and try to share the work around even more. However, when I looked at the motion more carefully, I saw that it was completely wrong, because the Government has no policy whatsoever of amalgamating small contracts into larger contracts. In fact, in some circumstances we have broken up big contracts to make them into smaller contracts. The motion is also completely flawed in proposing that the Government has a policy of amalgamating small and medium sized contracts which ties local contracts to similar contracts statewide, because our policy is to give regional suppliers and contractors access to government work. That is demonstrated by the fact that last year, 88 per cent of all the contracts awarded by CAMS' regional offices went to local suppliers. Now, between \$130m and \$150m worth of work goes to regional suppliers. This is the result of a deliberate attempt by the Government to put some of the money that it is spending back into regional areas and communities, because we know that vitality in country towns is created by having prosperous small businesses. The Government has no control over all of the services that are provided in regional areas. For example, the Government has no control over what the banks do. The Government can try to encourage a bank to stay in a country town, but at end of the day it cannot make it stay. However, by contracting out many of the smaller and larger contracts, we have provided a nucleus of work in regional areas that is keeping contractors in those areas.

The Government does not just decide to let a contract. It has established a small business procurement advisory council on which a range of industries is represented. The structure that the Government has put in place for tendering and for

procuring contractors has been recognised by other government purchasing jurisdictions around the nation, and every State is now looking at that framework -

Hon Tom Helm: Not the Labor States, comrade.

Hon GREG SMITH: The States that have Labor Governments will move back to a situation where the Government does everything and runs up the credit card bill and sends the State broke again, as they have done in every instance.

Hon Kim Chance: What was your Government's deficit last year - \$638m!

Hon GREG SMITH: We are extremely good financial managers. Our financial management of this State is beyond question. Who got this State an AAA credit rating, and who lost this State's AAA credit rating?

Hon Kim Chance: For how long will you keep it?

Hon GREG SMITH: Just to demonstrate how many contracts have been awarded and that they are not all amalgamated into big contracts - although there are still some big contracts; we will not argue with that - 1 003 building contracts were awarded in 1998-99. Seventy-five per cent of the contracts were for less than \$100 000, and 65 per cent of those were for less than \$50 000. It is wrong for members to say that they are all big contracts or that we are combining regional contracts and making them into big contracts.

Hon Tom Helm: To whom do those contracts go?

Hon GREG SMITH: They go to small business people in regional areas. These businesspeople are picking up work which they have never had the opportunity to pick up before. That is what is so good about the way the Government has changed the method of buying and purchasing services for the Government. Even some of the bigger contracts can be bid for by a consortium of firms, so it need not be just one company that provides the services for a big contract. Five separate companies bid for the contract for the building facilities management framework. They provide services to the Education, Police and Justice departments. When the bigger contracts are awarded, the facilities management contracts of the Department of Contract and Management Services have written into their conditions the need to source the large majority of works and services from local small and medium businesses and enterprises. Because CAMS has 14 or 15 regional offices, its officers can assist small businesses to get together and put in a bid. If no company in a town can handle a big contract because it does not have the diversity of equipment or expertise, CAMS will assist the local suppliers to put together a consortium bid so the local contractors can bid for the whole job in partnership. As a Government, we will try to refine and promote that because it is an excellent way of getting together some of the regional businesses which are not big enough to do the big jobs and awarding those bigger jobs to them. They miss out on some of the big contracts purely for logistical reasons; that is, they are not big enough to do the jobs. That is unfortunate, but it is a reality and the Government must live with the reality. At the end of the day we are spending taxpayers' money. We must find a balance between whether we spend that money in the most responsible way or whether we spend it in the most effective way for regional Western Australia. It would be great to have a charter which says that we do not care whether it costs us 30 per cent more to use local suppliers, we will do that just to give them the business. At the end of the day we must do it in a responsible way as well. The 10 per cent preference for regional suppliers is a fair figure. I have spoken to many regional contractors and they have expressed the view that 10 per cent is a fair figure.

Hon Kim Chance: We agree on that, but I do not think it always works.

Hon GREG SMITH: The figure of 10 per cent is on contracts valued at up to \$50 000; for example, we would not spend \$500 000 more of taxpayers' money on a \$5m contract just because it is 10 per cent cheaper. That is when we start being irresponsible with taxpayers' money.

Hon Kim Chance: Perhaps we should have a sliding scale.

Hon GREG SMITH: We could have a sliding scale. These matters must be perfected, and we can keep looking at them. When the term network contracts were being awarded, we as a Government recognised that there were some glitches because of their size. However, the minister has addressed that problem and has changed the method of dealing with the term network contracts so smaller contractors can have guaranteed access to the work.

Hon Kim Chance: The reason I said that is that today I received a letter which details the loss of a \$5.8m contract by a local builder because Multiplex's bid was \$7 000 cheaper than its bid. That is a crazy argument.

Hon GREG SMITH: With due respect, when I say that I find it hard to believe, I mean that I would like to see all the evidence. I am sure there would be a good reason for that, because there is the ability to do the work as well as the wish to do it. In many cases firms have a desire to put in a bid for the work and they put a price on doing the work. However, we then must do due diligence and look at the company. If there is a major hiccup somewhere along the line, and the company cannot handle the contract financially and goes bankrupt, subcontractors or other businesses in the town with which it has run up credit will not get their money. As a Government we must have a responsibility to ensure that when we award the contracts, the people who get them have the ability and financial background to fulfil the contracts. The member cannot give an example like that and say it is wrong without knowing all the details, because there could be some good reasons for that.

Hon Kim Chance: In this case the company which missed out was GBC, which has a better record on all those matters than Multiplex.

Hon GREG SMITH: I will not go on too much longer because the Minister for Transport will provide the details to the House. Members of the Opposition have not raised any cases that we can answer. They have brought some veiled -

Hon Tom Helm: Have you read my speech?

Hon GREG SMITH: I have looked at the member's speech. He has identified one awarded contract argument. I think it was the architectural contract, and the minister will touch on that. Without taking more of the House's time, the Government's contracting system is appreciated by regional suppliers. We are now putting money into regional areas and they have the ability to access work which they have never had the ability to access before. They are appreciative of it and they are using it. The Government will be refining and perfecting it, but it will be making it work to the best advantage of the taxpayers of Western Australia and regional contractors, and everyone will be a winner.

**HON G.T. GIFFARD** (South Metropolitan) [4.26 pm]: I support this motion principally because the effect of the policy is to centralise who receives government contracts.

Hon Greg Smith: How can you call 14 regional offices centralised?

Hon G.T. GIFFARD: The effect of the policy is to move towards the centralisation of those who receive contracts. The increase in the scale of the contracts which are let will inevitably limit the number of people who have the opportunity to tender for contracts and, therefore, will restrict those persons because they are incapable of tendering for contracts of a certain scale. The motion addresses the impact of the Government's contracting and tendering policies, particularly on regional suppliers and contractors. I take the view that it is a policy which, if pursued, will have a deleterious effect on regional Western Australians who seek that government work. It is a well-held view that critical services which are a lifeline to people living in the bush are under constant attack.

Hon M.J. Criddle: That is rubbish! I live out there. Some of the services in the bush are very good.

Hon G.T. GIFFARD: I am mindful that today's *The West Australian* reported Senator Crane as saying that there is high dissatisfaction with services in the bush. It was the minister's Liberal colleague who said that.

Hon M.J. Criddle: I do not care what they say; I live out there.

Hon G.T. GIFFARD: The minister can take it up with Senator Winston Crane.

Hon Kim Chance: And the federal government committee for that matter.

Hon M.J. Criddle: Everybody wants to tell us how bad things are.

Hon G.T. GIFFARD: The closure of banks, the withdrawal of government services and the critical shortage of general practitioners in the bush are just a small sample of the issues which confront regional Western Australians on a daily basis.

I accept that people are finding it difficult, which difficulty is exacerbated by a Government that seeks to pursue policies that are not well thought out. Ironically, it is a Government that claims to have done much to support and defend the interests of regional people. On a number of occasions during this debate, the Government has pointed to the regional buying compact as a proactive step in support of regional supplies. When it launched the compact it was heralded as a major breakthrough for regional suppliers. Sadly, what the Government gives with one hand it seeks to take away with the other. It gives with the regional buying compact and, to its detriment, it takes away by allowing - as evidenced by the concerns we have raised - non-compliance with the compact and having a policy of amalgamating small and medium contracts.

A couple of weeks ago in the Legislative Assembly, the Labor Party referred to the regional buying compact. I think it was the member for Bassendean who raised two issues in relation to the regional buying compact that he thought compromised its operation; that is, head contractors not being obliged to apply the regional buying compact when allocating subcontracts within a contract they had obtained, and payment arrangements under government contracts not always being secure, despite arrangements that the Government had in place. He made the point to the Assembly strongly that, as the spokesperson for small business, he had encountered instances in which the payment arrangements were found to be not secure.

The PRESIDENT: Order! The matters the member is raising are part of a debate in the Legislative Assembly. Legislative Council Standing Order No 94 is specific and provides that no member shall allude to any debate of the current session in the Assembly or to any measure impending therein. I allowed Hon Graham Giffard some latitude, but he cannot recite what occurred in the other place. I am sure he will be able to find words to express his view on issues that may have arisen from time to time in all sorts of places.

#### *Point of Order*

Hon GREG SMITH: Will you make the member aware, Mr President, of Standing Order No 83?

The PRESIDENT: Order! Standing Order No 83 reads -

Except when introducing a Bill or by leave of the President, no Member shall read his speech.

That standing order has been in this House probably since its inception. However, it is also able to be interpreted by me. I draw it to his attention, but I was not aware that he was reading his speech. If I think he is reading his speech I will let him know.

Hon G.T. GIFFARD: I have a number of documents and notes to which I am referring.

The PRESIDENT: Hon Graham Giffard is entitled to refer to what is sometimes called "copious notes". He will see other members doing the same.

Hon G.T. GIFFARD: I take exception to the implication; I was not reading the speech.

The PRESIDENT: I am drawing his attention to the standing order and I am saying I did not think he was reading his speech.

*Debate Resumed*

Hon G.T. GIFFARD: As I was saying, effectively the policy under discussion places monetary and logistical obstacles in the path of local contractors and suppliers tendering for local contracts. The Opposition says that the decision to amalgamate small and medium contracts not only ignores the fundamental regional consideration but also confirms the Government's lack of concern for Western Australians living in the bush. As I have indicated, the overall effect of this policy is to move towards centralisation of the allocation of contracts quite simply because smaller regional suppliers may not possess the means or resources to compile competitive bids for large tenders. Effectively, contractors and suppliers with greater resources and capacities to tender for large contracts have a greater chance of winning contracts that are made larger by amalgamation. People living in regional areas are at a disadvantage in seeking government work because they are limited in the work they can access. A policy that will further restrict that ability - the amalgamation of contracts - will also impede their ability to access government work.

I understand that any company wishing to bid for government building contracts to the value of, I think, more than \$200 000 must have what I believe is called a status. Before being granted that status, the Department of Contract and Management Services must assess the company's professional background to ascertain whether it has been bankrupt, etc, which is an obvious and valid consideration. Once that status has been awarded, the building company can tender for work.

One of the tenderers for the Wyndham sobering-up centre was Peter Ellis, whose building company is called PJ and T Ellis Builders. When Mr Ellis lodged his company's tender he inquired from the Kununurra CAMS office whether his application was in order. He was told that, to be eligible to be awarded the contract, his company must have D status.

Mr Ellis was advised at the time by a representative - not an office - of the Department of Contract and Management Services -

Hon Greg Smith: There is a CAMS office in Kununurra.

Hon G.T. GIFFARD: There is? In any event, Mr Ellis was told of his D status by a CAMS representative in Kununurra. On that basis, Mr Ellis lodged his tender some three weeks before the close of tenders. Subsequently, after the tenders had closed, he was advised of a problem with his tender as he did not have D status. Mr Ellis was then in a predicament because, had he been told he did not have D status when he inquired, he would have made an application then, would have been able to get it before the tenders closed and would have been eligible. He queried that advice and said it was not his fault, and an attempt was made to expedite his eligibility to proceed with the tender. He was advised that his tender was the lowest and that two other local building companies were in the same position as he was in as neither of them had D status. Regrettably, all three companies had been advised that they had D status, therefore none of them had applied to be so classified.

The matter is being considered by the minister. However, Mr Ellis, who stands to lose a contract in the order of \$800 000, will lose it on the strength of advice that was given to him by a CAMS representative, which is regrettable. Mr Ellis' commitment to completing the project is unquestionable. I refer briefly to a letter he wrote to Mr Derek Osborne, the contract consultant at the Kimberley CAMS. In that letter Mr Osborne said -

Due to the time of year our present workload is very light. This is one of the reasons that I have submitted a competitive tender on this project. Being a builder in the towns of Kununurra/Wyndham an opportunity to do a project such as this doesn't come by very often. It will keep us busy for quite a while and be a Building that me and my company can be proud of. I intend to make this project my number one priority. And to complete to a high standard and on time.

My purpose in reading that part of his letter to the House is to indicate that, like many people in the building game, Mr Ellis finds it tough from time to time to pick up work. This contract would have been a lifeline for him and the people who work for him. It is regrettable that he was given information that led him to a point where he is on the verge of losing a contract that he desperately needs.

Hon Greg Smith: You said the minister is looking at it.

Hon G.T. GIFFARD: Yes, the minister's office told me it is looking at it. Mr Ellis has had meetings with CAMS people who told him that nothing can be done. I rang the minister's office two or three times, said that CAMS had told Mr Ellis nothing could be done and was told, "Leave it with me, I will look into it." I have grave fears that a contract that Mr Ellis won absolutely fairly and squarely will slip from his grasp. The problem is that the second and third tenderers are in exactly the same boat. Who is the fourth tenderer? It is a Perth-based building company which has D status. I know that large company and it will pick up the work. However, a reasonably sized building contract slips through the fingers of a local building contractor. I highlight that as one of the difficulties when not many building contracts are available to be won.

Hon Greg Smith: There is no building boom in Wyndham at the moment.

Hon G.T. GIFFARD: No, and it is not the only town that is suffering. That is a fair enough comment. However, I spoke with Mr Ellis the other day. He put in a very competitive tender because he really needs the work. He said it is common for Perth-based companies to outbid him for government work in that area. He named a couple of Perth-based building companies; I will not name them in this place but they are familiar to me. It seems that these three companies are already under pressure to get work in an industry which has few contracts coming on stream for which they can tender. They are clearly not capable of tendering for very large contracts.

Hon Greg Smith: You referred to a Perth-based company. Other companies like the Geraldton Building Company, for example, have offices in other places.

Hon G.T. GIFFARD: That is right. I was not talking about GBC.

Hon Greg Smith: It has had offices there for 18 months to two years and it qualifies as a regional supplier. Even if John Holland Construction and Engineering Pty Ltd, for instance, had an office in Kununurra -

Hon G.T. GIFFARD: It is a Perth-based company which would probably offer some work to locals. The tragedy is that those companies take the cream off the top; that is the problem. Mr Ellis' building company submitted a very competitive tender; it was at least \$61 000 less than the fourth tender. CAMS and taxpayers will lose out on at least \$61 000 if he misses out on this contract. In addition, he has been informally invited to seek compensation for all the bother he has gone to. Those three companies are contemplating seeking compensation if they lose out on the contract. It may therefore turn out to be an expensive piece of bad advice. However, that is not my concern today; my concern is the difficulty people have in accessing a limited number of contracts.

The problems confronting regional suppliers and tenderers are not limited to larger contractors who squeeze out smaller regional suppliers, as I have alluded to in the case of Mr Ellis. The problem is that companies are not only missing out on contracts that are too large but also being given misinformation initially about whether they are eligible to submit a valid tender. Mr Ellis was told by CAMS that he had the appropriate classification and that he could tender for the contract, which he did. He was later informed that he submitted the lowest tender and that all he had to do was confirm the price in writing. He was initially advised that even though he put together the most competitive tender, it appeared he had not won the contract because he did not have D status.

Hon Greg Smith: Unfortunately, he did not get that in writing when CAMS gave him that advice.

Hon G.T. GIFFARD: No. However, in my initial contact with CAMS when I raised this issue and in my discussions with the minister's office, no-one said that the chap in the Kununurra office did not give that advice. I have raised it with three or four people and no-one has said that that did not happen. However, they have said it is Mr Ellis' responsibility to know what he is required to do and that they cannot interfere with the CAMS process. If I were to ask a bank teller how much I had in my account, I would not insist on seeing the bank manager once I was told the amount; I would accept the teller's word.

Those to whom I have spoken say that they cannot interfere with the process. I responded that when they provided that advice they had already interfered with it.

Hon Greg Smith: A minister must be very careful when he starts interfering with a tendering process.

Hon G.T. GIFFARD: The process was interfered with from the beginning. It is not a matter of a minister's saying that he will interfere in a process. He must look at it and say that it has been messed up by the department and that it needs to be fixed.

Hon Greg Smith: We are referring to one contract out of the thousands that are awarded. I can assure the member that it will be investigated.

Hon G.T. GIFFARD: I accept that one of the Hon Greg Smith's themes throughout this debate has been to provide the evidence.

During a discussion with another CAMS representative yesterday, Mr Ellis was told that it was of no advantage to him to have politicians involved in this matter.

Hon Greg Smith: Who told him that?

Hon G.T. GIFFARD: A representative from CAMS. That causes me concern. Why would a CAMS representative advise a person with a problem that it was not helpful to have politicians involved? We are simply trying to ensure that he is treated as fairly as he is entitled to be.

Hon Greg Smith: The CAMS officer would have been referring to not letting politicians interfere in the process.

Hon G.T. GIFFARD: It was not until we "interfered" that there was any momentum for seriously reviewing -

Hon Greg Smith: We are not talking about here and now. "Interfering" relates to the process while it is happening.

Hon G.T. GIFFARD: We have simply contacted the minister's office on a number of occasions to ask what is happening.

The initial reaction was that the officers could not see how they could do anything. I do not see how they could not. In the past few days I have been told they will get back to me. We live in hope that ultimately Mr Ellis will be treated fairly.

The reason for the motion is simply that the Labor Party is concerned that these small businesses will not get a chance to compete. We are concerned that small businesses, particularly in regional areas, cannot compete for contracts that are too large, too complex or too diverse.

Earlier today, the Minister for Works issued a statement relating to the Government's policy on contracting. He has announced a number of administrative changes to government contracting out with the view to devolving it even further. This will involve individual CEOs managing their own contracting out. Curiously, the minister said that there is a need for rapid reform. He intends to retain the Act as it is for the time being and to undertake a number of administrative changes. I am not exactly sure what he means by the need for rapid reform, and he did not explain it. However, he recognised that contracting out is increasingly complex, high risk and challenging, and that a complaints-handling process is required. That process must have some teeth. He also recognised the need to raise the professional standards and competence of the people who will be handling the contracts. He has launched into a transitional arrangement with the promise of further changes that will clearly be legislatively driven; that is, he is dependent on Parliament's making the changes. We do not yet know what the final shape of that legislation will be. Certainly, the Government does not know, because it must be passed by the Parliament. Because the minister thinks there is a need for rapid reform, we are about to go into a period of chaos as a result of ministerial changes and the promise of even more changes. I suspect that we are going from a situation that is not entirely satisfactory to a situation that is even less satisfactory.

I support the motion moved by Hon Tom Helm that the State Government review its policy on tendering for local contracts. I support it because the existing policy of amalgamating smaller contracts ignores consideration of jobs for people living in regional areas and creates a bias in favour of larger Perth-based contractors who are able to achieve greater economies of scale.

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [4.56 pm]: Today the Minister for Works announced a number of measures relating to this issue and a broad range of administrative changes that will enhance contracting services in regional and metropolitan areas. The State Supply Commission Board will act as a new contracting policy advisory council providing advice to the minister on government policies and the instructions needed to support effective contracting.

*Point of Order*

Hon TOM HELM: Will the minister identify the document from which he is reading and table it?

The PRESIDENT: The minister is required to identify the document to which he is referring.

Hon M.J. CRIDDLE: It is a media statement issued today by the Minister for Works. It is available.

The PRESIDENT: In due course, if Hon Tom Helm wishes, he can request that the document be tabled.

*Debate Resumed*

Hon M.J. CRIDDLE: The existing state tender committee will take on a wider role as proposed by the state contracting committee to review recommendations for high-value or high-risk contracts, to advise the Government on specific contract issues and to conduct investigations into contract and tender issues. The Department of Contract and Management Services will be responsible for continuing contract education and the training agenda and a review panel will be established to handle complaints. Any devolution of the contracting authority to government agencies as recommended by the review will be contingent upon the establishment of a rigorous risk management and professional competency framework. As I mentioned earlier, that announcement was made earlier today.

The premise behind the motion is inherently flawed. There is no State Government policy amalgamating small and medium-sized contracts. The short answer for Hon Tom Helm is that we cannot have a review of a policy that does not exist.

Debate adjourned, pursuant to standing orders.

**[Questions without notice taken.]**

**COURTS LEGISLATION AMENDMENT BILL 1999**

*Assembly's Message*

Message from the Assembly received and read acquainting the Council that the Bill had been ruled out of order as its introduction in the Council was contrary to section 46 of the Constitution Acts Amendment Act 1899.

**BUNBURY PORT AUTHORITY, EXCLUSIVE TOWAGE LICENCE**

*Statement by Minister for Transport*

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [5.34 pm]: Under the provisions of the Port Authorities Act 1999, a port authority must get the Minister for Transport's approval before it issues a licence giving a person an exclusive right to provide port services of a particular kind. The minister is not to give approval unless he considers that the public benefits of exclusivity exceed the public costs, and, on providing such approval, the minister must table in Parliament within



14 days the reasons for his decision to grant the exclusive licence. In July 1999, the Bunbury Port Authority invited tenders for the provision of towage services by way of an exclusive licence for five years with a possible extension to seven years. The tenders have been assessed and the board of the Bunbury Port Authority has awarded Riverwijs Pty Ltd preferred tender status subject to agreement being reached on the licence conditions and receipt of my approval for the issue of an exclusive licence. The present supplier of towage services in the port, Stirling Harbour Services Pty Ltd, a subsidiary of Adsteam Marine Ltd, took out an injunction against the Bunbury Port Authority in the Federal Court in an attempt to prevent it from continuing the tender award process. The company claimed that the authority was engaging in anti-competitive conduct. The merits of the authority pursuing the award of an exclusive licence were considered during this case and much expert advice was provided.

In his judgment, Justice French found that the issue of an exclusive licence did not breach the Trade Practices Act. In doing so, he considered the market for the provision of towage services at Bunbury to be a natural monopoly and that the tendering process offered the promise of competitive responses. Although all the costs and benefits of issuing an exclusive towage licence at the port of Bunbury are not readily quantifiable, a cost benefit analysis has nevertheless been performed. It is considered that all of the costs are minor; any net reduction in the work force would be minor and would be offset in public benefit terms by productivity benefits for port users; instead of reducing competition, the issue of an exclusive licence will introduce effective serial competition; and the issue of an exclusive licence will offer a successful tenderer the same economies of scale as a monopoly operator. Major productivity and pricing benefits would therefore result for port users, together with increased certainty of service continuity, quality and price.

For all of those reasons, I consider that the overall public benefits of exclusivity exceed the public costs, and I have therefore given approval for the Bunbury Port Authority to issue an exclusive licence for the provision of towage services at the port of Bunbury.

## **RESTRAINING ORDERS AMENDMENT BILL 2000**

### *Introduction and First Reading*

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

### *Second Reading*

**HON PETER FOSS** (East Metropolitan - Attorney General) [5.38 pm]: I move -

That the Bill be now read a second time.

I am pleased to present this Bill to the House. The Bill expands the protection afforded by the Restraining Orders Act 1997 with regard to children and proceedings in the Children's Court. It also grants power to courts exercising family law jurisdiction to make restraining orders under the Act. Finally, it clarifies the transitional provision of that Act in relation to the status of orders made previously under part VII of the Justices Act 1902.

With regard to children and proceedings in the Children's Court, the current provisions of the Restraining Orders Act provide that when a person to be protected by a restraining order is a child, application is to be made by a parent or guardian of the child. Experience has shown that this approach is too restrictive. In many cases the parent or guardian is either not prepared to make the application, cannot be located, or it is their conduct which has placed the child in the circumstances which warrant protection. This problem is particularly evident when a child has come to the attention of child welfare officers as being a person in need of care and protection. The Bill therefore seeks to amend the Act to expand the category of persons who can apply for an order on behalf of a child.

Currently a legislative void exists in regard to the guardianship responsibility for a child in the period between when a child comes to the attention of a welfare officer and when an order is made by the Children's Court making him a ward of the State.

There is also a period between when a child is apprehended under the provisions of the Child Welfare Act, as being a person in need of care and protection, and the making of an order by the court when a restraining order is necessary or appropriate. It is in this period that the current restraining order legislation requires the parent or guardian of the child to make the application. However, this is usually impractical.

It is therefore appropriate that a child welfare officer, being a person appointed as such under the provisions of the Child Welfare Act, be authorised to make an application for a restraining order on behalf of a child. The provisions of the Restraining Orders Act are also limiting in the circumstances under which a court, during the conduct of other proceedings, can make a restraining order. The Bill extends those circumstances to include the conduct of proceedings in the Children's Court when it is hearing care and protection applications. Under the Bill, the court will be able, on its own motion or on the application of a child welfare officer, to make a restraining order under the Act. A child welfare officer will also be able to reply on behalf of a child, to vary or cancel a restraining order, or to register an interstate or foreign restraining order.

The Bill seeks to extend the provisions of the Restraining Orders Act to a court hearing proceedings under the Family Court Act or the Family Law Act of the Commonwealth. Under the Bill, a court exercising family law jurisdiction may make a restraining order on its own motion, or on the application of a party to the proceedings or of a person who gives evidence in those proceedings.

Importantly, the Bill limits the making of an application for a restraining order in the Family Court, or a court exercising

family law jurisdiction, to situations in which the court is actually hearing family law proceedings. That is, parties will not be able to apply to the Family Court generally for a restraining order or to commence proceedings by filing such an application. This approach is reflected in the Bill because a well-established process exists in the jurisdiction of the Court of Petty Sessions to deal generally with the applications for restraining orders.

Situations often arise in family law proceedings when it becomes apparent that a restraining order is necessary or appropriate. The purpose of the amendments is to provide a court hearing family law proceedings with the ability to grant a restraining order, and for the parties and others involved, with the ability to apply for such an order. The Bill provides that a court exercising family law jurisdiction, when making a restraining order during the conduct of other proceedings, may make an interim order in lieu of the normal final order.

Such an approach is a practical necessity, as there is a potential for many applications for restraining orders to be made to the Family Court during the disposition of lengthy lists of family law applications. In these situations, there is insufficient time to hear the evidence of both parties and to make a final order. An interim order addresses this problem, with the matter then being adjourned for a final hearing on a date available for the taking of the evidence.

Breaches of restraining orders made by a court exercising family law jurisdiction will be instituted in a Court of Petty Sessions because a breach of a restraining order is an offence. The Restraining Orders Act provides that orders made previously under Part VII of the Justices Act are deemed to be misconduct restraining orders under the Act. However, the recent evaluation of the Act highlighted concern as to the willingness of Courts of Petty Sessions to exercise authority to vary such "old" orders. This concern was based around the beliefs of a number of magistrates that such orders were not "final orders" within the meaning of the Act. This is not the case, and certainly not the intent of the Act. Although the Act does not specifically make reference to these "old" orders within the definition of "final order", these "old" orders should be treated as such. The Bill therefore seeks to amend section 86 of the Act to provide that these "old" orders are "final orders" within the meaning of the Act. Such an amendment will afford a greater degree of protection to those people who have the benefit of these "old" orders.

As I indicated earlier, the purpose of the Bill is to extend the coverage of the current legislation in a number of important ways. In extending the coverage of the current restraining order legislation, the Bill gives practical effect to the Government's commitment to increase the effectiveness of, and accessibility to, restraining orders by victims of family and domestic violence. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

The PRESIDENT: Order! I called this Bill the Restraining Orders Amendment Bill (No 2) 1999 because that is the way it is cited on the Notice Paper. However, its existence is of today and it will be in future shown on the Notice Paper as the Restraining Orders Amendment Bill 2000.

## **AGRICULTURAL AND VETERINARY CHEMICALS (WESTERN AUSTRALIA) AMENDMENT BILL 1999**

### *Second Reading*

Resumed from 18 November 1999.

**HON KIM CHANCE** (Agricultural) [5.44 pm]: This is a simple Bill which will not keep the House for long. I imagine the minister would like it to proceed through all stages. The Opposition will not only support the Bill but also its progress through all stages early this evening. Although it is a short, simple Bill, it is an incredibly important Bill. It deals with the relationship between legislation of all States of Australia - we are dealing here with our own of course - and commonwealth legislation that provides for a national standard for agricultural and veterinary chemicals used in Australia.

This is important for two reasons. First, it allows control of the chemicals that go into our food chain and our animals' food chain. It also provides an important level of protection for the way in which our produce is regarded overseas. Australia very jealously protects its reputation as a clean and green supplier of food and other commodities. In order to maintain that standard, it is essential that we have the highest level of control possible in the use of chemicals which include the whole range of hormonal growth promotants which, in Europe for example, are regarded with extreme suspicion.

The means of doing that in Western Australia is through this legislation, which brings into force the effect of the Commonwealth's Agricultural and Veterinary Chemicals Code Act. Some deficiencies have arisen because the two Acts have become somewhat out of synchronisation. This Bill will remove in two ways the desynchronisation that has occurred. In particular an anomaly has arisen concerning animal feeding stuffs that are exempt from the control of the commonwealth Act. That means the Commonwealth has a limited ability to control the addition to animal feed stuffs of certain veterinary chemical products in contravention of their registered use. That includes the whole range of hormonal growth promotants and antibiotics.

The only issue I want to raise in the context of animal foodstuffs, which is not yet within the scope of this Bill nor its commonwealth equivalent, is that of genetically modified organisms. It could be argued that GMOs are not within the range of goods that are described as chemicals. Indeed, that is true. It seems to me that, given the intense interest in genetically modified organisms in our key markets of Europe and north Asia in particular - I suspect before very long even the United States - we will need to consider legislation of this kind in respect of GMOs.

One of the outcomes of dairy deregulation - due to an announcement today we know we are likely to be considering that subject in the near future - may well be the importation of fresh milk from the eastern States. It is well understood now that

in the eastern States, particularly in southern New South Wales, there is a movement away from production of milk on dairy farms to the production of milk on feedlots. Currently 5 000 cow feedlots are under construction.

No member in this place who has any knowledge of the cattle industry would have any doubt that genetically modified organisms form a large part of the feed stock which goes into feedlot, particularly in New South Wales and Queensland where cottonseed meal is widely available. Cottonseed meal, obviously, comes from cotton. Cotton grown in Australia is almost all genetically modified and is often referred to as Bt. - biotoxin - rather than GM. If milk flows into this State from the eastern States, we will be unable to guarantee the GM-free status of milk in Western Australia. If physical milk is imported - I hope it never happens - from Victoria or New South Wales, we can almost guarantee that the milk that will go into our family's diet may be GM-contaminated.

I thank the House for its patience with my raising that issue, Mr President, which I acknowledge is irrelevant to this Bill. However, it is important and relevant in a general sense of my wanting to protect the health of our domestic and overseas clients. The Opposition is pleased to support this Bill and will be pleased to progress it with maximum effect.

**HON NORM KELLY** (East Metropolitan) [5.51 pm]: I will try to ensure that I do not rule myself out of order on this Bill!

The Australian Democrats support the Bill. It is simple in its objective, to repeal section 36(2) of the Agricultural and Veterinary Chemicals (Western Australia) Act. The Bill will strengthen the Act and will ensure that the exemptions which allow veterinary supplements in feedstuffs will no longer be available. One of the effects of the repeal of section 36(2) is that it will allow for better tracing of the use of growth hormones, which is particularly important when considering intensive farming practices, particularly hen and pig production, where the abuse of hormones has been prevalent in this State. This State has a history of hormone and steroid use, particularly growth steroids.

Although the Bill will repeal section 36(2) of the Act, it should also be noted that the Government still retains power under section 36(3) to prescribe regulations to implement exemptions as it sees fit. Such exemptions are subject to the usual scrutiny of the parliamentary disallowance procedures. In this instance, placing that emphasis in regulations is a far more appropriate way of dealing with exemptions.

I will briefly comment on genetically modified materials, which I believe is pertinent to this Bill. Hon Kim Chance referred to the clean and green image of this State in its production of agricultural products. It is important to note that in order to maintain that image, food production must remain GM-free. Currently it is not GM-free as GM trials are being conducted in various parts of this State. However, the Australian Democrats support this Bill and appreciate its speedy progress through Parliament.

**HON CHRISTINE SHARP** (South West) [5.54 pm]: The Greens (WA) are also very happy to support this simple but very important repeal of section 36(2) of the Agricultural and Veterinary Chemicals (Western Australia) Act which reads -

The Agvet Code does not apply to an animal feeding stuff, or a prescribed substance, within the meaning of the *Veterinary Preparations and Animal Feeding Stuffs Act* . . .

That was a serious error in the original drafting of the Act. It is marvellous the way the system has managed to muddle on with no statutory safety net under the Act to ensure that these substances are regulated, and as if this offending section did not exist.

Hon Kim Chance: The system is regulated by very talented officers.

Hon CHRISTINE SHARP: Indeed. I guess one can perform such a juggling act for only so long and those officers will be highly relieved to see the enactment of this small repeal. Although the Greens welcome true regulation of these matters, we would probably prefer the substances referred to today banned entirely, such as the addition of antibiotics in animal feedstuffs for the intensive rearing of battery hens and pigs. The regular dosing of animals with antibiotics is of dubious value to consumers. The profligate use of antibiotics risks their ineffectiveness in years to come. I believe we overuse antibiotics and that overuse goes hand in hand with unnatural rearing practices which is why the Greens would like to see those animal rearing practices and the use of growth hormones phased out. I cannot see how the production of healthy food for this planet is assisted by the belief that we must change the natural chemical balance in an animal; those chemicals certainly remain in the carcass that is then consumed. The Greens would like to see those substances regulated and serious consideration given to phasing them out altogether. I note with interest that the pressure for these changes is coming, not from the regulatory authorities, nor the national registration authority, but from consumers - the final destination for these products. People worldwide, particularly in affluent countries, are increasingly concerned about wanting to eat food that they believe they can trust.

Hon Kim Chance: Europe in particular.

Hon CHRISTINE SHARP: Europe and Japan are two markets which are extremely sensitive to these changes, which is why worldwide consumption of organic food is currently increasing by 20 per cent. People everywhere, including, I guess, the members who are sitting in this House, are increasingly concerned about artificial additives in their diet. Therefore, the pressure has come from the final destination, the consumers, who have the same concerns as the Greens (WA) have as their core business.

Lastly, I acknowledge the remarks of Hon Kim Chance in linking this Bill to concerns with dairy deregulation and the emergence of GMO products as feedstuffs in WA. It is not clear how the Act, with this section repealed, will deal with that matter.

Hon Kim Chance: It doesn't.

Hon CHRISTINE SHARP: I suspected that the Act would be silent. This House may need to deal with further amendments to the Act in the near future, given the incidents that we have been reading about in the Press recently. I hope the minister will comment on those matters too. Thank goodness this has been done. We support the Bill.

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [5.59 pm]: I thank the members for their support of the Bill. Obviously, the Bill covers additions to foodstuffs, such as growth promoters and antibiotics. I believe everybody clearly understands the thrust of the Bill. The business of GMOs is outside the scope of this Bill; however, I will pass on that message to the minister and ensure that he deals with it.

Question put and passed.

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

*Sitting suspended from 6.00 to 7.30 pm*

## **RIGHTS IN WATER AND IRRIGATION AMENDMENT BILL 1999**

*Order of the Day Discharged, and Referral to Standing Committee on Legislation*

**HON KEN TRAVERS** (North Metropolitan) [7.30 pm]: Mr President, I seek leave to add the following words after the word "Committee" in the motion on the Notice Paper -

and the committee report to the House by 4 May 2000

Leave granted.

Hon KEN TRAVERS: I move -

That the order of the day for the second reading of the Rights in Water and Irrigation Amendment Bill 1999 be discharged and the Bill be referred to the Legislation Committee, and that the committee report to the House by 4 May 2000.

### *Points of Order*

Hon N.F. MOORE: I was waiting for the member to move his motion as I seek your comment, Mr President, on whether it is in order. I refer you to schedule 1 on page 146 of standing orders which relates to the Standing Committee on Legislation. Clause 3 outlines that a Bill is to be referred to the committee after its second reading. My understanding is that context relates to the second reading when the vote is taken. The purpose of this motion is to refer the Bill to the committee ahead of the second reading debate. Is the motion in order?

Hon KEN TRAVERS: I understand that the procedures and practices of the House in the past have been to refer Bills to the committee during the second reading debate. I seek your indulgence on the basis of a ruling given recently. If the President's ruling is that the Bill cannot be referred to the Standing Committee on Legislation, is it possible to amend the motion to make the referral to the Standing Committee on Ecologically Sustainable Development? Must I adjourn debate and give notice of a motion to that effect tomorrow?

### *Ruling by the President*

The PRESIDENT: The first point of Hon Ken Travers' comments is the operative part. It has been the practice of the House over some years to ignore clause 3 of the Standing Committee on Legislation rules. I refer members to the pink Supplementary Notice Paper, and I will give them some examples. Item No 2 under the other business before the House on pink Supplementary Notice Paper No 22 refers to the Electoral Amendment (Constitutional Provisions) Bill 1997, which was referred to the Standing Committee on Legislation after the second reading was moved but prior to any response. Item No 8 on the same Supplementary Notice Paper is the Genetically Modified Material (Temporary Prohibition) Bill 1999, which was referred to the Legislation Committee on Tuesday, 19 October 1999 after the first reading, and obviously before completion of the second reading debate. There are other examples.

It might be convenient for me to make some comments about standing orders generally. The standing orders of the House are not intended to be a binding legal document that is unyielding to the desires of the House when related to its practices and procedures. If, over a period, the House develops practices that are contrary to the black-letter of standing orders, no other competent jurisdiction can overturn the procedural decisions of the House; that is, the House is the master of its own destiny when it comes to practice and procedure. It is also fair to say that in all Parliaments over a period, it is not uncommon for adopted practice to outstrip the black-letter rule, at which time the rule itself may need to be brought into line with the adopted practice of the House. In a House governed by standing orders, custom and practice, it is a case of the House needing to be content with its procedures.

It should be borne in mind that the Standing Orders Committee can review standing orders having regard to changed practice and the effluxion of time. I am obliged to recognise that, for a period of years, it has been the practice of the House to refer Bills to the Legislation Committee before a vote on the second reading has been taken. On a number of occasions Bills have been referred to the Standing Committee on Estimates and Financial Operations before the second reading, but that is contemplated in the provisions of the terms of that committee. Clause 3(b) of the standing orders of the Standing Committee on Public Administration states "to consider and report on any bill referred to it by the House". There is no

prohibition that it cannot be done before the second reading vote. In the standing orders of the Standing Committee on Ecologically Sustainable Development, clause 3(b) refers to the ability of the committee to inquire into and report to the House on any Bill or matter referred to it by the House and, again, there is no prohibition on a Bill being referred before the second reading vote is taken.

I am obliged to follow the practice of the House, but if members believe that our standing orders need to be reviewed to reflect the practice, it can be taken up by the Standing Orders Committee. I remind members that it has been the practice in this House for a considerable number of years not to require a seconder of motions. Again, that is the adopted practice of the House and I have continued to recognise it while I have been in the Chair.

Hon N.F. MOORE: I thank you, Mr President, for your comments on this matter. I raised the point not to prevent the member from proceeding but in order to seek some clarity on this matter. As one of those members who was here when this standing order was drafted in 1989, it is my clear memory that it was the intention of the House in those days that the Bill be referred to the Legislation Committee only after the second reading vote had been taken. In other words, the policy of the Bill had been agreed to by the House and the Legislation Committee's role was to then look at the specific details of clauses. However, as you pointed out, Mr President, the practice has been different from that which was contemplated at that time. Can I therefore suggest that the Standing Orders Committee look at this standing order, the practice that has been adopted over time, and the original intent - perhaps by reading the debate in *Hansard* in 1989 - to see whether we have gone down a path which was not contemplated by the original movers of the standing order. If you, as the Chairman of Standing Orders Committee, will look at that, I will be most grateful.

The PRESIDENT: I give the Leader of the House an assurance that the matter will be raised with the Standing Orders Committee.

*Debate Resumed*

Hon KEN TRAVERS: Thank you for your ruling, Mr President. I hope that an amendment to the motion so that the Bill can be referred to the Standing Committee on Ecologically Sustainable Development will help solve the problems of the Leader of the House on this issue. I would support that.

Hon N.F. Moore: That would be worse.

Hon KEN TRAVERS: No, it would not, and that is the point. I understood we used a cooperative approach in this place.

Hon M.J. Criddle: He is only asking for a ruling.

Hon KEN TRAVERS: No advice was given to me about what the Leader of the House intended to do. If people want to play those sort of games in this place I am happy for the Bill to go to the ESD committee.

The PRESIDENT: I hope no-one is playing games with the ruling that I just made. The motion moved by Hon Ken Travers indicates that he is asking for the Bill to be referred to the Legislation Committee, and it is for him to speak to that motion.

Hon N.F. Moore: There is no intention to cause the member any grief; it is to seek clarification so that we know what the standing order means. We will not oppose what the member is doing.

Hon KEN TRAVERS: As I was about to say a few moments ago, this Bill has been in the public arena for some time. Although the Labor Opposition has some general concerns about different aspects of the process, we have been fairly constructive and have engaged the Government. I was pleased last year that the Government brought forward what was, effectively, a green Bill following calls by the Labor Opposition to put out some draft legislation for public comment. That gave the community a greater opportunity to look at these issues. It is not the intention of the Australian Labor Party, by referring the Bill to the legislation committee, to see it in any way buried or not reported back to the House. We are aware of the requirements under the Council of Australian Governments agreement - whether we like it or not at the state level - to have this legislation dealt with by 30 June. A range of issues still need to be dealt with, and they are best dealt with by the committee because some of them go to the policy of the Bill as well as to the detail of the Bill. That is why I have sought to move this motion prior to the second reading debate.

Hon Greg Smith: Will you outline what you want the committee to look at in the Bill?

Hon KEN TRAVERS: I am just about to. Some of the issues that need to be considered relate to policy and not detail, and I note that the Government has made some changes to the legislation which will lessen its impact. The first issue I will deal with concerns the capital gains tax and the implications of this Bill on land owners. I accept that it is a fairly narrow window for the people who will be affected, and I understand that the people who drafted this Bill feel that it will not have those implications. However, I am yet to be convinced that it will not. Before the House adopts this Bill, we need to be aware of the full details of the capital gains tax implications. There may be capital gains tax implications and the House may decide to pass this Bill anyway; however, we need to be aware of them at the time.

The second issue is broader, and it deals with the erosion of private property rights. I understand the arguments from the government side. It does not regard this as an erosion of private property rights. Again, I understand the arguments with respect to how it is dealt with, and obviously we are trying to legislate for the community good. However, I would like to be clearer about whether it is an implication of this Bill. If we make that decision, the House should first be fully aware of the situation. That rolls on to an issue with regard to compensation and when it will occur, if it is required.

The third issue that should be dealt with by the committee is water banking. This issue has arisen in recent times and the Opposition is looking at it. Already people are making applications for licences in areas which are near to full allocation, in the knowledge that this legislation will give them a significant windfall profit.

There is a strong argument about the appropriate appeal mechanisms. I mentioned earlier that there had been a fairly cooperative approach in the development of the legislation, but towards the end of it that probably has not been as positive. However, a range of information on the appeal mechanism needs to be provided and put before the House. It should be appropriately considered by a committee of the House before the legislation is dealt with. There is still widespread community concern about this legislation, and referring it to a committee will give members of the public an opportunity to put their views before the House. Certainly, I suspect that the people we are talking about in the main are not supporters of the Australian Labor Party. Members will have received a letter not long ago from the Western Australian Fruit Growers Association. At the time I received the letter I was not aware that the person who signed the letter was a member of the National Party. I understand he is now seeking preselection for the seat of Collie. In that letter members were requested to refer the Bill to a committee.

A range of questions about this legislation remain unanswered, and it is important that a committee of the House has an opportunity to look into the detail of this legislation. One of the matters that has concerned me in the past, and in the later stages of the development of this legislation, is that the bipartisan approach initially adopted by the Government fell into a hole. Although members opposite have been taken by this Government on a trip around the eastern States, that opportunity has not been made available to members on this side of the House. I make it clear that I am not suggesting the committee needs to travel, but it is unfortunate that the Government has chosen to inform members on only one side of the House. I think it is appropriate that a committee of the House look into these issues. It was interesting to read a note on a document provided under a freedom of information application stating, "Can't ask the Libs and not the Labs". I presume that means Liberal and Labor members. I did not see the invitations to the fact-finding tour, which involved living it up on \$50 bottles of wine.

The PRESIDENT: Order! I only want to know why the Bill should be referred, and the member has properly outlined a number of reasons. However, he is now starting to stray to \$50 bottles of wine.

Hon KEN TRAVERS: I was intrigued about the benefit of going on a fact-finding tour to a winery at Dubbo.

Hon Murray Montgomery: Perhaps your information is wrong and they did not go.

The PRESIDENT: Order! I want to deal with this motion and then members can play games.

Hon KEN TRAVERS: I have given a broad outline of some of the key aspects of this legislation that the committee should investigate. I hope that these issues and the concerns clearly expressed in the community can be addressed during the committee's investigations. I commend the motion to the House.

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [7.51 pm]: The Government accepts that this Bill should go to the Legislation Committee with a reporting date of 4 May. Hon Ken Travers has outlined the relevant points - capital gains, compensation, water banking, the appeal mechanisms and community concerns. The Government acknowledges the concerns expressed in the community. I am sure the committee will do a very thorough job on the legislation so that we can progress it quickly through the House keeping in mind the Council of Australian Governments' requirements.

**HON NORM KELLY** (East Metropolitan) [7.52 pm]: The Australian Democrats also support the referral of this Bill to the Legislation Committee. The seven pages of government-proposed amendments that were listed on the Supplementary Notice Paper only a week ago largely refer to capital gains taxes and the effect of this Bill on such matters. It is important that all parties have reached agreement that the Legislation Committee is the best environment in which to deal with these issues rather than a Committee of the Whole.

As Hon Ken Travers stated, we are faced with a number of issues, such as capital gains tax implications. The committee should also look at the underlying reason for the urgency of this Bill's progress through Parliament; that is, the Council of Australian Governments agreement that imposes a deadline of 30 June. The three-week recess coming up shortly is an ideal time during which to look at the issues.

A great deal of concern has been expressed by various interested groups about the processes in the Bill. A letter from Rod Banyard of the Water and Rivers Commission regarding the appeal process addressed to Jack Flanigan states -

The Minister for Water Resources has undertaken to review the appeal system and the Commission has already engaged a consultant to prepare an options paper for public dissemination. That consultant, Alex Gardner, is presenting a paper on the options to the First Natural Resources Law Conference on Tuesday.

Which was yesterday. It would be beneficial when the committee is considering this legislation to get someone like Alex Gardner to look at the appeal processes and to get a copy of the paper to which the letter refers. Interest groups are concerned that a review of the appeals system is not good enough, that we could be waiting another 12 months, and that there are no guarantees in the legislation that changes will be made. It is important that the committee look at that. Some of the groups that have contacted me include the Western Australian Water Users Coalition, the Western Australian Fruit Growers Association and the Grape Growers Association of Western Australia. All of those groups have members who have a direct and legitimate interest in ongoing access to water for their livelihoods. They are concerned about future rights to compensation and also about the powers and the makeup of local management committees to ensure proper and fair representation on those committees.

Dealing with the evolution of this legislation, today I received, by fax, a letter from the Minister for Water Resources outlining another amendment to this Bill proposed by the Government regarding the membership of subcommittees established by a water resource management committee. Therefore, we are looking at a wide range of amendments at a late stage. The Standing Committee on Legislation is probably in the best position to deal with that. The Australian Democrats will also be moving amendments to this Bill. Unfortunately, those amendments have not yet been finally drafted. We want to circulate them as quickly as possible so that members have adequate time to examine them. Those amendments may be better dealt with in the Committee of the Whole, and the Standing Committee on Legislation can concentrate on the issues that other members and I have outlined tonight. We can then deal at a later stage with other issues which may not be of common concern in the House. For those reasons, the Australian Democrats support the referral.

**HON GIZ WATSON** (North Metropolitan) [7.57 pm]: The Greens (WA) also support this referral. I had some reservations because of the time constraints, bearing in mind the deadline to meet the requirements of the Council of Australian Governments agreement. These are major changes to one of the key resource areas in the State. It is being realised more and more that the management, allocation and ownership of water in this State is a key issue which we, as legislators, may consider at any time. Therefore, I am keen for the Standing Committee on Legislation to have an opportunity to look closely at this legislation. I look forward to that inquiry, as long as the report-back time meets the requirements of the COAG agreement.

Although I understand that some wide-ranging consultation has taken place on the drafting of this legislation, there are outstanding concerns which Hon Ken Travers has raised. We agree that those issues require more scrutiny. Another matter that has been brought to my attention about this Bill is the issue of native title. Perhaps that is another issue that the committee could consider. I am happy to support the referral to the Standing Committee on Legislation on the understanding that the legislation can be returned to the House fairly promptly.

**HON BOB THOMAS** (South West) [8.00 pm]: I am very pleased that we have an arrangement for this Bill to go to the Standing Committee on Legislation where a number of issues should be dealt with. The committee should take some legal advice from a lawyer eminent in this field so that a couple of very important issues from within my electorate can be addressed before the Parliament debates this Bill. Those issues relate to the intrinsic value of water in the value of land, the issue of riparian rights over swamps which are wholly contained within a person's property and the issue of on-farm storage.

I must admit that my knowledge of these issues has come about through a number of conversations I have had with Graham Waugh from Albany - members may have been lobbied by Graham, who is part of the Water Users Coalition - and Mr Dave Wren from Margaret River. They have done a great deal of work on these issues. I am pretty sure that they have written to most members of this Chamber and put their point of view. If I may give a rough thumbnail sketch of the issues they have raised, one of the issues relates to swamps, the boundaries of which are wholly contained within a person's property. Apparently the ownership of that water is completely different from a person's right in ownership of water where a swamp is part of a waterway which traverses the boundaries of his property. Mr Waugh has told me that under the existing riparian rights legislation, a property owner who has swamp which is completely within the boundaries of his property has a different property right. However, under the Government's proposed legislation, the property owner will lose that right. Before we as a Parliament take any action to remove that right, we need to be very clear about exactly what it is we are about to do. Before we as a Parliament take away any right or resume any property right, we need to make sure that it is an action of last resort. We must jealously guard people's existing property rights. That relates to the issue of the intrinsic value of land and what value the water which is available on that land or which is collected from rainfall contributes to the value of the land. Members from the south west would understand that in those areas where there is a high rainfall or abundant water the property prices are higher than in places where people do not have access to such water.

The PRESIDENT: Order! The member is starting to debate the issue. The member has raised an issue but is going too far.

Hon BOB THOMAS: That is an issue on which the committee should take some advice from a lawyer who has specialist knowledge in this area, so that the committee can report back to the Parliament and explain to the Parliament exactly what impact this legislation will have on the property rights of those people who in some cases have invested substantial sums of money for that land in those areas.

The committee should also take legal advice about on-farm storage. To put it in the terms of a good friend of mine, Arthur Reeve from Manjimup, the legislation has the impact of taxing the rain. His view is that in some cases people who have invested substantial sums of money to build dams to accommodate their water needs for their farming operations will have their rights taken away. I would like the committee to take advice on this matter so that it can clarify how those farmers will be affected and what impact the legislation will have on their existing water rights. I thank the Government for agreeing to send the legislation to the committee and ask that it look at the issues I have raised, along with the issues raised by other members of Parliament.

Question (motion, as amended) put and passed.

#### **HON KEN TRAVERS - PERSONAL EXPLANATION**

**HON KEN TRAVERS** (North Metropolitan) [8.05 pm]: I may have inadvertently misled the House during the last debate. I was referring to a trip to a winery in Dubbo when Hon Murray Montgomery interjected on me. I correct the record: The

government backbenchers actually went to the winery in Cowra at government expense. I also referred to two \$55 bottles of wine. They were drunk at the Sydney Hilton Hotel, not at the winery.

### **STAMP AMENDMENT BILL 1999**

#### *Second Reading*

Resumed from 23 November 1999.

**HON BOB THOMAS** (South West) [8.06 pm]: It was not my intention to speak on this Bill, but Hon Nick Griffiths was called away on parliamentary business and asked me to present the Opposition's position on it. We support the Bill and our debate will be short and concise so the passage of the Bill through this Chamber can be expedited. I have had limited time to read the Bill, but it appears to do two things of consequence. The first is to change the way chattels are treated when ownership is transferred through a lease mechanism and the second is to change the way the transfer of chattels is treated for bankrupts. The State Government changed the way chattels were treated in the transfer of property in the 1998 budget. Most of us who have bought a house will probably recall the estate agent writing down chattels; that is, the soft furnishings, curtains and stoves, as having a nominal value of \$2 000 or \$3 000. No stamp duty was levied on that component of the sale. In the 1998 budget, the Government decided to levy a stamp duty on those chattels. However, an anomaly appeared whereby chattels transferred as part of a granted lease were exempt, contrasting with chattels that are transferred as part of an assigned lease. This legislation simply changes that anomaly so that chattels which are transferred as part of a granted lease are brought into the system.

The other part of the Bill deals with those people who have been bankrupt and whose property has been assumed by a trustee. People are able to acquire back some of their property after the bankruptcy has been discharged. In some cases, people do not have the means to acquire back that property and are often unable to do so because of the cost of the stamp duty. A simple change to the legislation is proposed that will allow the property of the bankrupt to be transferred back to them from the trustee. We think that this legislation makes sense and we commend the Bill to the House.

**HON HELEN HODGSON** (North Metropolitan) [8.09 pm]: As Hon Bob Thomas said, there are two measures in the Bill before us today. The first deals with long-term leases, which are becoming more common. Under the stamp legislation at present, the conveyance is payable on the transfer of property and that is what the items referred to in the legislation relate to; that is, items 4, 10, 14A, 15, 17 and 19 of the second schedule. Long-term leases are effectively a way of transferring an interest. If the lease is for 20 years or longer, the effect is quite different from that of a short-term lease. Up until now the leases have been dealt with under different sections of the second schedule and it has been put of kilter with the treatment on the transfer of property itself. This brings long-term leases back into line and for those reasons the Australian Democrats support this measure, because it is in line with modern commercial practice, as long-term leases are more common than when the legislation was originally drafted. Commercial usage is changing.

The second measure is the power of exemption for transfers by a bankruptcy trustee to the bankrupt. One of the principles that underlies the Stamp Act is that there should really be a change in the beneficial ownership of property because there is a dutiable transfer that is concerned with the transfer of interests. In most situations in which a trust is involved there are appropriate exemptions whenever the beneficial ownership has not changed. When a trustee is in bankruptcy it is more complex because although there is a trustee relationship, the trustee is given certain powers under the legislation and there may be a change in the nature of the property because parts of the assets may have to be realised to satisfy creditors' interests. What ends up being transferred back to the bankrupt may be different from what was initially transferred. Although a basic principle underlying the Stamp Act is that there needs to be a change in the beneficial ownership before there is a dutiable transfer, the way it has worked in practice means that on the transfer of property from the trustee back to the bankrupt, one may have a dutiable transfer. The amendment is designed to deal with the situation and to ensure that there is no duty payable when the property is revested in the bankrupt. We believe that the measure will protect people who find themselves in this situation and that it is in line with the policy of the Stamp Act as it applies to other trusts. For these reasons we will be supporting that measure as well.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Assembly.

### **MISUSE OF DRUGS AMENDMENT (CANNABIS CAUTIONING NOTICES) BILL 1999**

#### *Second Reading*

Resumed from 19 October 1999.

**HON PETER FOSS** (East Metropolitan - Attorney General) [8.15 pm]: The Government opposes this Bill. I remind the House of a very good speech by Hon Nick Griffiths in which he dealt with the myth of the harmlessness of cannabis, in particular when used in conjunction with other drugs. We need to recognise first of all that the two drugs that probably cause more misery and harm in the world than any others are alcohol and tobacco. People often do not recognise that despite the publicity that is given to drugs such as heroin and amphetamines, the two legal drugs of tobacco and alcohol leave them far behind in terms of the misery and damage they cause to people's health and to society. The health hazards and extreme addictiveness of tobacco are well known. It is generally necessary to consume a greater amount of alcohol to create a health hazard than is the case with the consumption of tobacco, but its hazards go well beyond the physical. It is probably fair to say that one of the causes of the over-representation of Aboriginal people in the justice system in this



State is alcohol, and it figures in a large number of the major offences for which Aboriginal people are jailed. However, of much greater concern is the effect of alcohol on domestic violence, and its ability to destroy the lives of individuals and their entire family.

I do not want members to think that to merely make a drug legal will be a good thing and will get rid of some of the problems that arise from the trade in illegal drugs. One of the things it will do is make that drug more widely accepted and used. That presents a real quandary for society, because people are making considerable amounts of money from the sale of illegal drugs, and it appears that the simple solution is to make those drugs legal so that people cannot make those large, illegal profits. However, that is a simplistic argument. We may start with cannabis and say that it is not as dangerous as heroin and amphetamines. For some reason we concentrate on heroin and underestimate the effect of amphetamines. The degree of harm that may be caused by amphetamines is greatly underestimated. Members of the judiciary say that a large number of the people who are involved in burglaries are under the influence of amphetamines and are amphetamine addicts rather than heroin addicts. That is often not understood by the community. The physical effects of regular amphetamine use are quite terrible. The use of amphetamines is probably one of the major causes of violence in our community, particularly within families. If a member of a family is a heavy user of amphetamines, there is every likelihood that that person will undergo a character change and be involved in family violence. The general deterioration in that person's physical condition is quite horrifying. However, we seem to have placed more emphasis on heroin over the years than we have on amphetamines and on other drugs that are available now or are being put on the market by people who have the capacity to invent drugs that have a mind-altering effect.

That is where the questions of where one draws the line and what sort of line one draws become difficult. If one starts with legalising one drug, the questions must be asked: For what age do we legalise it? Is cannabis okay for a person aged over 18 years or is it okay for everybody? We have said that a person must be 18 to consume tobacco and alcohol. Does one make it okay for people to take drugs only if they are addicted to them, or can everybody take them? Does one limit it to cannabis, which is seen to have mild effects? Do we say that we could not agree to opiates, amphetamines or cocaine? Where does one draw the line? One could lay odds that whatever is permissible, somebody will find another drug which is totally unacceptable to the community and proceed to push it to make large amounts of money.

Line drawing has always been the hardest thing for Parliaments to do; it is a most difficult task. We know that pressure applies in a different place as soon as one draws or moves the line. I give one example of the line being drawn the other way. I visited the prison system in Oregon in the United States which, in a progressive way, banned smoking in prisons. It worked. A fascinating result was that they no longer had a problem with people smuggling amphetamines into prisons. As nicotine and tobacco are so addictive, people smuggled tobacco into prisons! It is a fascinating illustration of human behaviour. When prisoners were allowed to bring in tobacco, they would smuggle opiates and amphetamines. Tobacco was the drug smuggled into the prison as soon as tobacco was banned.

Hon J.A. Scott: If you ban nothing, will they bring nothing in?

Hon PETER FOSS: No. When one moves the line, do not assume that human behaviour will remain as it was before the line was moved. The suggestion is that we should move the line. The member does not suggest that we legalise it, but that we move the line, the consequences and the public attitude towards the drug. I can see the logic behind the member's argument and why she makes it. However, the Government does not accept that view. As soon as one moves the line, one must recognise a reason for people taking drugs is partly defiance. A strange thing is that people who take drugs do so for particular reasons.

Many people in prisons take drugs, and some people are in prison because they take drugs. However, the vast majority of people in prison and who take drugs would have been in prison whether or not they took drugs; that is, they come from that part of society with risks and other social factors which lead them into crime. They do whatever happens to be the going criminal thing to do. A large number of people are not in prison because they took up drugs and were caught with drugs on them. Some people had no other reason to start a criminal career than needing large quantities of money to buy drugs. Also, some people who come from that socioeconomic group would end up in prison anyway. They would have done a job for one reason or another, and doing jobs involving drugs often is a good way of making money. It happens to be a good way of making money now. In both cases there will be an underlying reason why those people started taking drugs. The big problem with people who are addicted to drugs is getting them off drugs, because usually some underlying psychological or other reason makes them take drugs. The naltrexone program is a classic example of that. Naltrexone is a drug which is useful for dealing with people who have a heroin habit. It works by blocking their senses relating to the effect of the opiates and, importantly, it also removes their craving. While they take the tablets, the opiate can have no effect on them and they have no craving for it. However, as soon as they stop taking the tablets, the craving comes back again. The real difficulty with using it is that unless there is psychological, social and family support for the people taking naltrexone to deal with why they were taking drugs in the first place, they will go off the program and go back to using drugs. Mere pharmaceuticals do not solve the drug problem. The drug problem is merely the tip of the iceberg of other problems. I do not pretend to be sufficiently aware of all the ramifications to go into that in great detail, but we know that there are problems faced by some people which cause them to use drugs in the first place. Unless those problems are treated, the addiction problem cannot be treated. I believe this approach is simplistic, because it does not deal with reasons for people taking drugs, nor does it deal with the fact that the most dangerous drug in terms of total cost to the community is alcohol. I do not have a solution to the problem of what we should do about alcohol, but I would hate to allow another drug to become as acceptable as alcohol or tobacco.

Hon J.A. Scott: Which Bill have you introduced that actually deals with the reason that people take drugs?

Hon PETER FOSS: That is a good point. I do not think we can solve people's problems with drugs by legislation.

Hon Christine Sharp: Exactly.

Hon PETER FOSS: Again, it is a simplistic belief that we will solve a problem by passing legislation. Legislation often does little else than give people powers or disabilities. I do not think we will solve the problems of this world by legislation, and that is one of the reasons I oppose the Bill. The problem is there, but it is with alcohol and tobacco. I do not want to take one more step and possibly end up with two results: First, for cannabis to gain the same acceptance as alcohol and tobacco within the community, which would be unfortunate in view of what has happened with those two drugs; and, secondly, I do not want to risk the possibility of, having moved the boundary, pushing up against another boundary.

Hon Mark Nevill: You could put a sunset clause in it.

Hon PETER FOSS: I do not want to do it at all. The member might want to do it, but I do not. It is like being slightly pregnant. Once a person is pregnant, she is pregnant. We cannot turn back an attitudinal change once it has been made.

Hon Mark Nevill: The problem is that that attitude is well and truly entrenched.

Hon PETER FOSS: I do not agree with Hon Mark Nevill on that. The attitude is certainly entrenched within a large portion of our society; it is also very much opposed within another portion. One example is the speech given by Hon Nick Griffiths in which he dealt with the effects of cannabis. At some stage I will give members the *Hansard* reference to his summary of the arguments relating to the health concerns over cannabis, because it was well worth reading. He summarised the medical evidence of the effects of cannabis. It is not as benign as many people think it is. It has similar effects to tobacco and it also has other effects of its own, which are unique. Hon Nick Griffiths pointed out that cannabis taken in conjunction with alcohol is extremely dangerous as a carcinogen. When I was Minister for Health, I remember that a meeting of Health ministers endorsed a report dealing with the effect on people with a predilection to schizophrenia. One of the unfortunate things about cannabis use is that if people already have a predilection to schizophrenia they will not necessarily develop schizophrenia, but if they take cannabis there is every chance that will lead to their schizophrenia being precipitated. That may not involve a large number of people, although I notice that schizophrenia seems to be developing in much larger numbers than it used to be. It could be that people who would have gone through their lives without developing schizophrenia now, because of their use of cannabis, do develop it.

Hon Kim Chance: It is also a disease that is being diagnosed more readily now.

Hon PETER FOSS: That is possibly so, but quite often it is becoming more florid so there is no alternative but to diagnose it. That report that was endorsed by the Health ministers definitely referred to the fact that the use of cannabis can lead to the precipitation of schizophrenia. It does not cause schizophrenia; it is just that people who have that vulnerability to it may develop it, because one of its effects is paranoia.

Hon Kim Chance: Subclinical becomes clinical.

Hon PETER FOSS: I am grateful for Hon Kim Chance. His many years as opposition spokesman on Health has helped him.

Hon Tom Stephens: No, it is being married to a nurse.

Hon PETER FOSS: I had forgotten. I apologise to Mrs Chance.

As far as the Government is concerned, it has made it clear on a number of occasions that it does not support any form of legalisation or approval of cannabis use. For the reasons I set out earlier, the Government has concerns about making a drug legal - no matter one's perception of it - which is currently illegal. We know it would be impossible to ban alcohol. The Americans demonstrated that when they passed the twenty-first amendment to their Constitution which repealed prohibition. If Sir Walter Raleigh turned up with tobacco now and suggested it should be made a legal drug - notwithstanding Hon Kim Chance's personal addiction - it would not be made legal.

Hon Kim Chance: Enthusiasm, rather than addiction.

Hon PETER FOSS: Tobacco is easy to give up. Hon Kim Chance does it all the time!

As a conscientious and sensible nation, we would not make it legal. It is hard to turn things back, and that is why I do not accept Hon Mark Nevill's solution. Once it was allowed, far greater and wider use would be made of the situation and it could not be turned back. However, we can maintain the present situation and keep that very important attitude that we do not in any way retreat from the current position, irrespective of how much people make the argument that many people use it and it will not cause problems. It is like Adam and Eve and the beguiling argument given in the Garden of Eden that they should give it a try. When it was tried, they were cast out of the garden. It is a very beguiling argument, and I understand the nature of it. It seems that it would be so much easier if we did that, but the Government does not accept that argument.

I will deal with some of the more technical matters, which are quite important because they pick up this question of the line. The one that is really of concern and has caused mayhem in South Australia is the ability of each person to grow a couple of plants. When I was a young lawyer, before there were breathalysers, people who were picked up on drink-driving offences often said they had had only a couple of beers. It is amazing how drunk people can get on a couple of beers. Allowing people to grow a couple of marijuana plants sounds quite innocent, but the experience in South Australia is that

genetically modified and hydroponically grown plants can become small trees. They are very large plants.

Hon Mark Nevill: There is plenty of desert in South Australia in need of greenery.

Hon PETER FOSS: There are no trees in South Australia because it has no forests, but apparently now it has forests of marijuana. The plants can become extremely large trees, but the big problem is that certain people involved in the distribution of marijuana -

Hon J.A. Scott: It could solve the salinity problem.

Hon PETER FOSS: Hon Jim Scott could probably make that a policy for the next election.

Hon M.D. Nixon: They are not indigenous trees.

Hon PETER FOSS: I would not support non-indigenous trees. I agree with Hon Murray Nixon. I have always been very concerned about the use of non-indigenous trees. We would be replacing one problem with another. If the Greens (WA) want a policy for the next election, they should suggest solving the salinity problem by planting marijuana plants. I do not know if they are deep-rooted enough to solve that problem.

Hon Mark Nevill: People would want to cut them down.

Hon PETER FOSS: They would probably snip and prune them. They grow into large plants but the worst part is that the people involved in the distribution of marijuana have found it a remarkably good way of growing the stuff without being liable to prosecution. They arrange for a number of people each to grow their two plants. I can imagine what it would be like. A number of young men hanging out, say eight sharing a house, would have 16 marijuana trees growing in the back garden.

I think I should assist the House by showing some lovely colour photographs which have been handed to me, although I do not think they can be incorporated in *Hansard*. These trees are bigger than tagasaste.

Hon Mark Nevill: Is that two trees per person or two per household?

Hon PETER FOSS: It is two per person under this proposal. I will table the photos so that members have the benefit of knowing what am talking about when I refer to two trees.

[See paper No 825.]

Hon PETER FOSS: I have no idea where they came from.

Hon Norm Kelly: Do they show the location?

Hon PETER FOSS: Apparently they were provided by my police adviser. I suspected that was the case.

Hon Kim Chance: Cannabis is a major weed problem in Natal, where the equivalent of the Agriculture Protection Board has a serious problem. It has grown wild from plantations. It can be a serious weed problem.

Hon PETER FOSS: We have enough weed problems in Australia as it is.

Hon Simon O'Brien: The Standing Committee on Ecologically Sustainable Development now wants to travel to Natal.

Hon PETER FOSS: With that sort of marijuana tree, two plants would keep a person going very well.

An illicit distributor of marijuana would simply need to find enough people prepared to grow two plants and he would have a distributed cottage industry. That has happened in South Australia.

Hon Mark Nevill: It would be nice if it could be genetically modified to get rid of the smell.

Hon PETER FOSS: Is that so the police dogs cannot find them?

We would be issuing an open invitation for criminals to use this loophole to circumvent the capacity of the police to keep the situation under control. The South Australian police now do not find mass marijuana crops; they find little legal crops all over the place. However, the same people are behind the growing of these crops as were behind the mass crops.

Hon Christine Sharp: They are not legal; they have simply been decriminalised. We could follow that example and allow up to 20 plants under the Misuse of Drugs Act. That could be the cut-off point between possession and trafficking.

Hon PETER FOSS: I am astounded by the suggestion that we make it better by making it worse.

Hon Mark Nevill: That is what we do with legislation all the time.

Hon PETER FOSS: Taking the member's logic, we could with one stroke rid ourselves of all crime in Western Australia by repealing all criminal offences. I do not find that a very attractive proposition. It does not deal with the reason we have made this activity a crime until now. The member believes that this Bill will decriminalise this activity, but it will make it almost impossible for police to prosecute illegal trafficking in large quantities of marijuana. That is the net effect. The worst consequence is that it provides an enormous inducement for more and more people to be corruptly involved. Decriminalisation will create an enormous incentive for the major drug distributors to offer large amounts of money to

ordinary people to grow these plants in their backyard, knowing full well that the only downside is that they might miss out on the crop. I do not know whether Hon Christine Sharp bets, but in those circumstances, if she were a distributor and won once every four times, she would be a millionaire. It takes an extraordinarily strong person to resist the temptation; in fact, many strong people in South Australia have been enticed into this arrangement. I am concerned that Hon Christine Sharp has not included in the legislation measures to avoid this criminal behaviour. We should not agree to this provision, because the sale of marijuana is a serious criminal offence; it is a conspiracy. I have not checked the penalty under the Criminal Code, but often a conspiracy to commit an offence carries a heavier penalty than the offence itself. Hon Christine Sharp is wanting to force people to become serious criminals under the Criminal Code. She is putting temptation in the way of people to commit not just minor, simple offences but to commit major criminal offences.

Hon Mark Nevill: What do you consider to be a small amount? I think it is 100 grams in the Bill.

Hon PETER FOSS: In what context?

Hon Mark Nevill: Possession.

Hon PETER FOSS: I am talking about the two plants and the fact that people can grow their own. Once we allow that to occur, we will be providing a cover for the illegal, mass distribution of marijuana - the peddling of it. Hon Christine Sharp has the concept of this cottage industry growing its own marijuana and being self-sufficient. Along with the potatoes, the peas and the radishes, people will have their marijuana plants. Maybe she would like to put a height and width restriction on these marijuana plants so that we do not end up with plants of the size of those shown in the photographs I tabled. I do not regard the plants shown in those photographs as justifiable in any way. If people can grow plants like that, we are plainly saying to those people, "Sit there, grow your plants, and wait until somebody comes along and offers you a vast sum of money for the vast quantity of marijuana that you will be able to grow without any threat of criminal consequences." The question has not been answered in South Australia; I do not think it will be. I do not think it is capable of being answered, because it is one of those insoluble problems. There is no easy solution. It is one of those situations in which one shifts the line and thinks the problem has been solved and, bang, somebody who is smarter and quicker comes up with a way to overcome our solution.

If there is a conspiracy, section 34(1)(b) of the Misuse of Drugs Act provides for a \$75 000 fine or 20 years' imprisonment. People will be facing that sort of penalty. If Hon Christine Sharp thinks she will stop normal people from becoming criminals, she is wrong. She will get the reverse effect: Normal people will become big, big criminals.

Hon Christine Sharp: I thought the Attorney General would encourage the deterrent effect of abusing a provision which allows a person to have a couple of plants. That is the logic of his argument.

Hon PETER FOSS: Although I understand what Hon Christine Sharp is saying, she is missing the point about human nature. The wonderful thing about human nature is that all the people in jail never thought they would end up in jail. The biggest deterrent is the certainty of being caught rather than the size of the penalty. If people grew a plant and they knew that if police came into their backyard and found that plant they would be charged with an offence, that certainty is more of a problem than the possibility that they would be able to prove that the plant was being grown for somebody who would distribute it. Sure, it will be much harder to prove. One of the difficulties is that it is hard to prove. The fact is that people get away with it. They are getting away with it in South Australia because it is a hard crime to prove. Nonetheless, we know it is being committed. If we catch one of those ordinary people whom Hon Christine Sharp is trying to help, that person is suddenly liable to a 20-year penalty.

I understand Hon Christine Sharp's argument is that we should not have laws that encourage ordinary people to break the law. I understood that was the basic premise of this whole Bill. However, Hon Christine Sharp is setting up a law that is virtually a wide-open invitation to people to start their own crop and not have any downside unless someone can prove conspiracy. We find that aspect totally unacceptable, naive and proved to be unworkable by the experience of South Australia.

There are some matters of detail which perhaps I may just barely touch on at this stage because I will raise them during the committee stage, which I think would probably be better. I will just highlight them so that Hon Christine Sharp is aware of them before we get to the committee stage so that she may perhaps have an opportunity to have a look at them.

Hon Christine Sharp: Is it your intention to move amendments during the committee stage?

Hon PETER FOSS: No, we will be opposing the Bill throughout, both at the second reading and if it reaches any further stages. We do not intend to make it better. As far as we are concerned, the Bill is irredeemable in its basic premise. It is also important to understand that it is unworkable because of its wording. I will be making that criticism when we get to the committee stage. I will not spend a lot of time on it because the Bill may not get past the second reading. In any event, it is more appropriate to deal with it in committee.

The Bill does not address the other simple offences contained within the Misuse of Drugs Act 1981. Section 5 makes it an offence for the owner or lessee of premises to permit those premises to be used for the purpose of using a prohibited drug or plant - subsection (1)(b). This could lead to the person who owns the premises who allows another to use cannabis on his premises to be charged while the user may very well be cautioned if he has no previous convictions.

Proposed repealed legislation: Clause 7 of this Bill proposes to repeal the subparagraph that prohibits the possession of smoking implements - section 5(1)(d) of the Misuse of Drugs Act 1981. Case law has restricted the operation of this

subparagraph to those offences in which an intention to use the implement in future drug use can be demonstrated. Police use the offence of possession of a smoking implement as an effective means to prevent the repetition of cannabis use.

Conflict with current legislation: A person lends a hydroponic system to a friend believing that he was going to grow legal plants. The friend uses the hydroponics to cultivate two cannabis plants. Police search the friend's premises and locate the hydroponic system. They issue a caution and seize the hydroponic system.

Section 28 of the Misuse of Drugs Act 1981 provides the mechanism for dealing with property seized under the provisions of the Misuse of Drugs Act. The following procedure takes place once property is seized: A holding order is obtained from a justice of the peace; a copy of order is served on anybody who has an interest in the property; a person who has an interest in the property shows cause why property should be released to him; and a justice of the peace makes an appropriate order in relation to the property. In this way property that is owned by an innocent party is not forfeited.

Proposed new section 8B(6) of the Bill provides for the forfeiture of any substance to the Crown, if it would have been liable to forfeiture upon conviction. This forfeiture power prevents innocent parties from recovering property used illegally by another person.

The Misuse of Drugs Act 1981 has two distinct simple offences for possession - section 6(2) - and cultivation - section 7(2) - of cannabis. The definition of "simple cannabis offence" as contained in proposed new section 8A of this Bill has combined these two offences into one. The combination of these two offences provides the legislative basis that may appear as Parliament giving de facto sanctioning for the cultivation and possession of cannabis.

We believe that for the fundamental disagreement that we have on the philosophical basis of what we see as a simplistic attitude - although it is not legalisation of the drug, it is certainly the decriminalisation of the drug - the Bill is fundamentally flawed in that Hon Christine Sharp has the settings wrong. We believe that the consequences are and will be more than she thinks. I merely mention that.

Many changes in society today occurred in effect 10 or 15 years ago. If the Government had some control over it, it would not have allowed it to happen. It seemed a good idea at the time. We all know the world has changed in many ways and we feel we have no control over that change. The sorts of ills that arose as a result of those changes are the ills that are causing some of the problems we are facing. If we had control over it, we would have decided not to make that change and would have stayed where we were.

The Government firmly believes that the message and the philosophy underlying the Bill is wrong. It does not believe the Bill will solve the problem. Instead, it will move it somewhere else. The effect of the provisions in the Bill - which I see as its mis-workings - particularly those relating to the cultivation of two plants, will be the reverse of what Hon Christine Sharp intends. The Bill will encourage serious illegal activity by people in Western Australia. It will lead towards offences such as conspiracy to grow cannabis, which will make them liable to serious penalties, such as 20 years indictment. It is not a simple offence; the punishment is 20 years on indictment. If the Bill is implemented, the member will see a different result from what she intends, and the full burden of that harvest might not be seen for some years. The Government will oppose this legislation at every stage. It will not attempt to amend it to try to improve its fatal flaws. It will oppose it the whole way.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [8.56 pm]: The Misuse of Drugs Amendment (Cannabis Cautioning Notices) Bill before the House seeks to decriminalise the possession and cultivation of small amounts of cannabis for personal use and to introduce a cautioning system for simple cannabis offences, similar to that operating in Victoria. We are told that the Bill provides that possession of up to 200 grams of dried cannabis material or the cultivation of two cannabis plants - or both - will be a simple offence subject to a police caution. The caution notice applies only to adults who admit the offence and consent to the caution, who have no prior convictions for drug offences in any State or Territory and who have received no more than one previous cautioning notice. The cautioning notices would include legal and medical information as well as information about relevant counselling services.

The Labor Opposition has circulated a discussion paper authored by the opposition spokesperson on these issues, Alan Carpenter, under the heading of "Drugs in Crime - Breaking the Cycle" and subtitled "The need for a new approach". Some policy directions have been flagged within that report, and these are the basis upon which the Labor Opposition responds to the legislation before the House. I quote from the section that deals with cannabis laws -

Use or possession of drugs, as opposed to the more serious charge of trafficking, accounts for 80% of all drugs charges, and the drug involved in 90% of those charges is cannabis. In 1996, cannabis offences accounted for 75% of all drugs charges, and drugs charges accounted for 12.7% of all charges laid by police in WA. In other words, cannabis possession charges accounted for nearly 10% of all charges laid by police in the state.

Those figures were relatively consistent for much of the 1990s. It is indisputable that a massive amount of government, police and court resources is used in dealing with the investigation and prosecution of charges for the possession and use of cannabis, and there is a view within the community that those resources may be applied more usefully in other areas, particularly in pursuing major drug dealers and ensuring that they do not play a significant role in our State. There is also a view that laws that impose a criminal record for the possession and use of cannabis play a highly problematic role. A criminal record may have a severe impact on an individual's employment prospects, and the long-term outcome of contact with the criminal justice system is often negative in a range of other ways.

Hon Peter Foss: A person can get a suspended sentence.

Hon TOM STEPHENS: Many people believe that the expenditure of vast amounts of police and community resources in applying these laws is wasteful. Reference has been made to the changes to the law in South Australia and Victoria. The Attorney General did not make reference to the change in the application of the law in Western Australia with regard to the 12-month cautioning trial that has been adopted by the Government in the Mirrabooka and Bunbury police districts. Presumably that trial was based on arguments that are the exact opposite of the position the Government is adopting in this debate.

Hon Peter Foss: You do not need to change the law to do that.

Hon Christine Sharp: No, but you can change the way the law is used.

Hon Peter Foss: That is different.

Hon TOM STEPHENS: There is a level of inconsistency in advancing the arguments that were advanced by the Attorney General and then ignoring that trial in the Mirrabooka and Bunbury police districts. It has been argued that the opportunity for people to undergo education and counselling about the harmful effects of the use of cannabis as an alternative to prosecution has had a positive effect on people who are caught up in the drug culture, and that is certainly the indication from the trial in Mirrabooka and Bunbury and from the emerging realities in Victoria and South Australia. However, in Western Australia a criminal penalty for the possession and use of cannabis is imposed outside the police districts of Mirrabooka and Bunbury. We know that there is widespread disregard within the community for the current laws. Also, the law in its current form has no educational role in the community. Instead, a simple attitude is adopted widely, particularly among the young, in all age and social groups that the law is an ass in this area. The law provides no challenge to the community to respond to the scientific knowledge available on this drug and the problems which it represents. Increasing widespread use continues to involve large numbers of people with the criminal law and the courts of this State, which, in the view of the Labor Opposition, is not a useful development.

I appreciate the measured response of the Attorney General. The Labor Opposition's response to this Bill needs to be seen as measured as well. We do not say to the community that we encourage the use of drugs. This Bill does not do that. We know that many people will see that simple statement as being out of step with their views. They see cannabis simply as a drug of recreation that will do no harm to them on the basis of their experience; that is, they have limited or no knowledge of the damage it has done to others. These people respond to this debate by ignoring the Parliament and its statutes and not rising to the challenge of dealing with the problems associated with the frequent use of marijuana.

The Attorney said that alcohol and tobacco, in particular, cause this community enormous cost in human lives, misery and ill-health. The community of Western Australia has not succeeded in getting on top of those two drugs. Other drugs have been added to the list. Increasingly, we see amphetamines, heroin and other highly addictive hard drugs peddled in our community. Also, we see the arrival of ecstasy and other drugs increasingly used by sections of the community as recreational drugs. The Government's resources would be best placed in trying to substantially tackle the damage done to the community by the use and abuse of drugs. That will not be achieved with cannabis, alcohol and nicotine by bringing users into contact with the criminal court processes.

It can be seen in areas of my electorate how the use and possession of cannabis has become socially acceptable across many sections of the community. I am absolutely fascinated by the current generation of squattocracy in some sections of my electorate which, without any sense of embarrassment, will point a person in the direction of the cannabis plants from the homestead. I am absolutely fascinated by a clash whereby the pastoralists on a remote pastoral property complained to the police about their neighbours pinching the cannabis plants from the gardens of the once famous pastoral lease of a third-generation pastoral lease proprietor. The police took the complaint seriously and the thieving neighbours were cautioned about stealing cannabis.

Hon Norm Kelly: Maybe that is the sort of cautioning system we should have.

Hon TOM STEPHENS: It intrigues me that in this instance the police adopted an attitude to the law which is not consistent with the statistics I have cited, but which is consistent with a totally changed attitude towards the use and possession of cannabis in our community. I also add to that humorous tale the point that, sadly, in my electorate there is a large section of disadvantaged people at the bottom end of the opportunities of life who will end up in despair and will so easily turn to alcohol and addictive patterns of behaviour within a community which is experiencing social despair and which is too ready to use addictive substances such as alcohol, petrol, glue and, increasingly and regrettably, cannabis at a level which is alarming that community.

There is no adequate allocation of resources from government to that community for the size of the challenge of the increased health and social problems which the use and misuse of cannabis represents for those individuals and communities. As the Attorney General has indicated, there is clearly sufficient scientific analysis to suggest that there are people whose personalities are such that their use of cannabis could see latent psychological profiles emerge into a full-blown mental illness, in particular schizophrenic conditions. Cannabis use presents substantial problems for that section of the community in which that psychosis has developed in individuals and for that increasing community of schizophrenics which has now emerged within the Western Australian community. That is attributable, in the experience of some, to the use of cannabis, and it is argued that that reality may never have emerged if they had never used cannabis. It is our hope that the cautioning system that is advocated in this Bill would be one way to alert people to that reality. It is not sufficient by itself. However, there is something terribly wrong with a government that says it is adequate for the laws to stand as the education system to try to discourage individuals from moving into this culture of frequent, regular use and overuse of

marijuana and cannabis. That would appear to be simply an approach of burying one's head in the sand and ignoring the fact that the laws have not worked and there is a challenge for the Government and the community to respond in a different way to that reality.

Some people have adopted the view that the problem is so serious that we must not move down the direction that has been advocated in this House by the presentation of this legislation, because that will only make it worse. My response is that nothing could make it more worse than what it is currently. The Government should be much more engaged in discouraging the use and abuse of cannabis within our community. Its use represents a substantial health risk. For many people within our community, it is a drug that is beyond their capacity to handle.

My experience of this is different I am sure from other people's experience, and there will be people who read my comments and wonder what part of ancient history I came from. However, my views come from the experience of the lives of others. These people have introduced a substantial new problem into their lives that leaves me more convinced than ever about the need to discourage the growth of this drug culture. It is for all those reasons that I am happy to support this Bill, because I believe that the Bill takes a useful step down that path.

The Government's announcement in the House tonight makes it clear that in the end, even if the Bill passes through the Legislative Council it will go nowhere. It will go as a message to the Assembly and it will presumably be defeated by the Government using its numbers in that place.

Hon Norm Kelly: Will the ALP progress the debate in the other place?

Hon TOM STEPHENS: The ALP supports this legislation, but Hon Norm Kelly knows that it does not have the numbers in the other place and whether the Government chooses to advance this legislation is up to the Government.

Hon Norm Kelly: No, it is not.

Hon TOM STEPHENS: It is. The Opposition supports this legislation. The matter of its progress in the other place is a matter for the Government.

Hon Norm Kelly: You say you support it but you do not do anything about it.

Hon TOM STEPHENS: That is an unfair, unkind response to the realities with which we are faced in the other House.

Hon N.F. Moore: You have private members' time in the other House.

Hon TOM STEPHENS: The Government has the numbers in the other place, and based on our experience, we know how the Government uses our time during private members' time in that House. It talks and talks to the point at which it wastes the time of the House.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! The Leader of the Opposition will cease responding to the unauthorised question time and will address the Bill before the House.

Hon TOM STEPHENS: One of the challenges for the Labor Opposition is to recognise that it has the task of responding to issues such as this, and not simply be a party that endeavours to represent tiny minority viewpoints within the community. It also must recognise that it has the task of responding to the entire community and of preparing that community for the realities with which it is faced across this State. That includes a recognition that the current laws do not work, they are compounding the problems in the community, and they are eating up the resources of government to the point at which it is unable to allocate sufficient funds to respond to the health challenge that the misuse of drugs represents in our community.

This Government does not even have sufficient funds to respond to the problem of crime in our community, which is absolutely out of control by virtue of the failure of this Government to prioritise the use of its funds. Part of the reason for this problem is that so much of the resources of government are eaten up in the pursuit of people who possess and use cannabis and throwing them into the police, court and prison systems, that increasingly crime runs rampant on the streets, unchecked and unchallenged by the jurisdictions that have responsibility for tackling it. I am speaking, of course, about the needs of the Police Force that are not being resourced by this Government by virtue of its failure to give priority to the Police Force. That is clear day in and day out in communities such as Geraldton, where the police superintendent must beg volunteers to come off the streets to engage in police work at the desks, at reception and on radio, because the Government has not allocated the resources to tackle the serious crime within our community. Instead of allocating those resources, the Government seems prepared to bury its head in the sand and ignore the reality facing this community. It does not have enough resources to tackle crime, and the Government is prepared to leave on the statute book a criminal reality for the users of cannabis. The Government does not allocate sufficient resources for the police to tackle serious drug peddlers and serious criminals in the community, but it is prepared to think it is doing its job.

The Labor Party responds to this debate by saying it is the responsibility of people who are either in government or who want to form government to respond to that reality more intelligently than is being done by this Government. For those reasons, the Labor Party takes the opportunity to support the legislation and commend to the Government the need for it to adopt a different response to the Bill.

**HON SIMON O'BRIEN** (South Metropolitan) [9.25 pm]: I will add a couple of points to the facts and figures presented by the Attorney General. However, before doing that, I want members to appreciate the real scope of the Bill. It can be

narrowed down to the words in the title: Its passing would make provision for two cautions to be issued to people who have committed simple cannabis offences instead of imposing any form of penalty.

The intention of the legislation has been explained by its mover. It has also been grossly misrepresented by the Leader of the Opposition, and I look forward to coming to that matter and some of his arguments in a moment.

If having two free chances is the answer to the question, then it must have been a silly question in the first place.

Hon Norm Kelly: What is the difference between that and the trial run by this Government?

Hon SIMON O'BRIEN: There is a big difference and I will tell the member what it is. I do not know how many members profess to be familiar with the mentality of Australian society - its attitudes and how it works - but I hope we have a good idea. Unfortunately, the authors of this Bill do not. If ever a proposal was designed to bring law and order and the officers of law and order into disrepute, it is this proposal. If this ludicrous legislation were to be passed, it would be only a short time before young adults would be treating it as a joke. I can hear it now: "Have you had your first caution yet?"; "Yes, I'm going for my second." It is a case of having two free goes.

Hon Norm Kelly: On what do you base that?

Hon SIMON O'BRIEN: That is what is in the Bill. Is there anything more to it than that?

Hon Christine Sharp: What is wrong with that?

Hon SIMON O'BRIEN: Does the member disagree with that?

Hon Christine Sharp: The Bill contains other measures.

Hon SIMON O'BRIEN: There is no disagreement that that is the intention of that part of the Bill. It allows two free shots to offend against the law as it currently stands and will stand in relation to simple cannabis offences. That is a recipe for bringing the law in general and the police trying to do their job on the streets in particular into disrepute. For that reason, it is shallow and ill-conceived.

Hon Norm Kelly asked me by interjection to contrast that with the single-caution trial recently run in the Mirrabooka and Bunbury police districts. I followed that process with great interest. The material difference - apart from the obvious difference between one and two cautions being issued - is that the trial proposed a cannabis use education program rather than offenders going through the judicial system. Some participants found that a useful exercise; others found it a complete pain in the neck. Either way, it was probably a penalty they preferred rather than dealing with the judicial process and all its implications.

In view of my previous comments on related subjects, some members may be surprised to hear that I am not in favour of draconian or over-the-top penalties for what are described as simple cannabis offences. Indeed, I am not in favour of sanctions against anybody which are out of proportion to the nature of the offence. From that point of view, the Mirrabooka and Bunbury trials are definitely a step in the right direction. However, members should understand my differentiating between that system and this one, which does not have any form of sanction. Proposed section 8B basically states that under certain conditions a person can have two free goes to get caught for an offence and nothing will happen to him, except that it will be recorded that that person was given a cautioning notice.

Hon Christine Sharp: It would be simple for the member to move amendments to implement the cautioning system, which the Government has done as a matter of policy. That possibility is available to the member tonight.

Hon SIMON O'BRIEN: No, it is not available to me tonight. This Bill is an egg that I do not believe can be unscrambled by simple amendment. In due course, I look forward to my colleagues on this side of the House advancing this issue as a result of the trials conducted in Mirrabooka and Bunbury. The fatal flaw in this Bill is that the motivation behind it is to send a clear message to our community that the possession and use of cannabis is okay. It is a bit of a joke to have laws which say that thou shalt not possess or use cannabis while at the same time some people are prepared to chip away at that, and this is a pretty good start. There is a big difference between adopting a view that we will uphold existing and long-established laws but hold them up to contempt and ridicule and saying that we will measure our response to certain comparatively minor offences and how they are dealt with. It is legitimate to question the effect of certain types of criminal sanctions on simple cannabis offenders. However, I do not think it is acceptable to declare that any criminal sanction or community opposition to cannabis is a bit of a joke, because it is not.

I will explain what I mean by that. I became slightly incensed when listening to the remarks of the Leader of the Opposition just now. I am glad he is in the Chamber because I want to respond to his comments. At first I thought he wanted to have two bob each way. Indeed, that was the sum total of his remarks. I did not know what the view of the Australian Labor Party was on this matter until some way into his speech. He referred to the Carpenter ALP policy paper on drugs. With your permission, Mr Deputy President, I request that the Leader of the Opposition respond by interjection to my question: Is the much heralded "five plants is okay" part of the ALP policy on marijuana still intact, or has that been dropped? I think the ALP is a bit embarrassed about this issue, because the member for Willagee, its spokesman on these matters, put out a paper which included provisions for any person - any adult at least - to possess up to five cannabis plants at his or her premises.

Hon Tom Helm: When was that paper put out?



Hon SIMON O'BRIEN: I do not remember the exact date. Is the member saying that he does not remember the paper being put out?

Hon Tom Helm: Do you recall or have you been smoking that stuff again? It is a new one, but it sounds all right.

Hon SIMON O'BRIEN: I will move on from that point because of the inability of members of the Labor Party to answer the simple question of whether they have a policy which says that five plants per person in any household is okay, yes or no. I get no response of yes or no from members opposite. That reflects the confusion they are experiencing after other members of the Parliamentary Labor Party objected to that policy position. At this stage I am not sure in what sort of limbo their position stands. Judging by the silence of the Leader of the Opposition, he does not wish to communicate that to the House at this time.

Hon Greg Smith: It seems like the Greens (WA) are writing the Labor Party policy.

Hon SIMON O'BRIEN: I am sure they are doing it on recycled paper.

Hon Christine Sharp: I thank Hon Simon O'Brien.

Hon SIMON O'BRIEN: One tries to be gracious when one can.

The Attorney General, during his remarks, canvassed the issue of plants. Reference was made to this Bill relating to up to two cannabis plants being cultivated, which would constitute a simple cannabis offence. I have mentioned an Australian Labor Party semi-policy relating to five plants.

Hon Tom Helm: You said it was a policy. It was only a discussion paper.

Hon SIMON O'BRIEN: It is only a discussion paper now! I will look out to see whether Labor ever gets a policy on it!

Hon Greg Smith: I thought it was a resolution passed at the state conference and binding on the party.

Hon SIMON O'BRIEN: That does not seem to be quite the case these days. Perhaps there will be another conference to review that. I hope there is.

I offer to the House these observations on quantities of cannabis. The Attorney General pointed out that two cannabis plants can constitute a large amount of material. A mature cannabis plant can be two or three metres tall. Members may imagine how much material there is in five fully grown cannabis plants, especially in a household containing perhaps half a dozen people, all of whom are growing plants of this size for some other concern, even though none of them uses the stuff but are selling it to some form of wholesaler.

The nature of cannabis has changed a little over the years. We should stop talking about cannabis and grams of leaf material. The strength of cannabis is measured by its tetrahydrocannabinol content, which typically in Australia could be characterised in this way: The seeds of the cannabis sativa contain no THC; the twig-like parts and branches typically contain a very small amount of perhaps 1 to 2 per cent; the leaves contain perhaps 3 to 5 per cent; and the flowering heads, which contain the most concentration of THC, contain perhaps 5 to 8 per cent. Those were the sorts of tetrahydrocannabinol concentrations that one would find in a cannabis sativa plant typically in the Australian community in years gone by. However, changes have occurred in the market. Reference has been made to hydroponics. There has been the development, particularly in the Netherlands, of new strains, to make them more potent and deliver higher levels of THC.

Hon Norm Kelly: Is this in the country where it is sold through cafes and where there is a lower level of drug abuse?

Hon Bob Thomas: People in the Netherlands are three times less likely to use marijuana.

Hon SIMON O'BRIEN: The Netherlands experiment is interesting and I would like to talk to Hon Norm Kelly, or any interested member, another time either outside the House or within the Chamber if a suitable question is before the Chair. However, I do not want to take up the time of the House on that now. It is another question. Some cannabis strains, in addition to the ones I mentioned a few moments ago, have been known to have a THC content of up to 45 per cent.

Hon Christine Sharp: Has the member seen tests on that?

Hon SIMON O'BRIEN: I have seen numerous reports from sources in Holland which I cannot quote because I do not have them with me. Those are the sorts of developments botanical engineers in Holland are working on. I have results of studies in my office and I will send them to the member.

Hon W.N. Stretch: Are they genetically modified?

Hon SIMON O'BRIEN: I do not think genetically modified is the right term, although it may well be. However, it means that 100 grams is not necessarily 100 grams of cannabis any more.

Hon Greg Smith: It is like comparing a bottle of beer with a bottle of scotch.

Hon SIMON O'BRIEN: That is a good analogy. The assessment of the amount of active ingredients may need to be considered in Western Australia as a way of measuring the amount of this material in future. When someone is charged with importing heroin, the charges are not based on the total gross mass of the heroin, as the white powder might be called,

but chemical analysis establishes the purity, and from that a smaller quantity of heroin is identified as the amount that was found in the custody of the offender. It is relevant to this Bill because it means that 100 grams of cannabis is not necessarily 100 grams of cannabis from someone else's point of view.

Hon J.A. Scott interjected.

Hon SIMON O'BRIEN: It makes a difference. The nature of cannabis plants these days is such that a user would use a smaller amount, possibly even a smaller smoking instrument, because they are concentrating more on the resinous substance which contains the higher amount of THC. Hon Jim Scott raised an important point when he said that someone would use less because the cannabis was stronger. That is how one would get a similar effect from a stronger material.

Hon Norm Kelly: Does the member realise that this Bill does not cover cannabis resin?

Hon SIMON O'BRIEN: Yes. The Attorney General made some comments and I think the Leader of the Opposition also touched on the fact that some people are prone to adverse reactions to cannabis and all sorts of things can happen to them. Schizophrenia could be triggered in those with a predilection to the illness. A whole range of conditions could be triggered. Some may be psychological, but others may be purely physical. However, people who are not used to taking THC in cannabis form or in whatever form and who suddenly take a very strong dose of the stuff - particularly if it is in the context of a teenage party or whatever which is not properly supervised - may find themselves in real trouble. I do not claim that that happens to everyone, and many people use cannabis with no apparent harmful effects in the short or long term, in the same way that many people use, or even misuse, alcohol with no real problem apart from the occasional injury to themselves or someone else, or some other form of misadventure.

Hon Mark Nevill: How do you misuse alcohol?

Hon SIMON O'BRIEN: I will let that one go through to the keeper; I am sure the member had some experience in this matter in his youth.

We then come to the old chestnut from the Leader of the Opposition that alcohol causes all sorts of problems to all sorts of people and has all sorts of correlating costs, and a comparatively smaller number of people are affected adversely by illegal drugs, be they cannabis or whatever, and at a comparatively smaller social cost to the community. If that is the case, why on earth would anyone want to make cannabis a socially acceptable mainstream drug in addition to alcohol? That would simply invite other people to participate in its use and expand our problems.

Obviously I oppose this Bill for the reasons that I have given, but I have qualified my remarks, and I hope the House will find my comments about THC in some way useful or instructive. I am appalled at the double standards of ALP members on the drug issue. They do not seem to know where they stand. They reckon they want to be tough on crime and on the causes of crime. However, in view of their contribution tonight, their score is a big fail on both counts. If they are to be relevant as the alternative Government that they pretend to be, they will need to wake up to the values that are held by mainstream Australia, and that is not contained in the 13 per cents and 15 per cents that are sometimes mentioned in the context of this debate.

**HON MURIEL PATTERSON** (South West) [9.48 pm]: Both the Opposition when in government and the present Government have spent millions of dollars on the Quit campaign to help people to refrain from smoking and to educate people about the effects of smoking on their health in future years. We should remember that when people first started to smoke many years ago, no-one knew anything about the future health problems that it would cause. I take members back to 1993 when Hon Phil Pandal invited a woman by the name of Elaine Walters to the Parliament. We all met her and talked to her about the book that she had just published, which was called *Marijuana - An Australian Crisis*. The write-up on the back cover of the book states -

At a time when governments are faced with developing strategies to deal with alcohol and drug abuse, it is critically important that decisions are based on facts and not on mythology or ideological stances. Slogans and selective use of data frequently masquerade as expert opinion whilst the voices of those profoundly disturbed by the effects of drug abuse are set aside by those who do not listen.

Elaine Walters started off by listening to these voices, by counselling parents and others who were disillusioned with the 'establishment' of experts. In order to further her knowledge and experience, she travelled abroad, assisted by a Churchill Fellowship and consulted widely with internationally recognised researchers, treatment agencies, policy makers and the top echelons of the World Health Organisation.

One could assume from the write-up that she knew what she was writing about. The foreword written in November 1993 by Hon Marie Tehan, the then Victorian Minister for Health, read -

I endorse the tenure of Mrs. Walters' study which is that our young people should be protected against the ravaging of drug taking. While millions of dollars are spent educating against the effects of legal drugs, such as alcohol and tobacco, it would seem a backward step to be adding any further drugs currently illegal, to legal acceptance within the community.

This terrific book involves an amazing amount of research. I will read a few excerpts from the book relating to our State. A parent in Geraldton, Western Australia, who had a son who was taking cannabis, said -

As a family we have been to hell and back over the past 5 and a half years and still cannot get any continuing help

for our son. He fights against any help and says there is no problem with marijuana. In fact the first councillor told me there were no long term problems with the drug and that schizophrenia probably runs in the family.

The following excerpt is from a parent in Broome -

"A year ago my son then nearly 18 started becoming very paranoid after smoking marijuana. His personality changed dramatically from being a happy sociable together kid to being unhappy, introverted, imagining he could hear people talking about him, unsure of himself, mumbling to himself and a number of other anxiety problems. The local doctor has told him that he is suffering from drug-induced psychosis and should stop smoking. He did that for a while and his behaviour improved, but sadly he has taken to smoking again, 'occasionally' he says. I know when this is because his moods swing dramatically, he can be aggressive, unhappy to a dangerous degree and quite unbearable to be around. He can be like this days after he has smoked."

Elaine Walters writes about many instances and gives data, the source of which is documented. An interesting piece appears on page 15 of the book which reads -

Another serious consequence of 'decriminalisation' is the reprehensible lack of concern for the health and well-being of young people who naturally interpret this permissive policy as qualified advocacy. Past experience in other countries clearly demonstrates that 'decriminalisation' leads to an increase in youthful experimentation, which in turn leads to an increase in regular use and for many this gives way to dependency. The most recent example of the disastrous results of the decriminalisation of marijuana was experienced in Alaska when, as a result of this permissive policy, there developed by far the highest levels of adolescent marijuana, cocaine and alcohol use in the United States. Such was the concern that in 1990 the Alaskan community 'recriminalised' marijuana . . .

I turn now to the penalties for the drugs. We should educate our young people to refrain from and reject the whole concept of the drug culture so thousands of Australian parents will be spared the misery of witnessing the physical and psychological deterioration of their children.

Elaine Walters came up with a very good suggestion when she said -

On the other hand, imposing a criminal record which result in a life time stigma is too severe. The problem is, however, if offenders avoid the criminal justice system altogether, they will never understand the gravity of what they are doing and the risks they are taking, nor, will they be directed towards suitable treatment.

She makes this suggestion -

Perhaps a reasonable solution would be for offenders to receive the appropriate penalty, and, after two years, for the criminal record be deleted on condition that the offender has abstained from illegal drug use during that time. This would require a delicate balance between coercion and co-operation but could be achieved with strong and far sighted political leadership and community involvement.

That would be a good suggestion for young people who have not been well educated to realise the severe risk to their health. The use of drugs is present in society whether or not we like it, and whatever we do, we will not stop the practice. We also cannot stop crime, burglary or murder, but should we decriminalise them? I suggest that we are being extremely irresponsible to even suggest it. I oppose any proposition that sends a clear message to our youth that it is OK to use cannabis.

**HON J.A. SCOTT** (South Metropolitan) [9.56 pm]: I support the Bill before the House. It has been very interesting listening to the arguments of the members of the Government. The most recent speaker, Hon Muriel Patterson, has just pointed out the example of the young person in Geraldton who suffered from schizophrenia, paranoia and depression as a result of marijuana and she said that the way to fix that depression and marijuana use was to give him a criminal record. I am sure that would help a great deal. I imagine it would drive him to try something harder in future when he is put in jail and comes into contact with those things. It is a total nonsense argument. We should be aware that marijuana use is widespread in the community today. Many people are getting criminal records for something which has very little impact on the community. Hon Simon O'Brien alluded to it in his speech when he was critical of a proposal that people receive two cautions before they came into contact with the law in a serious way. He felt that it was a terrible thing, yet the Government has enacted the "three strikes and you're in" legislation which is about home burglary, and that is a much more serious offence. However, an offender gets three goes at that.

Hon Greg Smith: People do not get jailed for three marijuana offences.

Hon J.A. SCOTT: It will result in a criminal record. There is a lot of hypocrisy surrounding this matter. Nobody can say that smoking marijuana impacts heavily on society except in the fact that it is a criminal offence. The only reason it has become serious is that it has been made a criminal offence. People's lives are affected, because having a criminal record makes it hard for them to get jobs.

Hon Greg Smith: People do not go to jail for a first offence of possessing marijuana.

Hon J.A. SCOTT: In the past, they have.

In effect, 10 per cent of the offences that police deal with are related to marijuana. As Hon Tom Stephens stated, that is only because it is a criminal offence. If it were not a criminal offence it would be treated for what it is - a health problem.

It should be treated in the same way as alcoholism or any of the other addictions that people have - even though it is less addictive than alcohol. It is nonsense to create a poor impression, as members opposite have done, about marijuana users, who are probably doing what members opposite have done. The thought has passed through my mind that I would like to give members on the other side of the House a lie detector test and ask how many indulged in this habit in the past and see how many would pass.

Debate adjourned, pursuant to standing orders.

### **FISH RESOURCES MANAGEMENT AMENDMENT BILL 1999**

#### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon M.J. Criddle (Minister for Transport), read a first time.

#### *Second Reading*

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [10.01 pm]: I move -

That the Bill be now read a second time.

The Bill amends the Fish Resources Management Act 1994 to provide for a new type of licence, to be called a fishing tour operator licence, to be created by regulation. The commercial activity which the licence will regulate is the provision of fee for service recreational fishing tours, whether they are conducted on board a charter boat or through another form of guided fishing service.

The management of commercially-based fishing tour activities is clearly envisaged in the objects of the Fish Resources Management Act. However, regulatory powers in the Act that relate to this function require some refinement in order to properly meet the developing management needs of this growth industry. The need for these amendments was highlighted in the findings from a consultative review into the development of management for this important industry by the fishing tour operators working group.

The working group's final report clearly demonstrated that the fishing tour industry is a vitally important and rapidly evolving sector of our growing aquatic eco-tourism and recreational fishing industries. Between 1990 and 1996 the number of fishing charter operators in Western Australia grew from an estimated 40 boats to over 130. A recent call by Fisheries WA for expressions of interest in fishing tour licences attracted over 450 registrations. The working group recognised that there is potential for fishing tour operators to increase the recreational exploitation of fish, particularly near major population centres and in sensitive marine areas, and this in turn may impact on the quality of the recreational experience for tourists, especially in areas where the tourism is largely dependent on pristine, uncrowded environments.

A major challenge for the Western Australian community is to ensure the sustainability of these resources in the face of growing pressure from population growth and tourism, and to ensure that the industries based on these resources are managed in a fashion which will optimise long-term benefits to the community. With the additional information that will be provided through the logbooks and other surveys, Fisheries WA will continue to monitor the overall impact of fishing on key recreational fish stocks and implement appropriate management arrangements for broad regions and particular areas to ensure that exploitation is sustainable and the quality of recreational fishing is maintained. The charter industry has recognised that regulation is necessary to not only enable management of the sector's impact on fish resources, but also encourage and facilitate the development of a professional and responsible industry with high standards of customer service and safety.

The implementation of this management strategy is an important milestone in WA's comprehensive fisheries and aquatic resource management program and will establish a firm foundation for dealing with the conservation challenges posed by population and tourism growth. The essence of the amendment is to ensure that there are sufficient powers for regulations to be made for the licensing and management of all commercial operators of fishing tours. I commend the Bill to the House and, for the information of members, table an explanatory memorandum for the Bill.

[See paper No 826.]

Debate adjourned, on motion by Hon Bob Thomas.

*House adjourned at 10.05 pm*

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### QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

#### SPEECH PATHOLOGISTS, NUMBER

1406. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Disability Services:

(1) How many speech pathologists were employed in -

- (a) 1985;
- (b) 1990;
- (c) 1993;
- (d) 1996;
- (e) 1998;
- (f) 1999; and
- (g) 2000?

(2) How many are expected to be employed in -

- (a) 2001;
- (b) 2002; and
- (c) 2003?

Hon M.J. CRIDDLE replied:

- (1) 20 speech pathologists were employed by the Disability Services Commission as of February 2000. This excludes speech pathologist positions for school age services which were transferred across to Therapy Focus in 1998. Due to the introduction of new computing systems, information regarding the actual number of professional staff by speciality (eg speech pathologists) employed by the Commission prior to this time is not readily retrievable.
- (2) The forward estimates provide for an additional \$700,000 for therapy and professional services (including speech pathology) in each of the years 2000/01 and 2001/02 which will be allocated across provided and funded services. Further funds for these services are being sought as part of the Commission's next Five Year Business Plan commencing 2000/01.

#### LIBRARIES, ONLINE ACCESS

1506. Hon TOM STEPHENS to the Attorney General representing the Minister for the Arts:

(1) What is the cost of providing online access facilities to all libraries in Western Australia?

(2) Will the Minister for the Arts table how much funding has been provided -

- (a) in each year (where provided) prior to this financial year; and
  - (b) in this financial year,
- for these facilities?

(3) At current funding rates, what is the estimated length of time before all WA libraries have these facilities?

(4) What immediate boost to funding will the Minister provide for these facilities?

(5) What additional funding, in addition to that provided this financial year, will be allocated in this year's Budget?

Hon PETER FOSS replied:

- (1) The State Government, through the Library Board of Western Australia, is responsible for providing processed stock, support and consultancy services to public libraries in Western Australia. As part of an agreement between the Library Board and local governments for the provision of public library services, local governments are responsible for staffing, buildings and other infrastructure, including the provision of online facilities. The provision of online facilities varies between local governments but may include the provision of Internet access to the public and/or library staff and also allows access to the increasing amount of online information provided by the Library and Information Service of Western Australia (LISWA).
- (2) The only funding provided by the Western Australian Government towards the establishment of online access facilities in public libraries occurred during the Regional Libraries Online project during 1997/98. This project which established online access facilities in eleven regional public libraries was jointly funded by the Western Australian Government and the Commonwealth Government under the Online Public Access Initiative. The Commonwealth funding of \$200,000 provided equipment, telecommunications, installation, support and training. The matching funding of \$200,000 from the State Government of Western Australia was used to fund project management costs, development costs for public access workstation configurations, the Regional Libraries online web site, regional content and online services.

- (3) As indicated above, under the terms of the agreement between the Library Board of Western Australia and local governments, the provision of online access facilities is a local government responsibility.
- (4)-(5) Not applicable.

LIBRARIES, ONLINE ACCESS

1531. Hon TOM STEPHENS to the Attorney General representing the Minister for the Arts:

- (1) What is the cost of providing online access facilities to all libraries in WA?
- (2) Will the Minister for the Arts table how much funding has been provided -
  - (a) in each year (where provided) prior to this financial year; and
  - (b) in this financial year,for these facilities?
- (3) At current funding rates, what is the estimated length of time before all WA libraries have these facilities?
- (4) What immediate boost to funding will the Minister provide for these facilities?
- (5) What additional funding, in addition to that provided this financial year, will be allocated in this year's Budget?

Hon PETER FOSS replied:

Please refer to answer submitted under number 1506.

LANDCORP JOINT VENTURE, ALKIMOS-EGLINTON ESTATE

1542. Hon KEN TRAVERS to the Leader of the House representing the Minister for Lands:

With regard to LandCorp's joint venture development of the Alkimos-Eglinton estate -

- (1) On what date was Woodsome Management Pty Ltd contracted as project manager?
- (2) What was the value of this contract?
- (3) Did the contract go to tender?
- (4) If not, why not?
- (5) If tenders were called, how many submissions were received?
- (6) Where and when was the tender advertised?
- (7) On what date does the contract expire?
- (8) Have there been any extensions to the contract, and if yes, for what periods?
- (9) What is the value of these extensions?

Hon N.F. MOORE replied:

- (1) January 1998.
- (2) \$196 500 (LandCorp's Share).
- (3) No.
- (4) The resignation of LandCorp's staff project manager together with the need to commence the joint preparation of documentation required to initiate amendments to the Metropolitan Regional Scheme (MRS) and Local Town Planning Scheme, resulted in the appointment of Woodsome Management Pty Ltd due to their experience with the earlier master planning phase of the joint planning initiative. The introduction of a third party to duplicate this function would not have delivered the same economic efficiencies. Following the MRS amendment phase, LandCorp will appoint a project manager through an appropriately competitive selection process to oversee its own development.
- (5)-(6) Not applicable.
- (7) 30 June 2000.
- (8) There have not been any extensions to this contract.
- (9) Not applicable.

**QUESTIONS WITHOUT NOTICE****YABURARRA NATIVE TITLE CLAIMANTS****901. Hon TOM STEPHENS to the Minister for Mines:**

Will the minister table the following information in reference to the Yaburarra claimants -

- (1) Which applications under legislation other than the Mining Act 1978, but administered by the Department of Minerals and Energy, have been subject to Native Title Act right to negotiate procedures?
- (2) For each of these applications, what is the name of the company involved?
- (3) In each case, who has negotiated on behalf of the claimants?
- (4) For which of these applications have right to negotiate procedures concluded?
- (5) With which specific negotiations with the claimants were Department of Minerals and Energy officers involved?
- (6) What were the dates of the involvement?
- (7) If the department was not involved, why not?

**Hon N.F. MOORE replied:**

The member has asked me to table information which is, in fact, a series of questions. It seems absurd for a member to read out such a question and then for the minister simply to table the answer. The member may as well just ask the question on notice. If the member thinks he can ask questions without reading them out, on the basis of "I would like to ask a question, but you should table the answer", he has another think coming. The answers are -

- (1) None.
- (2)-(7) Not applicable.

**MAIN ROADS WA, COST OF LEASING VEHICLES****902. Hon TOM STEPHENS to the Minister for Transport:**

According to an answer given in the other place, it cost Main Roads WA \$1.147m to lease 549 vehicles in the 1997-98 financial year. Can the minister explain why it now costs Main Roads WA \$2.17m to lease 430 vehicles, which is \$1.023m, or 89 per cent, more than in 1997-98, but for 22 per cent and 120 fewer vehicles?

**Hon M.J. CRIDDLE replied:**

That is a complicated question. I ask the member to put it on notice. The member cannot expect an accurate answer under these conditions, and I am mindful of what the member did to me yesterday. I am going to be very wary in any answer that I give the member from now on. So, when I say that he should put questions on notice, the member will understand why.

**GOODS AND SERVICES TAX, GOVERNMENT COSTS****903. Hon N.D. GRIFFITHS to the Leader of the House representing the Premier:**

I refer to the Premier's answer to question 867 last Thursday in which it was said that initial modelling work had been completed on the impact of the goods and services tax on government costs.

- (1) What are the expected savings across government as a result of the supposed lower fuel taxation and savings from wholesale sales tax?
- (2) Will the analysis be tabled; and, if not, why not?
- (3) Given that the Government has its own estimate of the impact of the GST on government costs, why does it continue to use the commonwealth figure of \$50m?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) As indicated in the answer to question 876 last Thursday, initial modelling work has been completed but is now being finetuned in the current budget process.
- (2) The results of this analysis will be reflected in the state budget to be tabled in May.
- (3) The commonwealth estimate of savings of \$50.1m in 2000-01 for Western Australian general government agencies has been agreed for the purposes of the guarantee arrangements under the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Arrangements, signed by the Commonwealth and all States and Territories last year.

## CALM, HARVEY RESEARCH CENTRE

**904. Hon CHRISTINE SHARP to the Attorney General representing the Minister for Forest Products:**

- (1) Can the minister please confirm that the Department of Conservation and Land Management's Harvey research centre is being used for commercial timber milling for private owners?
- (2) If yes, how many cubic metres have been milled there in the previous 12 months?
- (3) Has the minister referred this operation for assessment under the national competition policy?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) Yes. The Department of Conservation and Land Management timber technology centre at Harvey is involved in assisting the timber industry in value adding which includes promoting appropriate use of specialty timbers. As part of the timber technology centre's assistance to the craft industry, small parcels of specialty log timber, mainly purchased from CALM through auction, have been milled at the Harvey centre using high recovery equipment designed for milling specialty timbers.  
I am sure we all applaud that, as it sounds like a very good idea indeed.
- (2) A record of the quantity milled is not maintained. Records are kept of the machine hours used for charging the owners of the specialty log timbers on a fee-for-service basis. A total of 44.25 machine hours was recorded for this service over the past 12 months.
- (3) A competitive neutrality review under the national competition policy will take place following establishment of the proposed Forest Products Commission.

## DAIRY INDUSTRY AUTHORITY, TRANSFER OF CONTROL

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

- (1) Has the Government agreed to transfer the Dairy Industry Authority to the control of dairy farmers or their representatives as additional adjustment assistance for the loss of quota entitlements under the proposed dairy industry deregulation?
- (2) What is the net asset value of the DIA?
- (3) In respect of the levy imposed on consumers under the dairy adjustment assistance scheme -
  - (a) what was the total collected to 1 January 2000;
  - (b) How much has been distributed to milk vendors; and
  - (c) will the levy be removed if control of the DIA is transferred to dairy farmers?
- (4) Does the minister think it is fair that dairy farmers will receive adjustment assistance from levies imposed to provide such assistance to milk vendors?

The PRESIDENT: The last part of the question clearly requires an opinion and therefore is in breach of the standing orders.

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1)-(3) As part of the State Government's proposed dairy assistance package to assist a managed transition of the deregulated market, ownership and net assets of the Dairy Industry Authority will be transferred to the industry. The DIA has budgeted to have net assets of \$10.6m as at 30 June 2000.

Part of the margin collected on the sale of market milk has been set aside in the dairy industry fund for DAAS arrangements. A total of \$6.1m has been paid to milk distributor vendors.

The moneys in the dairy industry fund raised by the margin on the sale of market milk are being used for the benefit of the Western Australian dairy industry, in consultation with the DIA, until the repeal of the Dairy Industry Act 1973.

## INTERNET, WESTERN AUSTRALIANS TO BE ONLINE

**906. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Commerce and Trade:**

I refer to claims by the Premier and a number of ministers that the Government plans to ensure that all Western Australians are online in the next five years.

- (1) Has the Office of Information and Communications assessed the cost to taxpayers of putting the entire population of Western Australia online?



- (2) If so, what is the estimated cost and how was it calculated?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) No. The Government, through a number of agencies, is contributing to initiatives which achieve this objective. The Office of Information and Communications is working with these agencies to further advise the Government on how this objective can be best realised.
- (2) Not applicable.

#### ORD AIR SERVICES

**907. Hon MARK NEVILL to the Minister for Transport:**

- (1) Has the Department of Transport undertaken or completed an audit of Ord Air Services?
- (2) Has the Department of Transport removed Ord Air Services from or refused to add it to the list of Government VIP carriers?
- (3) Will the minister provide the reasons for not allowing Ord Air Services to carry Government VIP passengers?

**Hon M.J. CRIDDLE replied:**

- (1)-(3) The issue of Ord Air Service has been very difficult to deal with. The Civil Aviation Safety Authority has been involved. It has removed Ord Air Service's opportunity to service that area. I have written to the federal minister and I have people in Canberra at the present time whom I have asked to talk to representatives of the federal department about the issue of Ord Air Services and give me the answer when they return tomorrow. I will then be able to pass on further information to the member.

#### SPEEDING INFRINGEMENTS, PHOTOGRAPHS ON THE INTERNET

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

Has the minister considered allowing photographs of speeding infringements to be accessed via the Internet? This would allow motorists living in regional areas to confirm if they were responsible for driving the vehicle in question without having to attend the viewing section in person.

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

This matter, together with additional enhancements, is presently being considered by the Western Australia Police Service, through the Cap:Speed Phase 2 Project, formerly known as the Enhanced Traffic Enforcement Project. It is a good idea.

#### MAIN ROADS WA, PAY RISE FOR OFFICE STAFF

**909. Hon BOB THOMAS to the Minister for Transport:**

- (1) Has Main Roads WA recently negotiated a pay rise of 6 per cent for its office staff to be paid in two instalments of 3.5 per cent and 2.5 per cent?
- (2) Will the 3.5 per cent rise be backdated to 1 July for those workers on workplace agreements, but be delayed until the day of implementation for those workers on the enterprise bargaining agreement?
- (3) If yes, what is the reason for the different treatment of those workers on the EBA?
- (4) How many employees are employed on -
- (a) Workplace agreements; and
  - (b) EBAs

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question. This question was for 14 March, so the answer is relevant today.

- (1) Main Roads is currently negotiating a pay rise of up to 6 per cent with a 3.5 per cent payment on negotiation of a new enterprise agreement and up to 2.5 per cent after 12 months on the achievement of a number of initiatives subject to the government approval process.
- (2)-(3) Main Roads' 1998 workplace agreements have provision for the payment of the 3.5 per cent wages increase with effect from 30 June 1999. The payment under the 2000 enterprise agreement is on registration.
- (4)
- (a) 185 employees are covered by the workplace agreement.
  - (b) 739 employees are covered by the enterprise agreement.

## GOVERNMENT VEHICLE FLEET, TARGET REDUCTION

**910. Hon LJILJANNA RAVLICH to the minister representing the Minister for Works:**

- (1) Will the minister advise when the target 5 per cent reduction in the Government's vehicle fleet will be met?
- (2) How many operational vehicles have been or will be lost in the following areas as a result of this target reduction -
  - (a) WA Police Service;
  - (b) Health Department;
  - (c) Education Department; and
  - (d) public hospitals?
- (3) How many vehicles have been or will be lost in ministerial offices as a result of this target reduction?

**Hon M.J. CRIDDLE replied:**

- (1) The target is to reduce the overall government fleet by 5 per cent in 1999-2000. It is not expected that all agencies will have an even 5 per cent reduction. However, it is expected that some agencies will reduce their fleet by more than 5 per cent to achieve an average of 5 per cent across government.
- (2)-(3) The requested information is not readily available. Chief executive officers are responsible for their agency's fleet size based on operational requirements. The Ministry of the Premier and Cabinet administers the ministerial offices fleet. The director general is responsible for the ministerial offices fleet.

## CARNARVON, TOPSOIL REPLACEMENT

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

- (1) What total budget allocation is in place for the provision of topsoil replacement for flood-affected residents, businesses and growers in the Carnarvon area?
- (2) How much topsoil has been made available to assist these properties since the recent flood devastation?
- (3) Has a specific limit been set on the amount of topsoil that is to be currently made available to flood-affected properties in Carnarvon? If yes, what is that limit?
- (4) Is it correct that an order for 10 truckloads of desperately needed topsoil for flood-affected properties has been cancelled because the Government has yet to approve appropriate funding?

**Hon N.F. MOORE replied:**

- (1) The Government has made a commitment to the provision of topsoil replacement. Through the personal hardship grant the Government has further agreed to pay \$1 000 per adult to a maximum of two adults per household, and \$200 per child, for owners and tenants occupying homes that were flooded. The budget for the topsoil replacement is expected to be approximately \$2m.
- (2) Borrow pits have been identified but are inaccessible because of the waterlogged nature of the soil.
- (3) The estimate for topsoil that has been washed away is in the vicinity of 460 000 cubic metres. To ensure that farm recovery takes place the Government will provide machines to re-level existing paddocks. The soil will be replaced around fruit trees, driveways, sheds and houses.
- (4) Ten trucks, two loaders and one grader were placed on standby. However, because of inclement weather and a rising river, which peaked at 12 noon today and did in fact close the bridge, it was not possible to commence the work. As a consequence the trucks and machinery will remain on standby until conditions improve sufficiently for the work to take place.

## AUSTRALIND PASSENGER SERVICE, UPGRADE

**912. Hon J.A. COWDELL to the Minister for Transport:**

- (1) What is the timetable for the replacement of the *Australind* passenger service rolling stock?
- (2) What will be the total cost of the upgrade?
- (3) Will the same number of rail cars and carriages be purchased or will the upgrade result in additional rolling stock being purchased to expand the service?
- (4) What plans does Westrail have to expand the service to other towns in the south west?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1) There are no current plans to replace the *Australind* passenger train rolling stock.
- (2)-(3) Not applicable.

- (4) Westrail has no current plans to expand the *Australind* passenger train service to other towns in the south west.
- DEPARTMENT OF CONTRACT AND MANAGEMENT SERVICES AND THE BUILDING AND CONSTRUCTION INDUSTRY TASK FORCE, ANNUAL REPORT

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

I refer to page 36 of the 1998-99 annual report of the Department of Contract and Management Services and the Building and Construction Industry Task Force and ask -

- (1) How many of the 381 visits to sites were related to alleged breaches by union officials?
- (2) What were the costs for the previous year relating to -
  - (a) the hours logged for site visits and the investigation of formal complaints; and
  - (b) all other costs pertaining to the total cost of operating the task force?
- (3) What was the cause of the data loss that resulted in the Department of Contract and Management Services being unable to measure cost of hours logged?
- (4) How many compliance checks were there for the previous year?
- (5) How many complaints were investigated in 1998-99?

**Hon PETER FOSS replied:**

- (1) The records of site visits do not contain sufficient detail to determine whether they were related to alleged breaches by union officials.
- (2) The cost for hours logged for site visits and the investigation of formal complaints is \$188 415. Other costs pertaining to the total cost of operating the task force were \$206 585.
- (3) The cause of data loss is explained in the text on page 36 of the annual report 1998-99.
- (4) A total of 332 compliance checks were made for the previous year.
- (5) A total of 96 complaints were investigated in 1998-99.

OMEX SITE, EXPERIMENTAL MIXING OF WASTES

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

- (1) Is the minister aware that on 18 February 2000 hazardous wastes were transported through the suburb of Bellevue for experimental mixing with Omex wastes and without public knowledge?
- (2) Were oil waste residues transported from BP Kwinana to Bellevue as part of the Omex trial excavation and mixing experiment?
- (3) Was highly toxic fly ash from cement manufacture also used in this experiment?
- (4) Who paid for the disposal of this industry waste which is being mixed with the Omex contaminated material?
- (5) Will these hazardous wastes be mixed on site at Omex during the major remediation in April, and -
  - (a) If yes, will the Department of Environmental Protection minimum buffer zone of 1 000 metres be implemented for this hazardous waste treatment plant?
  - (b) If no, where will the mixing take place?

**Hon PETER FOSS replied:**

Before I answer the question, I draw the attention of the House to the fact that the question starts with a false premise. Much of the remainder of the question continues to assume that what the member says is correct, but it is false. I hope members will listen to the answer carefully recognising that fact. I thank the member for some notice of this question.

- (1) No hazardous waste was transported through the suburb of Bellevue.
- (2) No.
- (3) No. The waste material recovered from the pit was mixed with three alkali agents of calcium fluoride, raw limestone and cement kiln dust.
- (4) Not applicable.
- (5)
  - (a) Not applicable.
  - (b) Results of the trial indicate that the material from the Omex main pit should not require any treatment prior to transport and disposal at Red Hill. All details of any mixing will be covered in the environmental management plan, which will be available to the public prior to remediation commencing.

WESTRAIL FREIGHT DIVISION, DEBT

**915. Hon KIM CHANCE to the Minister for Transport:**

- (1) Can the Minister advise the level of Westrail's freight division's debt in 1992 and 1999?
- (2) Broadly, will the minister table a list of the items which contributed to this increase in debt, and what has been the cost of each item?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1)-(2) This answer was dated yesterday and states that the information requested is not readily available and will take some time to collate. It requests that the member put the question on notice. I will make sure Hon Kim Chance gets the information. If he wants a briefing on the matter, I will provide it.

ROADSMART

**916. Hon RAY HALLIGAN to the Minister for Transport:**

I attended the launch this morning of a pilot program called Roadsmart with which the minister is involved. What are the aims of that program?

The PRESIDENT: Order! If members interject, other members will not be able to ask their questions.

**Hon M.J. CRIDDLE replied:**

I welcome the opportunity to outline the proposal put to the group this morning because of the impact of this issue on the youth of this State. In conjunction with the Minister for Youth, Hon Mike Board, who was not present this morning, the announcement was made of the program which involves the Office of Road Safety and the Office of Youth Affairs.

Several members interjected.

The PRESIDENT: Order! I said before that members missed out on asking questions yesterday because of interjections. I see it happening again today. Members should not complain to me later if they do not get to ask a question.

Hon M.J. CRIDDLE: This is a very serious issue. In 1998, 23 per cent of the road toll comprised young people aged between 17 and 24 years. It is an issue we must address. The figure increases to around 30 per cent when injury is also included. This program is an opportunity for young people to have input into the road safety message. This is a pilot program for Cannington, Joondalup and the south west areas, in which young people can obtain grants of up to \$5 000. In conjunction with youth advisory councils, young people can join other people in putting forward suggestions on how to overcome some of the carnage on our roads. It is a very important initiative. The youth rate is about double the average road toll rate. Twenty-nine per cent of people in road accidents are hospitalised. The carnage on our roads must be overcome. This \$100 000 pilot program over 12 months will go a long way towards using that network of young people to highlight the issues and to get some suggestions back into the system to overcome that carnage.

WINDIMURRA VANADIUM PENTOXIDE MINE AND PROCESSING PLANT

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

Some notice of this question has been given. In relation to a health matter affecting workers at the Windimurra vanadium pentoxide mine and processing plant, I ask -

- (1) Is the minister aware that the mine and nearby pastoral workers are suffering from conjunctivitis and swollen throat glands?
- (2) If yes, will the minister identify the cause of these health impacts?
- (3) If no to (1), will the minister investigate the cause of the health impacts and report to Parliament?

**Hon N.F. MOORE replied:**

- (1) The Department of Minerals and Energy has been informed of these concerns.
- (2) The operating company, Vanadium Australia Pty Ltd, is undertaking an investigation into possible causes of these concerns. This includes the testing by a third party of stack emissions. The Department of Minerals and Energy is being kept informed by the company of the progress in the investigation and continues to actively monitor the situation.
- (3) Not applicable.

NORTH WEST CAPE RESORT DEVELOPMENT

**918. Hon TOM HELM to the Minister for Tourism:**

I refer to my question on notice 799 of Wednesday, 15 March concerning the North West Cape resort development, to

which the minister answered that he had spoken to people from Trade Centre Pty Ltd who said that they did not know what the member for Bassendean was talking about.

- (1) Were the people behind the Trade Centre proposal Mr Alan Ingham and Mr John Reidy-Crofts?
- (2) Did the minister speak to one of those gentlemen, and if so, which one; if not, to whom did the minister speak?
- (3) Does the minister stand by the answer he gave the House last week or does he, upon reflection, wish to correct it?

**Hon N.F. MOORE replied:**

(1)-(3) The two gentlemen behind the Trade Centre Pty Ltd proposal were Mr Ingham and Mr Reidy-Crofts.

Hon Barry House: You must be careful as you could willfully mislead the House!

Hon N.F. MOORE: I must be careful. The member asked me a question the other day about something that happened about five years ago. I sought to the best of my memory to provide an answer. I indicated that I had spoken to people involved in the project in recent times. I do not propose to indicate who that was; they will know who it was, and they will tell Hon Tom Helm if he asks them. I stand by the comment made in the House that I was advised by personnel from the Trade Centre that they were not sure what the Opposition was on about in the ongoing pursuance of the matter by the member for Bassendean.

#### AGENT GENERAL IN LONDON

**919. Hon TOM STEPHENS to the Minister for Mines:**

- (1) Has the minister sought, been offered and/or made arrangements to take up the position of Western Australia's Agent General in London following the completion of the extended term in office of Hon Clive Griffiths?
- (2) Will the minister assure the House that any proposed appointment does not purport to bind the next State Government?
- (3) Will the minister ensure that any proposal or arrangement for the minister to take up the appointment is not put up to Executive Council for approval in a way which repeats the errors at law which occurred when the Government first endeavoured to appoint the incumbent of that office?

The PRESIDENT: Order! Did the Leader of the Opposition direct the question to the Minister for Mines?

Hon TOM STEPHENS: It is in reference to the Leader of the House in his capacity as Minister for Mines, whose role in that capacity -

The PRESIDENT: I do not need any more. I could not understand how the question relates to the minister's portfolio; however, the minister appears to want to make a statement. I leave it to him to decide.

Hon Tom Helm: Will you sign a workplace agreement?

**Hon N.F. MOORE replied:**

Too right.

- (1)-(3) I have neither been offered nor have I asked for the role of Agent General in London. For some strange reason this rumour gained some currency in the media even though on any occasion it was raised with me by anyone in the media I gave the same answer: No-one has offered me the job and I have not asked for it.

Hon Peter Foss: He will be the Governor-General!

Hon N.F. MOORE: I am waiting for that! The Governor's job has a little more going for it, so I may wait for that one! The rest of the question is speculation. In the event that a person is appointed to a position on contract, I do not imagine that a future Government would renege on that contract. If members opposite will do so, they should say so loudly and clearly.

On many occasions in the past, political individuals have been appointed to this job and have survived an election and remained in the position while the individual's contract was in place. If it is the intention of the Labor Party, in the unlikely event it should win the next election, to terminate a contract for political purposes, it should say so and indicate other appointments about which it might have a similar intention. It is a worrying comment by the Leader of the Opposition in the context of this question. I repeat: I have not asked for the job and it has not been offered.

The PRESIDENT: Hon Ken Travers appeared to indicate to me that Hon Norm Kelly had come in after he had. He is dead right; he did. However, I must work out who asked questions recently. I must also take into account the number of questions asked by the Leader of the Opposition. Hon Ken Travers is next on my list, and I hope to get to him but that is not within my power if I am asked otherwise.

#### CANNABIS POSSESSION, COMPULSORY EDUCATION SESSIONS

**920. Hon NORM KELLY to the Attorney General representing the Minister for Police:**

In a scenario in which a first-time offender has been charged and convicted of possession of less than 25 grams of cannabis, with no other charges being laid, and who has not been given the option of diversion into a compulsory education session -

- (1) Can that person successfully appeal the conviction based on not being provided with the diversion option?
- (2) If not, is a police officer required to provide reasons for not diverting offenders into compulsory education sessions?
- (3) What reasons are regarded as sufficient for not diverting offenders into compulsory education sessions?

**Hon PETER FOSS replied:**

- (1) This would be an issue for the Court of Appeal.
- (2) If persons are eligible, they will be offered the caution. The matter will proceed to court only if the person refuses the caution or fails to comply with the compulsory education session.
- (3) The following reasons are regarded as sufficient: Not being eligible; refusal to agree to the conditions of the caution notice; or failure to comply with its requirements.

#### BUILDING DISPUTES COMMITTEE, COMPLAINTS

**921. Hon KEN TRAVERS to the Leader of the House representing the Minister for Fair Trading:**

- (1) How many complaints have been lodged with the Building Disputes Committee for the following periods -  
     January to June 1998;  
     July to December 1998;  
     January to June 1999;  
     July to December 1999;  
     January to February 2000?
- (2) How does any increase in the number of complaints compare with the increase in housing construction?
- (3) Has any increase in complaints led to an increase in the time taken to deal with the complaints; and, if so, by how much?
- (4) What action has the Government taken to ensure all complaints are dealt with in a timely manner?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) 1 January to 30 June 1998 - 280  
     1 July to 31 December 1998 - 337  
     1 January to 30 June 1999 - 381  
     1 July to 31 December 1999 - 405  
     1 January to 29 February 2000- 142
  - (2) Neither the Ministry of Fair Trading nor the Builders Registration Board of WA records independent data relating to the trends in housing construction. Information on trends in housing construction is readily available from a number of sources, including the Housing Industry Association Ltd. However, the board estimates that building approvals increased by 18 per cent in 1999 from 1998. During this time the complaints received by the board involving contract and workmanship matters increased by 24 per cent.
  - (3) There has been an increase in the time taken to list a matter for hearing before the Building Disputes Committee. The length of time taken to deal with a complaint will vary depending on the nature of that complaint.
  - (4) Currently legislation is before Parliament to amend the Builders' Registration Act which will increase the resources available to the Builders Registration Board and the Building Disputes Committee.
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