



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Tuesday, 10 November 1998

Legislative Council

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

BILLS - ASSENT

Messages from the Governor received and read notifying assent to the following Bills -

1. Births, Deaths and Marriages Registration Bill.
2. Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Bill.
3. Fire and Emergency Services Authority of Western Australia Bill.
4. Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Bill.
5. Curtin University of Technology Amendment Bill.

EUTHANASIA, OPPOSITION

Petition

Hon Tom Stephens (Leader of the Opposition) presented the following petition bearing the signatures of 280 persons -

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

We the undersigned residents of Western Australia respectfully commend to the attention of the House that:

1. Every act of euthanasia carried out with the approval of the State necessarily involves a judgement by the State that the person killed had a life that no longer mattered;
2. Inquiries into the legalisation of so-called "strictly regulated voluntary euthanasia" by the House of Lords Select Committee on Medical Ethics (1994), the New York State Task Force on Life and the Law (1994), the Canadian Special Senate Select Committee on Euthanasia and Assisted Suicide (1995) and the Australian Senate Legal and Constitutional Legislation Committee (1996) each concluded that it is impossible to ensure adequate safeguards for voluntary euthanasia and that therefore legalising euthanasia will always create more victims than beneficiaries;
3. That any Bill to legalise euthanasia should be rejected as an attempt to remove the equal protection from intentional killing enjoyed by all Western Australians under existing law.

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 381.]

REGIONAL PARK SOUTH OF GUILDERTON

Petition

Hon Tom Stephens (Leader of the Opposition) presented the following petition bearing the signatures of 52 persons -

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

We, the undersigned residents of Western Australia support the establishment of a Regional Park immediately to the south of Guilderton in order to protect the mouth and lower reaches of the Moore River and the significant dunes and coastal heathlands south of the mouth of the Moore River.

Your Petitioners, therefore respectfully request that the Legislative Council will give this matter earnest consideration, and take urgent action to acquire this land before it is further rezoned or developed.

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

[See paper No 382.]

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS*Letter from Lawyer Representing Hon John Halden*

THE PRESIDENT (Hon George Cash): I have for tabling a letter from Julie Wager, barrister and solicitor, 5th Floor, 524 Hay Street, Perth, dated 3 November 1998. The letter is addressed to Mr L. Marquet, Clerk of the Council, Parliament House, Perth, Western Australia, and states -

Dear Mr Marquet

STANLEY JOHN HALDEN

I act for the abovenamed.

My client is listed to appear in the District Court at Perth for trial on 7 December 1998 in relation to allegations contrary to the Royal Commission Act.

In order to properly represent my client I require the minutes of the Legislative Council's standing committee on Constitutional Affairs and Statutes Revision that was chaired by the Honourable Mr Pike MLC for 30 October 1992.

I ask that the House consider making an order to release the minutes for the requested date to me.

I confirm that Mr Halden's involvement in the standing committee on that date may be raised during the course of his trial.

I thank you for your assistance in this matter.

The letter is signed, "Yours faithfully, Julie Wager".

I also have for tabling a response dated 5 November 1998 from Mr L. B. Marquet, Clerk of the Legislative Council, which states -

Dear Ms Wager

RELEASE OF COMMITTEE MINUTES

Your letter of November 3 1998 requesting the release of Minutes of the *Constitutional Affairs and Statutes Revision* Committee for its meeting on October 30 1992 has been forwarded to the President for tabling in the House.

I should advise you that any order of the House releasing the documents to you does not act, and cannot purport to act, as a waiver of the privileges of the House in relation to the use made of the document in legal or other proceedings.

The letter is signed, "Yours faithfully, L. B. Marquet, Clerk of the Legislative Council".

[See paper No 383.]

COMMISSIONER FOR PUBLIC SECTOR STANDARDS*Annual Compliance Report, Errors*

THE PRESIDENT (Hon George Cash): I also have for tabling a letter dated 4 November 1998 from the Commissioner for Public Sector Standards, which states -

ANNUAL COMPLIANCE REPORT 1997/98

I write to draw your attention to errors in my Annual Compliance Report 1997/98, involving the Department of Local Government and the South East Metropolitan College of TAFE.

The reporting of a breach of standard claim against the recruitment, selection and appointment standard, for the Department of Local Government should have been reported as a claim against the discipline standard for the Keep Australia Beautiful Council.

The reporting of 40 breach claims against the recruitment, selection and appointment standard for the South East Metropolitan College of TAFE should have been reported as claims against several TAFE colleges including the South East Metropolitan College of TAFE.

The errors were caused by the system used by this Office to record breach of standard claims. This Office ceased

using the system on December 31 1998 to coincide with amendments to the *Public Sector Management (Review Procedures) Regulations 1995*. Similar errors therefore should not occur in future.

I have advised the relevant Ministers.

The letter is signed, "Don Saunders, Commissioner for Public Sector Standards, November 4, 1998".

[See paper No 339.]

SELECT COMMITTEE ON NATIVE TITLE RIGHTS IN WESTERN AUSTRALIA

Final Report, Tabling

Hon Tom Stephens (Leader of the Opposition) presented the final report of the Select Committee on Native Title Rights in Western Australia, and on his motion it was resolved -

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

[See paper No 384.]

Papers, Tabling

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.44 pm]: I seek leave to table papers of the Select Committee on Native Title Rights in Western Australia. By way of explanation to you, Mr President, and through you to the Leader of the Government, he will be familiar with this seeking of leave because he sought similar leave in similar circumstances for a committee that did some overseas work on an unrelated issue.

Hon N.F. Moore: You do not have to talk me into it.

Hon TOM STEPHENS: Okay. I have here a substantial number of documents which I hope the House will see fit to allow to lie on the Table of the House so that they may be accessed by the public. The committee has been particularly privileged in the work it undertook. The Select Committee on Native Title Rights in Western Australia has also directed me to present papers which the committee collected on its trip to Canada during July of this year.

[See paper No 385.]

JOHN BUTTON

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 10 November 1998 -

Dear Mr President

At today's sitting it is my intention to move an Urgency Motion under SO 72 that the House at its rising adjourn until 9.00am on 20th December 1998 for the purpose of discussing new evidence, including evidence detailed in the book by Perth author Estelle Blackburn entitled *Broken Lives*, in reference to the 1963 conviction of John Button for the manslaughter of Rosemary Anderson and calls for an open judicial inquiry into this matter.

Yours sincerely

Tom Stephens, MLC
Leader of the Opposition in the Legislative Council

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

[At least four members rose in their places.]

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.46 pm]: I move -

That the House at its rising adjourn until 9.00 am on 20 December.

This issue is raised in a different way from many of the urgency issues raised in this place. I will not be endeavouring to score political points in my contribution to this debate. I am conscious that we are dealing with the conviction of a man that occurred many years ago, in 1963. In my motion I have picked an adjournment date which would be the corresponding date more than 20 years ago when John Button was released from Fremantle Prison on parole, having served time for a conviction for a manslaughter charge that has been recently called into question by virtue of new evidence provided by way of a book entitled *Broken Lives* by Estelle Blackburn. Many of us will know her as having served in this Parliament as a reporter both for *The West Australian* originally and the ABC subsequently. She is known to members on both sides of this House and is held in high regard, first as a reporter and now, if members take the opportunity, as a distinguished Perth author. She has

provided by way of detailed documentation arguments that call out for action on the part of our community. *Broken Lives* was released on the Thursday when the House rose two weeks ago. ABC television's commentary that night dealt with the circumstances surrounding the writing of this book and those in which John Button was charged with the murder of his then fiancée, was convicted of her manslaughter, served time in Fremantle Prison and was subsequently released on parole.

By way of this motion I want to make sure that government members and as many people as possible in the community take the opportunity of reviewing the circumstances and facts presented in this book. Much coverage has been given to it in the electronic media during those days about which I have spoken, in *The West Australian* and in the suburban *Subiaco Post*, which has detailed many aspects of the issue and many of the events, specifically the death of Rosemary Anderson which took place in Shenton Park. The *Subiaco Post* has played a significant role in uncovering some of the facts that relate to the events surrounding the death of Rosemary Anderson and the subsequent conviction of John Button.

In its most recent edition, the newspaper begins to play out further chapters in this saga; a saga which can be accurately described as a sorry saga in the history of justice in Western Australia. The claims of some are juxtaposed against the arguments of others, all of which call out for resolution. There is something to be said for ensuring that our community can expect justice and place its faith in our justice system. A call has been made for these facts to be reviewed by an open judicial inquiry. I can imagine the Government's response to be one which says, in the face of scarce resources, there is a real risk in allocating resources to assess the circumstances of a possible injustice, years old - the conviction was recorded in 1963 - when the Government does not have the resources to adequately fund the Legal Aid Commission to protect citizens from the prospect, reality and probability, in the absence of resources, of fresh injustices in the judicial system of today. However, if the response is simply one of cost, it is incumbent upon all of us, the Government included and especially Government ministers, to ask whether there can be an inexpensive resolution to this plea for justice. I admit upfront that this man's plea was originally put to Labor Premier Tonkin and subsequently to Labor Premiers Burke and Dowding and only recently to Liberal Premier Court. Those opposite will say that the Labor Party and its Premiers did not do anything to bring this matter to the resolution now called for when it was in Government. In defence of the Premiers who replied in that way, I say that none of them was blessed with the documents contained in this exposé of the circumstances. That is not sufficient argument in itself, but it is a plea in mitigation of their rejection of Mr Button's plea. They did so in ignorance, culpable or otherwise, of the facts. Governments and the current community can no longer plead ignorance of the facts.

This book was released in the Perth community a week ago; it has been sold out and there is demand for republication. The issues of 1963 loom large in the Western Australian conscience. I confess that I am a t'othersider; I was not here in 1963 and I did not understand the psychology of being a Western Australian in the face of the circumstances unleashed upon this city in 1963 and the activities exposed through the tragic deaths of a large number of Perth residents at the hands of Eric Edgar Cooke. This book presents evidence that Eric Edgar Cooke confessed to committing other crimes which were never made known to the community of Western Australia. Eric Edgar Cooke confessed to committing at least five crimes similar to the death of Rosemary Anderson; that confession was accepted by the police and the authorities of the time. In this book, the similarity of the death of Rosemary Anderson to five other hit-and-run victims is documented. These incidents involved the running down of residents of Perth. People are coming forward in the columns of the *Subiaco Post*, only now able to tell the story of what happened to them in 1963. No-one has ever expressed an interest in the fact that on the night Rosemary Anderson was killed, in the same suburb another citizen was chased by a car which could have been driven only by Eric Edgar Cooke. Cooke confessed to the murder of Rosemary Anderson and then withdrew his confession in unusual circumstances. He reasserted his guilt for the murder of Rosemary Anderson on a number of occasions before he died. John Button was convicted of manslaughter for that death.

It is an injustice against only one citizen of Western Australia, but we know the ripple effects of these things. His family was inevitably involved. I had the opportunity of meeting Mr Button briefly some years ago through the author of this book, who is a friend of mine. I am pleased to have her friendship. However, it has not left me devoid of an obligation to look at the facts which have been presented and to endeavour to be objective about those facts. When I first heard the circumstances outlined, I had some measure of disbelief. To an extent I have brought this urgency motion before the House because I feel some measure of responsibility for not having believed the story until being hit in the face with the facts as presented in this book. The book argues that this man has a case and deserves a fresh opportunity. If members say they will not read the book because it is too large, I tell them that in the last few pages, in the epilogue and the author's points, an argument is put by the author about why the community should reassess this matter and why Mr Button should have an opportunity to put his case. Many people are convinced of the accuracy of the facts as presented by Mr Button and this author, not least of whom is the widow of Eric Edgar Cooke who has no axe to grind in accepting that her husband was guilty of yet another heinous crime. We know from the record that the prosecutor whose work led to the conviction of John Button, Sir Ronald Wilson - who went on to be a High Court judge - started to say that in the face of fresh facts there was a case for reviewing the circumstances of this matter. Arguments were put and accepted by the appeal court of the day which were errors of law. They were known to have been errors of law in double-quick time after that appeal court made its decision. The appeal court was made up of Sir Justice Virtue -

Hon Peter Foss: Sir John Virtue.

Hon TOM STEPHENS: I remember Lady Virtue.

Hon N.D. Griffiths: Justice Virtue.

Hon TOM STEPHENS: As I say, I remember that his wife was Lady Virtue.

Hon Derrick Tomlinson: All ladies have virtue.

Hon TOM STEPHENS: The appeal court also comprised Sir Lawrence Jackson and a third member whose name escapes me. Clearly there was an error at law, which is outlined in this book and deserves a response. The Attorney General will have the opportunity of responding in this debate. Before he responds and rejects my suggestion, all I ask is that, at least, he give this argument a chance.

HON PETER FOSS (East Metropolitan - Attorney General) [4.00 pm]: I hasten to say that I do not prejudge anything and will certainly not prejudge this matter. At this stage the matter is not before me. I point out to the House the appropriate way this issue can be raised. Section 140 of the Sentencing Act states that an offender may -

... petition for the exercise of the Royal Prerogative of Mercy in relation to an offender convicted on indictment, or to the sentence imposed on such an offender, may be referred by the Attorney General to the Court of Criminal Appeal either -

- (a) for the whole case to be heard and determined as if it were an appeal by the offender against the conviction or against the sentence (as the case may be); or
- (b) for an opinion on any specific matter relevant to determining the petition.

Subsection (2) reads -

The Court of Criminal Appeal must give effect to the referral.

There has been no such petition to me and if a petition were brought to me, I would deal with it in accordance with the law.

There is a difference between a formal petition which must go through the rigour of the law, and writing a book. It is much easier to be argumentative and put a case without dealing with all the evidence when writing a book, than it is when dealing with a legal matter. Firstly, if the matter is to be brought before the court, it should at least be brought before me, as Attorney General, in a form which I think deals with the matters in accordance the rigour of the law. Secondly, this matter, as mentioned by the Leader of the Opposition, had been on appeal. I have had the Director of Public Prosecutions take a quick look at this issue in the time available to us. He has not read the book in its entirety and my knowledge is confined to my reading of the newspaper.

A number of things should be taken into account, and I am not sure these were dealt with in the book. An amount of evidence directly implicated the defendant. Firstly, there was blood on the car. Secondly, there was damage to the car, which was consistent with that which is alleged to have occurred. Thirdly, he made his confession. I understand at that stage he was denying the confession; however, the confession was made. We have had the rather interesting event recently of a Mrs Quinlivan coming forward to say that she heard him confess when he brought the body into her husband's surgery. All of these matters must be taken into account when deciding whether it is worth referring the matter to the Court of Criminal Appeal.

The Court of Criminal Appeal heard evidence which was relevant to the case of Eric Edgar Cooke. Members may remember that Eric Edgar Cooke was confessing to a large number of murders. At that stage he appeared to be wanting to have himself declared insane. Of course, the more murders he confessed to, the greater the possibility that he would be found to be insane. After hearing from him, the judges in the Court of Criminal Appeal regarded him as a total, unmitigated liar. The court did not place any emphasis on his evidence.

As I have said, this matter can be dealt with quite simply. It should be put through the rigour of a proper submission and put up to me in the form of a petition. There is a proper form for that where the case is made out, and it should occur in a proper manner. I do not regard a book as being sufficient. A proper legal appeal must be brought in which all the matters are dealt with appropriately and on which I can take advice from the Director of Public Prosecutions and decide whether to exercise my power under the Sentencing Act. I am contemplating an amendment to the legislation because it seems that once I give leave under that section, it is open slather.

I refer to the Mickelbergs. My predecessor gave leave to the Mickelbergs under the criminal section to bring their appeal. In fact, the grounds upon which that appeal was based originally - that is, the ones that satisfied the judge to allow the matter to be referred to the Court of Criminal Appeal - have now been totally abandoned and there is a totally new case. As a consequence, a tremendous expenditure of public moneys has occurred in chasing around after what in the end may be a satisfactory case, but was not the case put up in the first instance. I believe there is a need, on behalf the taxpayers, to make certain we bring an end to matters at some stage. I am very reluctant to set in motion a process to allow the matter to go on

forever, with new grounds being raised every time an old ground is dismissed. One of the processes of our courts is that there should be an end to matters at some stage.

This has gone as far as an application for leave to the High Court of Australia, I understand. If we are to preserve the interests of the State, we should leave it that if the power is exercised, it should be strictly on the basis of the grounds of appeal that are raised and if further grounds are to be raised, that should also be subject to the fiat of the Attorney General. Of course, I do not prejudge this matter; however, it is not before me yet. If it is to be dealt with by me, it should come before me properly, in a manner that I can refer for proper advice and upon which I can make a decision, taking into account not just a book or a motion or the fact that everybody in Perth is convinced about it. All of those people in Perth probably have that book as their only source of information.

Hon Ken Travers: Is there no way you can initiate action off your own bat?

Hon PETER FOSS: I would not do that. It would be an extraordinary circumstance if, without a case being put before me, I should start to take some action. People may wish to have a petition of mercy, and there must be one of those. Even if we did not have the process of a petition of mercy, it would be inappropriate if I had to go around chasing rabbits down burrows every time someone raised a suggestion. Firstly, someone must wish to have something redressed. That is where the petition of mercy comes in. Secondly, that person must make out a case. Enough information should be put before me so I believe the matter must be taken further; otherwise the Attorney General's office would be turned into a follow-the-rumour, or a follow-the-suggestion, or a follow-the-conspiracy-theory place. We get an awful lot of those in my office. If I had to follow every one of those just because someone raised a small suggestion, we would never finish our job. The law is an area ripe for theories of this nature.

When people believe they have been wrongly done by, it is appropriate that they petition for mercy. If I believe a case has been made out, I have the power to deal with it. That, in itself, is part of that process. If these people cannot get over the threshold of satisfying me that a case can be made out, I do not believe we should be wasting the time of the Court of Criminal Appeal in having a judicial hearing. That case must be put forward to the Court of Criminal Appeal anyway, and it is appropriate for it to be worked out before it goes to that court. If that is to be done for the Court of Criminal Appeal, it should be presented to me in the first instance and I can decide whether sufficient information has been put forward to justify referring it. It does happen on occasion. Both the Mickelbergs have not been given such permission. If a person is well out of time for an appeal and has exhausted his rights of appeal, it is quite appropriate that that person go through some threshold test prior to being given permission under section 140 of the Sentencing Act.

As I said, I have not prejudged this matter. I am open to being convinced. All I have to go on at the moment is a book. With all due respect to people who write books, not quite the same rigour is applied to the evidence in writing a book as is applied in a legal case. There is a brilliant book about the first people marooned on the coast of Western Australia, with wonderful arguments from Aboriginal language about whether they were the Dutch. Although the book is fascinating to read, it has some amazing gaps in the logic of its evidence. That is fine for a book; it is not fine for legal argument.

Hon Ken Travers: What legal assistance would the applicant have?

Hon PETER FOSS: The first thing he must do is get his petition of mercy. I say that because in the case of the Mickelbergs the Government has provided hundreds of thousands of dollars in legal assistance to enable them to bring it. If I were to just say, "Yes, I have read the newspaper and I will agree to it", I think the member could quite rightly stand in this House and say, "Shouldn't you put a little more care into it before you do something which will commit this Government to a large amount of legal costs?" Of course I should. That is what I propose to do. I have said to the member that I will judge this matter on its merits. If an argument is put to me which appears to have merit, I will take appropriate action. However, I will not act just because the member suggests I should run around chasing rabbits down holes.

Hon Ken Travers interjected.

The PRESIDENT: Order!

Hon PETER FOSS: I can tell the member I am not going to. I have not prejudged the matter. I will take the matter seriously if and when I receive an appropriate petition under section 140 of the Sentencing Act.

HON TOM HELM (Mining and Pastoral) [4.11 pm]: I thank my leader for giving me this opportunity to make a few comments about this matter. I suppose most, if not all, of us in this place would wish fervently that matters surrounding the life and times of Eric Edgar Cooke were allowed to fade away into history. That is wishful thinking, and that will not happen. When somebody innocent has been found guilty or has served a sentence, his case should not be allowed to rest until justice has been properly served.

I wanted to get to my feet to put on record my pride at coming from the same town as Sally Cooke. As the House would know, Sally comes from Liverpool. The circumstances of her life and times are something that we would not wish on anybody. However, in view of the way she has handled this matter, with the pride and dignity she has shown, everyone would be proud to have known her and to know that she is a Western Australian. I am also a Western Australian first.

However, one never forgets one's birthplace. We would be remiss if this debate did not contain some recognition of the traumas that that lady has endured. I say "lady" because that is exactly how she has acted in all the circumstances. I do not know whether the Attorney General has a television in his house yet and has seen the television show surrounding this book as well as other events surrounding some of Western Australia's history that we would all perhaps like to forget. However, one has to give credit where it is due. Sally Cooke has conducted herself with dignity and pride. Few opportunities like this will exist for us to put on record how we feel about that. I hope these matters are able to be finished with once and for all so that she and her family can get on with their lives in the way that we all wish to get on with our lives.

HON DERRICK TOMLINSON (East Metropolitan) [4.13 pm]: I am compelled to speak on this motion for a number of reasons. I listened to Hon Tom Stephens talk about old injustice and fresh injustice. There is not old injustice, there is not fresh injustice - there is injustice. The person against whom it is claimed an injustice has been perpetrated may have grown older, but the injustice persists. I do not know whether an injustice was done. I have not read *Broken Lives*. Two minutes ago I borrowed it from Hon Tom Stephens just to say that I have touched it. I am not a t'othersider. I lived in Rivervale, five streets from Eric Edgar Cooke. Every morning at 8.10 I caught a bus on the corner of Kooyong Road and Roberts Road. I travelled to Perth and then to the University of Western Australia where I was an undergraduate. Many other people caught that bus, one of whom was a dark, brooding man with a hair lip, whom I now recognise as Eric Edgar Cooke. I was aware of his presence. I came to know him in a different way.

One hot Saturday afternoon, as was the wont of people who lived in Rivervale, we sat under a tree in our front yard. Our neighbour had been down to the Carlisle Hotel, which was another wont of the men of that locality on a Saturday afternoon, firstly, to drink, and, secondly, to place their bets with a very well-known SP bookmaker, Nobby Clarke, well known to John Tonkin. On this particular Saturday afternoon our neighbour came running down the street. He was pursued by a person driving a Holden EJ or FH, or whatever they were in 1962. As he ran along the verge, the car accelerated and hit him. It did not injure him badly. As the car backed up to have another go, my neighbour jumped over the fence into my front yard. The driver of the car was Eric Edgar Cooke.

I was teaching at Kwinana High School when the spate of murders of which Eric Edgar Cooke was found guilty were committed. I recall the day when Eric Edgar Cooke was arrested. All of those events came flooding back to me. They are as real now as the injustice which may have been done to John Button is real to him. They are as immediate as may be the injustice done to John Button. I can only go on what I have read in newspapers. As I have said, I have not read the book. I sat transfixed when the story surrounding *Broken Lives* was broadcast last week on Channel 2. It was as real last week as it was at the time. If there is one scintilla of truth in this book, a grave injustice has been done.

I listened carefully also to the Attorney General. The Attorney General is always clinically precise in his argument. I would not dare challenge the points of law that he raised. I would be cautious, however, about having the royal prerogative of mercy exercised, because I anticipate two questions would have to be answered before the royal prerogative of mercy would be exercised. First, can John Button prove his innocence? The question is not whether he can prove that he was not guilty, as he was found guilty. However, can he prove his innocence? I suggest that the evidence I saw in the television program is not sufficient to prove innocence. Nevertheless, it casts serious doubt on his guilt. Had similar evidence been presented to the court at the time, probably it would have resulted in a decision of not guilty. It was not proof that he was innocent.

Second, even if he can prove his innocence, should he have been prosecuted in the first instance? Was sufficient evidence accumulated by the prosecuting police officers to justify laying a charge? Clearly, there was justification, just as evidence justified charges being brought against Jeannie Angel. The enormous similarity between the injustices in the Button and Angel cases strikes me in the hollow pit of my stomach. Sufficient evidence also justified laying charges against James Heany, but he was found not guilty in court. However, when James Heany asked for an ex gratia payment, he had to prove his innocence.

If we pursue the path of the law in this case, I anticipate that both those questions will be very difficult to answer in a way that would at law conclude that an injustice has occurred. If there is one scintilla of truth in *Broken Lives*, and one scintilla of doubt about John Button's guilt, it is not a legal question, but one of justice, that must be answered. A question of justice is not necessarily resolved by a point of law. For that reason, I support Hon Tom Stephens' motion.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.23 pm]: I appreciate the opportunity that members have afforded for this debate to occur. I appreciate the contributions by the Attorney General, Hon Tom Helm and Hon Derrick Tomlinson.

I am sure that Estelle Blackburn appreciates more than most the significant difference between a book and an argument at law. I am sure that Mr Button appreciates that difference as well. I undertake to relay to Mr Button the Attorney General's reply in reference to an avenue of law open to him. The law's challenge is to find as close a proximity to justice as possible within its structure. If the law does not afford justice, it must be amended to be more generous as justice is a prerequisite of good law. If for whatever reason Mr Button does not have available at law the redress to which he should be entitled by the demands of justice, perhaps an argument can be made for amendment to the law.

I hear the response from the Attorney General in another way. Some have called for an open judicial inquiry in reference to the claims and counterclaims in this matter. For instance, this relates to Dr Quinlivan's material, which seems to be mighty odd and deserves to be tested by some inquiry process. The Attorney General invited avenue to the law by way of a petition. If the petitioner seeks legal expertise to frame that petition - I have not turned my mind to it, but no doubt Mr Button must do so - he must consider how to address the issues which weigh heavily on the Attorney General's mind regarding Dr Quinlivan's recent entry into this debate. The fact that Dr Quinlivan did not come forward to give evidence in 1963 is odd. She was supposedly behind a three-foot bush, and she must have been crawling on her hands and knees.

Hon Derrick Tomlinson: It was 10 o'clock at night.

Hon TOM STEPHENS: It struck me as odd. Also, as a qualified doctor, why did she not go to her husband's aid to try to help save the life of Rosemary Anderson? That defies the oath taken by doctors to protect life when it is at risk. Clearly her husband was struggling to save the life of young Rosemary Anderson and could have done with the assistance of his doctor wife. Also, it seems odd that Dr Quinlivan was not called to give evidence. She made no statement to the police. Witnesses would have been around in the surgery at the time in question, yet no-one saw her there. These matters cast suitable doubt on the one intrusion into the body of argument supporting a review of this matter.

A question was well framed by Sir Ronald Wilson, the prosecutor in this case: Is it safe to leave the conviction to stand in the light of new evidence? Keep in mind that the conviction was obtained and upheld on the basis of a legal argument which now could not be sustained at law; that is, it was based on an alleged confession. Mr Button made two statements. One protested his innocence, and in the second - he said extracted by the police - he confessed. Sufficient legal weight supports the view that the use of the second statement could have been subject to appeal; however, this was not provided in a decision of the appeal court as a result of its erroneous understanding of the law by any standard. I hope the Attorney General will find some way to act on this matter.

Personal Explanation

HON PETER FOSS (East Metropolitan - Attorney General) [4.28 pm]: I wish to make a statement under Standing Order No 87 as I believe I was "misquoted or misunderstood" by Hon Derrick Tomlinson.

The PRESIDENT: The Attorney General may proceed.

Hon PETER FOSS: Hon Derrick Tomlinson outlined that in order for us to proceed on this matter, we must be satisfied that the man can prove he was not guilty, and prove that it was not reasonable for a prosecution to have been brought. That is incorrect. That is the test applied when deciding whether a person should be compensated. One of the strengths of our law is that if any doubt arises, a person is entitled to be acquitted. However, that person is then not entitled to compensation as he or she has had the benefit of the doubt and been acquitted. It is only when a person is clearly innocent and should not have been prosecuted in the first place that he or she is entitled to compensation. That is the test which applies to compensation, not in exercising the royal prerogative of mercy under the Sentencing Act.

Hon Derrick Tomlinson: What is the test?

Hon PETER FOSS: The test is whether it is appropriate to have the matter referred on the basis of an unsound verdict. That must necessarily require not only looking at the evidence, but also determining whether the evidence is such that the matter should go back for a hearing. That exercise could easily lend itself to appropriate legal argument. Our prisons are full of people who say they are innocent. The prisons are full of people who say they were wrongly convicted. However, a jury of 12 people did not believe them. If all one needed to say was, "I did not do it", and because there were not enough people around to say precisely that they saw what was done, very few people would be convicted and we would have even greater arguments about that. It is not only a matter of justice as put by Hon Derrick Tomlinson, but also justice that is easily understood and which can deal with the sorts of factual differences that may arise in the present case.

Debate Resumed

Debate adjourned, pursuant to standing orders.

ROAD TRAFFIC AMENDMENT BILL

Report

Report of Committee adopted.

POLICE AMENDMENT BILL

Second Reading

Resumed from 10 September.

HON N.D. GRIFFITHS (East Metropolitan) [4.31 pm]: The Police Amendment Bill has the support of the Australian

Labor Party. The Australian Labor Party is of the view that, except for the crucial issue of the level of employment in our community and matters associated with it, there is no more important issue than that of public safety. It is important that people in our community be safe and be assured that their members of Parliament, irrespective of whether they are government or opposition members, are concerned to enhance community safety. This measure and similar measures should have bipartisan support. We have consistently adopted a bipartisan approach to law and order measures and we will continue to do so. I say that about the substance of the issue, because from time to time we disagree with the Government on matters of detail, as we disagree with some aspects of this measure.

The first area of disagreement is that, unlike the Government, the Australian Labor Party has been of the view that the problem of graffiti in our community is pressing. We are disappointed that the Government has taken so long to act. Members may be aware that one year ago, on 12 November 1997, the Leader of the Opposition, Dr Geoffrey Gallop, the member for Victoria Park, made the second reading speech on the Police Act Amendment (Graffiti) Bill. This is 10 November 1998, a year later, but that was a better Bill than the one before us. The Bill before us deals with graffiti, and we welcome that. However, I regret that we have had to wait for a year to deal with this matter in this place.

I note the words of the Leader of the Opposition on 12 November 1997. What he said then was correct and what he says now is correct. He stated -

For too long, Western Australians have had to suffer mindless and destructive acts of graffiti scrawled over public and private property. It cost property owners, taxpayers and council ratepayers millions of dollars to remove graffiti.

I am glad the Government is at last doing something about this. Dr Gallop continued -

The difficulty with the current laws is that it is virtually impossible to prosecute graffiti vandals unless they are directly caught in the act.

This Bill will go some way to address that, and for that reason it is welcome. We have waited the best part of a year for something to emerge and to be dealt with in the course of the second reading debate in this House.

I refer to the "Weekly Digest" which documents the progress of Bills introduced into the Parliament of Western Australia. In the event that some members either here or in another place are of the mind that the Opposition is interested in delay, which it is not, I note that this Bill was introduced on 12 August, second read on 20 August and finally passed by the other place on 9 September. It came here on 10 September and we are dealing with it two months later. The Australian Labor Party intends to deal with this Bill quickly, which the Leader of the House will note from the duration of my comments which will end in a few minutes' time.

Hon Simon O'Brien: Are you going to refer this to a committee as you did with the Weapons Bill?

Hon N.D. GRIFFITHS: Hon Simon O'Brien asked whether I will refer a matter to a committee. It is never a choice for me as one member of this House to refer a matter to a committee. When a matter is referred to a committee it is the decision of the House. I am concerned to get on with legislating on these important areas of public safety. However, if the member wants to interject and delay me, so be it.

Graffiti is a symptom of alienation on the part of some young people who, regrettably, practise it. We must be careful in dealing with the issue of graffiti not to alienate other young people. We must be careful, when we put laws in place which enable police officers to have greater powers to deal with those people - said by the Minister for Police to be young, and I think he is correct in that view - to ensure that, in the exercise of those powers, young people who have done nothing wrong do not find themselves alienated from authority, and do not have an unnecessarily bad experience with the police. I am sure that the police have a similar view: They do not want to alienate people. We want young people to feel part of our community. However, it is necessary that we deal with the graffiti problem.

One of the difficulties with the Police Amendment Bill is that it is a measure which seeks to amend the Police Act 1892. The Bill contains words which will be tacked onto an outmoded Police Act which minister after minister has said he will overhaul and will bring in a new Police Act. That has not been done. I will not make a speech about a new Police Act here. However, the delay in tackling the issue and introducing a new Police Act has meant that this will be a tacked-on measure with many imperfections in its language. We need a new Police Act dealing with police functions, powers and administration and an up-to-date Summary Offences Act. That we do not have two modern pieces of legislation dealing with those respective matters is a reflection on the importance that the Government gives to workable law and order legislation. Graffiti, of course, is a horrendous problem for public safety. It is horrendous because it assaults our vision and makes it obvious to the community that something is not right with society; so it is very important that we fix the problem.

I will demonstrate why we need a better method of dealing with Police Act offences. The Bill deals with matters under section 65 of the Police Act, which sets a fine not exceeding \$500 or imprisonment for any term not exceeding six calendar months. The Bill deals with people who have on them the capacity to do graffiti. It is interesting to note that section 80A

of the Police Act discloses that the penalty for doing an act is \$1 000. Having on one's person the implements to do the intent attracts a potential term of imprisonment, but doing the act itself attracts only a fine. That is a matter of the imperfection of the process. Once again, there is a bit of adhocery. The Government is reactive, not proactive. We should have had a new Police Act and a new Summary Offences Act. That is the way to go. The sooner we deal with that legislation in such a way, the better society will be. The most important thing for the people of Western Australia at the moment is to have graffiti legislation which is as workable as is reasonably possible - not perfection; we can do better. The Bill must be passed so that the people of Western Australia can have the important perception that their community is safer than they believed it to be.

HON CHRISTINE SHARP (South West) [4.43 pm]: As members are aware, the Bill contains various provisions. To describe it as a mixed bag is to be as generous as possible. The Bill has three aspects: Firstly, implements which might be used to pursue graffiti acts are added to the list of implements in section 65 of the Police Act; secondly, all offences in sections 65 to 67 of the Police Act - that is to say, an enormous range of offences - will be subject to the new powers of search; and, thirdly, the addition of a diverse group of practical new ways for the police to dispose of things that have been seized and so on.

The measures at the end of the Bill - for example, making sure that the police keep proper records of what they seize and remove from a person under the Police Act - are practical, and sensible. Another aspect of the Bill which was scarcely mentioned in the second reading speech is the grant of wide-ranging powers of search to the police. That is of great concern. Crime prevention is good, but such powers of search are based on the considerable discretionary power of individual police officers out on the street. I was struck by how extraordinarily antiquated the Act is. In fact, we are providing powers of search for all sorts of weird and wonderful things. I wondered whether to oppose that part of the Bill also, but I have decided not to move an amendment because I am satisfied that the powers of search are largely available to the police already under the Misuse of Drugs Act and that, in practical terms, there is unlikely to be increased police harassment on the street. Therefore, the first part of the Bill raised considerable concern for the Greens (WA) and we totally oppose it. As members will see, I have tabled an amendment to delete that provision.

The proposal that graffiti implements should be added to the list of things for which the police can search uncovers an important philosophical divide in the community and in this place about how we treat young people and increasing crime in society. Probably the majority of people - certainly the majority of old people who come from what we might call the old school - believe that we should apply strict punishment and repression to solve problems. The opposite of that is the new school, and its ideas are new in that they are post-Victorian. After all, it was a late Victorian, Sigmund Freud, who suggested that we should examine motives for behaving in certain ways. We must remember that until the early twentieth century people had not realised the notion of the subconscious and the complexity of human beings. During the twentieth century, analysis of human behaviour has led to a different approach and a society which prevents dysfunctional behaviour. The provisions relating to powers to search for graffiti implements belong to the old school. They pander to the Victorian approach of punishment and repression, just as our economic system is moving back to a Victorian laissez-faire economy. The increase in police power seems to be part of such regressive thinking. Although I oppose provisions to include graffiti implements, I stress that graffiti is an offence. We are not debating whether graffiti should be an offence. What we are debating is whether the police should have the power to search young people on the streets because they have reason to suspect that they may be carrying graffiti implements. Graffiti implements may be innocent, everyday objects such as textas or crayons, let alone spray paint.

Graffiti is already an offence. This Bill is about the powers of search for graffiti implements. When I have spoken to people who are involved in dealing with graffiti offenders, I have been told that graffiti is not an even phenomenon with all kinds of graffiti being identical. Three main types of graffiti practitioners can be identified among our teenagers. Approximately 15 per cent of graffiti is almost an art form. It is often called hip-hop and it is a form of urban art. However, the majority of graffiti, about 70 per cent, is not at all artistic. It is simply a case of school children being rebellious. Most graffiti practitioners are between 15 and 16 years old. A very effective way to deal with these practitioners when they are caught is to put them on programs to clean up their own work.

The last 15 per cent of graffiti offenders are teenage practitioners who could be called hard-core graffiti offenders. They are dysfunctional youths. They always work in gangs and have some extraordinary names such as FUS, standing for effing up society; SMV, sick-minded vandals; and NRA, which stands for no respect for authority. These are the hard-core practitioners. Naturally, there is serious concern about these offenders who are on the streets. However, I am told the most important point of all this is that the 15 per cent of hard-core practitioners of graffiti are almost invariably associated with other illegal activities. They are usually associated with the misuse of drugs, burglary or assault. Powers to deal with such activities are already contained in other sections of the Police Act. Therefore, the powers of search for graffiti implements, and the discretionary powers which may be used by police officers on the street, are most likely to affect not the 15 per cent who are the serious offenders but the majority of offenders, the 70 per cent, who are rebellious teenagers just hanging around with not a lot to do and wanting to express themselves.

Hon Ray Halligan: Could they eventually become part of the 15 per cent?

Hon CHRISTINE SHARP: That is the argument I make. We want to prevent the majority who are rebellious and want to express their alienation - as Hon Nick Griffiths put it, and I am sure that we all agree - from becoming either hard-core graffiti practitioners or, worse, offenders in other much more serious areas of crime. That is why we are talking about a philosophical divide. Will allowing the police to have the power to search teenagers to see if they are carrying spray cans or textas at any time of day - whether they have come from a social or school function or whatever - help to prevent exactly what we are concerned about? My argument is that the trouble with enabling the police to harass these young people, knowing that the Police Force tends to target young people in particular already, is that this will further alienate them, fuel their rebelliousness and actually reinforce the kind of behaviour that we all agree we would like to prevent. That is why I subscribe to the new school and say that we must go deeper in these matters. We need to look at not only the symptoms and repressing the symptoms but also understanding absolutely the causes.

Last week someone provided me with an article from a magazine called *On Being*. It is an article from a pastoral counsellor in Perth about Perth as a graffiti city. The author offered some interesting analyses of graffiti. He said -

Graffiti is not simply a young person saying, "I will destroy"; it is also a young person saying to someone out there who will take notice, "Look at me, hear me." Graffiti implies the need for community and an external reference point.

He raises an interesting point, because frequently we suggest that the solution to the problem of graffiti is to make young people feel better about themselves. This author indicates that, if adults say that the only way to save oneself is to look within to improve one's self-esteem, that is the ultimate surrender to a culture which dares only to trust in autonomy, and seldom, if ever, in community. Raising one's own self-esteem as the answer to despair is the ultimate capitulation to despair. It destroys the very thing that it attempts to build; that is, hope. Young people need to know that they are held in esteem by their families and by a society which cares about them, has confidence in them and is listening to them. It may sound clichéd, but we need to believe in our young people.

Hon Ray Halligan: Do you believe they are using reverse psychology? They know that society does not like what they are doing; yet you tell me that they are looking for compassion and to be part of the community.

Hon CHRISTINE SHARP: They are looking for hope and meaning in their lives.

Hon Ray Halligan: But don't you believe they are going about it in the wrong way?

Hon CHRISTINE SHARP: Yes, I do. I point out to the member that I am not suggesting that graffiti should not be an offence. I am opposing the power of the police to search young people who are on the streets going about their business, because it will undoubtedly lead to an increase in police harassment of ordinary young people on the streets. That is what I am opposing. The author I am quoting concludes by saying -

Graffiti is not their problem; it is our problem. Graffiti symbolises, and is an indictment against, a community which refuses to give hope to our young.

Our young people are saying that they will not be crushed by the material spirit of this age and they will leave their marks and write their names as a sign of their presence. Perhaps graffiti is a wake-up call.

Hon Simon O'Brien: Is that the real issue? Is it not about damage to people's property? Is that not what we are talking about?

Hon CHRISTINE SHARP: Sure.

Hon Simon O'Brien: People leaving their names?

Hon CHRISTINE SHARP: That is right. I remind the member that I am not opposing graffiti being an offence. I am opposing the powers of police search and harassment. It is far better for young people to express their alienation in the form of graffiti than in the form of assaults, muggings, burglary, car theft and other far more antisocial activities. If we cannot prevent murder, why do we seek in this Bill the power to prevent graffiti? It is completely over the top. It is very dangerous because we are running a severe risk, as I am arguing, of further alienating young people and further causing the kind of social alienation that hopefully we are seeking to prevent. The Council for Civil Liberties in Western Australia has commented on this Bill. It stated -

Our position on this issue is:

Teenagers have nothing to do and they have no hope. Families are disintegrating and the Family Court and Family and Children's Services disempower and disable parents. Don't blame the kids . . .

[Questions without notice taken.]

Hon CHRISTINE SHARP: Members have the gist of my argument about why the Greens (WA) oppose police powers of search for graffiti implements. I do not wish to repeat the information I have placed on the record in this place about some

of the chronic problems facing young people, with falling wages and increasing unemployment. That is part of the picture to which I have been referring, a picture of a reduction of hope and of the sense of community in the very materialistic society in which we have raised them. I emphasise that although we do not condone graffiti we believe that the risks inherent in the powers under this Bill are far worse than the damage caused by graffiti. This Bill is counterproductive. We suggest that members look at the causes of youth alienation. I draw to the attention of members the fact that later in the week in this place we will consider very important legislation on school education. Bringing up our young people to feel they have a meaningful role in our society and allocating the money we need to spend to provide them with meaningful education is far more important than police powers to search for simple, everyday implements which any normal and law-abiding citizen might be carrying.

We support all the other aspects of the Government's graffiti program. It has been running for some time now and does all sorts of good things about graffiti, including providing education programs and urban art programs under which, I believe, twice a year, expressions of interest are called among the community arts networks to foster creative graffiti. Those programs are specifically targeted at likely offenders to encourage the creative outlet to which some graffiti gives expression. They also organise volunteer clean-ups, clean-ups by offenders and funding of clean-ups. Lastly, they give information on building design to help prevent graffiti. The Greens accept all these positive moves by the Government but we are most concerned about the new direction of increased police powers to harass young people. Graffiti is almost exclusively carried out by young people, and it is a specific activity which rarely relates to other criminal activity except with those hard-core offenders who may be targeted under many other powers in the current Police Act.

Hon Nick Griffiths spoke earlier this afternoon about the need to fix up this problem, and he talked about the perception in the community. I agree that there is a perception in the community that graffiti is a serious problem. However, pandering to people who do not understand some of the deeper causes of alienation of young people by introducing feel-good legislation will not fix it. It will make the situation worse. It may bring further antisocial behaviour on the heads of those people who are already concerned about such behaviour. Let us look at the causes and not the symptoms, and let us not target our young people with police harassment.

HON SIMON O'BRIEN (South Metropolitan) [5.42 pm]: In considering this Bill, I shall canvass two areas. The first relates to whether or not we, as a House of Parliament, will get serious about this sort of activity. I hear members opposite say that they will move in a bipartisan way with the Government and that their leader, Dr Gallop, introduced a Bill 12 months ago that was very similar to this Bill.

Hon N.D. Griffiths: It was a better Bill.

Hon SIMON O'BRIEN: It was very similar to this Bill. Members opposite have said the Government should have progressed Dr Gallop's Bill at the time; it is a shame that it was not done; and they certainly do not want to delay this Bill unnecessarily. I certainly agree with all those sentiments. When Hon Nick Griffiths spoke on this Bill, I interjected and asked whether he intended to refer this to a committee. I corrected that question, but I do not know whether Hansard or Hon Nick Griffiths picked it up, because I meant to ask whether he would move for the Bill to be referred to a committee.

Hon N.D. Griffiths: I hope you are not inviting an interjection, but I certainly am not intending to do that.

Hon SIMON O'BRIEN: I am delighted to hear that. It would have been much easier if the member had simply said so at the time.

Hon N.D. Griffiths: I heard you suggest that I referred matters when, of course, the House does it.

Hon SIMON O'BRIEN: I appreciate what the member has said, and he obviously did not hear me correct myself because I know that he, of all members, would never be rude in dealing with my interjections.

Hon N.D. Griffiths: You are a member of great knowledge!

Hon SIMON O'BRIEN: I turn to the other point I want to briefly canvass. I have used radio communications in a number of jobs I have had. I trained as a radio operator in the Army. When I was with the Australian Customs Service I gained a certificate of proficiency in radio telephony in 1983. It is important in that type of activity to be tuned into the correct frequency. Some people involved in this debate are not tuned into the right frequency. I do not know what frequency they are tuned into, but it is certainly not the frequency that the community at large is tuned into. The contributions from the members of the Greens (WA) on this Bill indicate that they are totally out of touch with mainstream thinking in society and the nature of the problem that this Bill is trying to address. I do not want some of those remarks to go unchallenged for fear that any reader of *Hansard* might think that I or any of my colleagues accept, note or endorse them. One of the problems with graffiti at the moment is that the offenders are very rarely caught in the act. People, including police officers and council officers patrolling their municipalities, may notice freshly created graffiti in the form of wet paint. Also patrol officers in municipalities may encounter people who are graffiti artists abroad in a public place late at night when one would not expect people with a lawful purpose to be hanging upside down off a railway bridge with a paint can in their hands. The Government is trying to do something about that.

The City of Stirling recently promulgated some by-laws to try to produce a law which gave police those powers within its municipality. That underscores the point made by Hon Nick Griffiths - people on this side of the House have made the same point in other forums - that this legislation is overdue. There is a classic symptom. The City of Stirling was prepared to move down this path to give police the power to stop people damaging property in their city and, as far as I am aware, other councils are about to follow, or have already commenced following, that lead. There is a very real need for those powers to be held by the police so that they can do something about the kids who are damaging property.

Hon Christine Sharp: In a society that only cares about property. That is why.

Hon SIMON O'BRIEN: The property is owned by people. These ridiculous acts of vandalism perpetrated by these graffiti artists, as they call themselves, cause a great deal of emotional and other pain to people whose properties are treated in this way. The other point that needs to be addressed is the suggestion that these laws are about stopping and searching young people. Hon Christine Sharp suggested that they could be searched at any hour when they are innocently going about their lawful business. That is clearly not stated in the proposed law.

Hon Christine Sharp: That is what it will enforce.

Hon SIMON O'BRIEN: That is absolute rubbish. The member has no understanding of how legislation in relation to powers should be interpreted or used. I will not allow that assertion to go unchallenged. I draw attention to proposed section 67B, which states -

A police officer or constable may without warrant -

- (a) stop, detain and search any person who the officer or constable suspects on reasonable grounds to be committing an offence under section 65, 66 or 67; and
- (b) seize any thing that the officer or constable suspects on reasonable grounds relates to the commission of the offence.

Those paragraphs clearly contain two provisos. Therefore, this power cannot lawfully be used to harass young people; and if young people are harassed by public officers, that is another issue that must be addressed. It is time that we took off the gloves and stopped pussyfooting around with regard to these matters. Therefore, I strongly urge the House to support this Bill.

HON NORM KELLY (East Metropolitan) [5.50 pm]: The Australian Democrats' position on the Police Amendment Bill is one of grave caution, because of the extreme powers that are contained within it. We support the Government's commitment to eradicate the graffiti problem. However, this Bill is a reaction to the failure of the Government's other policies to prevent the occurrence of graffiti. It is very much a heavy-handed approach to this problem. The Government has not been able to deal effectively with the root cause of the problem. Greater emphasis must be placed on looking at the reasons why so many of our young people choose to vandalise property. One reason is the despair that young people feel as the result of the lack of opportunities for them in our society. The solution is not simple.

Hon Peter Foss: Graffiti is committed by kids from all classes and backgrounds. It is not confined to the desperate.

Hon NORM KELLY: That is right, and that is why I said the solution is not simple. We need to look at why kids from all backgrounds are causing this damage.

Hon Simon O'Brien referred to the inability of local security forces to prevent occurrences of graffiti. That brings me to the point that this Government has a policy of devolving a portion of its police work to private security firms and of giving local government the responsibility of patrolling its own area. This has traditionally been a responsibility of the Police Force.

Hon Peter Foss: That is a nonsense. Historically, it was a responsibility of the community.

Hon NORM KELLY: The Police Force was there to enforce -

Hon Peter Foss: Get your facts right!

Hon NORM KELLY: I have got my facts right.

Hon Peter Foss: You have not.

Hon NORM KELLY: Is the Attorney suggesting that it is the responsibility of the community, and that individuals should go around the suburbs, trying to catch these culprits and meting out their own punishment for these vandals?

Hon Peter Foss: No.

The PRESIDENT: Order, Attorney General!

Hon NORM KELLY: As the Attorney General said, it is up to the community to do this patrolling -

Hon Peter Foss: No. You made a statement which is incorrect. You said that historically, it is the role of the police. Historically, it is not. Get it right. When did history start - in 1890?

Hon NORM KELLY: No. It was before that.

Hon Peter Foss: Good!

Hon Christine Sharp: The Police Force began in the 1830s.

Hon Peter Foss: Yes.

The PRESIDENT: Order! Hon Norm Kelly has the floor. The Attorney General will get his chance after the dinner suspension.

Hon NORM KELLY: Thank you, Mr President. The history of the white civilisation of this area began in 1829. The Attorney is quite correct about the history. As we have seen, the Government is devolving these responsibilities. There are now not enough police to conduct patrols, whether on foot or by car, and catch people in the act of committing crimes. Security firms do not have the same powers as the police to apprehend people who are committing these crimes. Rather than properly resource the Police Force, the Government wants to give police increased powers to see whether that will fix the problem.

Another matter of serious concern is the proposed extension of the police search and seizure powers that is contained in this Bill. The second reading speech is very brief. It refers only to the need to prevent the occurrence of graffiti offences and does not mention that these search and seizure powers will be extended to sections 65, 66 and 67 of the Police Act. The offences contained in those sections of the Police Act are very widespread. As Hon Nick Griffiths rightly pointed out, one of the problems in dealing with two or three page Bills such as the Police Amendment Bill is that the Police Act is antiquated and in urgent need of reform. Rather than introduce the powers of search and seizure into certain sections of that Act, we should have an overriding Bill that deals with search and seizure powers en masse. That would enable the police to be more effective, because they would know what their powers were. The issue of extending those powers to sections 65, 66 and 67 of the Police Act warrants an entirely different debate from the debate that we are having today and that occurred in the other place on this Bill, which revolves entirely around the offence of graffiti. For those reasons, the Democrats support the policy as stated in the second reading speech, but we do not support the proposed extension of the powers of search and seizure, because it is irresponsible for the Government to not outline in the second reading speech how this Bill will extend those powers.

Clause 4 of the Bill reverses the onus of proof. Proposed subsection (2) states that a person is presumed to have had the intention if the person had possession of the thing in circumstances that give reasonable grounds for suspecting that the person had the intention. Reasonable grounds is a very low threshold to prove -

Hon Simon O'Brien: How would you know? Have you ever come into contact with these laws?

The PRESIDENT: Order!

Sitting suspended from 6.00 to 7.30 pm

Hon NORM KELLY: It is good to see so many members here to listen to the rest of my speech. I have said that the Australian Democrats see anomalies in the Bill. We do not believe it is the best way of implementing the Government's intention. It would seem better to amend section 80A or create a new section after section 80A of the Police Act, so that we tie in possession of graffiti implements with the offence of causing graffiti itself. I want to hear from the Attorney General why he may believe that it is better that simple possession with a reasonable suspicion of intent should carry a custodial term, whereas committing the crime of damage through graffiti does not carry a jail penalty. There may be some reasons for the anomaly but I do not believe they would be sufficient. However, I agree with the intent of the Government's policy.

The Democrats will be supporting the Bill because we believe that it can be amended into a suitable form at the committee stage. Lumping in the search and seizure powers that are covered by sections 65, 66 and 67 is too broad ranging without sufficient debate on the proposed section. Section 66(3) of the Police Act deals with "Every person pretending to tell fortunes, or using any subtle craft, means, or device, to deceive or impose upon any person". If we incorporate these search and seizure powers, the offence has the potential to take away a person's livelihood. Without the tools of the trade that person's livelihood is gone until the case can be decided in a court of law. That is one small example of the wide-ranging powers that we would be allowing if this Bill were to go through in its current form. There are some serious issues, as I and other members have mentioned. As I say, the Democrats do not support the Bill in its current form but they do believe that it can be improved at the committee stage. At this stage we will be supporting the Bill.

HON PETER FOSS (East Metropolitan - Attorney General) [7.36 pm] I am thankful that all members of the House are supporting the further passage of this Bill, but it is surprising that one nonetheless finds the usual thing happening: The

Greens (WA) want to make an amendment that will remove the Bill's content entirely; the Democrats want to make amendments that will make the legislation a bureaucratic nightmare and impossible to use; and the Labor Party is posturing over delay.

Hon N.D. Griffiths: We never posture.

Hon PETER FOSS: It is quite clear that Hon Nick Griffiths understands that if we go through the normal process of consultation, it can take an inordinate amount of time and we can end up with exactly what we started with. He understands that there comes a time when we do not carry out that consultation and other times when we do. We all know how we sat in here while the federal election campaign was on, hoping to pass a whole lot of government business whereas in fact we spent time wasting time because it was quite clear that the ALP was not prepared to deal with legislation.

The guts of the Bill would certainly be taken out by what the Greens are suggesting. If they object to people being searched unnecessarily, they have left that power in. As Hon Christine Sharp pointed out, there are other offences if people want to abuse the law, which they can use to do so. She proposes to remove the offence. Police can still go around giving these troubled children a hard time and further alienating them, but if they find that the little blighters have a pocketful of spray cans or a three-centimetre-wide chemipen at midnight, they cannot do anything about it. The Greens would have us remove the very offence. I can remember walking home from restaurants in Mt Lawley and walking all the way down Walcott Street. All the way down there was golden graffiti. Somebody had a gold-paint spray can. I never got to see the person who was wielding the spray can but it was obviously somebody who had passed by shortly before because the paint was still wet and I could smell the solvent. If I had not been walking but had been driving and I had been a policeman, I probably could have taken that as a hint to move more quickly down Walcott Street, and I may very well have found one of the group of children.

As Hon Christine Sharp has pointed out, the children fall into a number of categories, but most of them are little brats, putting it mildly. Even with those who are disaffected, I agree that courts have much worse crimes to deal with than graffiti. I totally accept that one of the things society must do is tackle the cause of crime. People will not have any argument with me over that. However, it does not mean that kids should be allowed to get away with this. If I may use the word, we have smart-arse kids who whip the spray can or the pen out of their pocket when they do not see anybody around, quickly do their tag and then stick the implement back in their pocket. The police can do nothing about them - absolutely nothing. It does not take too much at night for them to be able to carry out and conceal their nefarious activities when they think that no-one is watching. The lengths the police have had to go to to catch them include setting video cameras so that they can watch them. It is extremely difficult.

It is not an unusual proposition to say to a person, as this Bill does, that he has possession of an item in circumstances that give reasonable grounds for suspecting that he has the intention of carrying out graffiti and the contrary is not proved. Is it not reasonable to go to a young person who may have in his pocket a can of gold spray paint and who is standing near a wall where there is some golden graffiti or in a street along the length of which there is some golden graffiti and say, "Let us have a look at what's in your pockets, kid" and, if he has some gold spray paint, to say, "We are taking that off you so that you cannot do any more. Why are you walking down Walcott Street at midnight with a can of gold spray paint in your pocket?"

Hon Derrick Tomlinson: Surely under the amendment before us the police officer must demonstrate reasonable intent. When the police officer pulls the paint out of the person's pocket and is told why he has it, that is hardly a demonstration of reasonable intent.

Hon PETER FOSS: First, the police must have a reasonable suspicion. They might see a person standing next to a wall covered in gold paint.

Hon N.D. Griffiths: I wonder whether the interjector could speak in his usual manner -

Hon PETER FOSS: Stentor!

Hon N.D. Griffiths: - and the Attorney General could face us when he is speaking.

Hon PETER FOSS: This is a problem that has been faced all along. It is an old idea. Let us take the example of people who are found with picklocks at night. It is quite reasonable to ask what they are doing with a picklock. If they cannot give a reasonable explanation, the police can say that under those circumstances -

Hon Christine Sharp: What are you going to do with kids who do not have any involvement? They will still be searched.

Hon PETER FOSS: That can still be done, even if we take out this offence. This amendment does not take out the right to search, but rather the right to prosecute offenders if some gold paint is found on them. This proposal seeks to amend the wrong bit. As Hon Christine Sharp quite rightly pointed out, people can be searched because the police think they have drugs. The bit this amendment seeks to take out just means that if gold paint is found on these kids, the police are powerless. I do not know exactly what these kids will tell the police, but I understand they use reasonably offensive responses to police under these circumstances.

Hon N.D. Griffiths: I am sure they can, but do you think you should come to the second reading stage?

The PRESIDENT: Order! I was going to make the same comment. This is the second reading stage, the summing up of the Bill. Later, members can go into Committee and work out who is right and who is wrong.

Hon PETER FOSS: I am only trying to reply to the matters that have been raised. Perhaps in the second reading debate I should have objected to people even raising these matters.

The PRESIDENT: Order! I was very conscious of what people were doing when reading from the Bill, and I thought they well and truly conformed.

Hon PETER FOSS: The Greens (WA) have said that they support the legislation, but want to take the guts out of it. I do not accept for one moment that while we are addressing the causes of crime, before people have started to commit an offence, we are not dealing with a crime that exists currently. Of all the crimes, graffiti should be dealt with. There is no question of necessity. Even if drugs are the cause of the necessity, that at least is a need. The spraying of paint on walls is purely destructive. It may satisfy some internal desire to protest, but most of these offenders are kids. As the member said, about 72 per cent are from all backgrounds. They have nothing to complain about. They are kids who just think it is funny. Sure, kids often do this.

The member was quite right when she referred to the basis of juvenile crime. Some offend once, get caught and never offend again. Of all the children who come into the juvenile justice system, 95 per cent never come back. Others go through a period - it is called normal, I believe - and they grow and get to an age and to a time when they cease offending. The other group a kindergarten teacher could identify. We do not just give up and say that these kids are having a bad time. We must try to stop them. Graffiti leads to situational crime. One of the things that has become quite clear about situational crime is that a bright, beautiful, sparkling place is less likely to lead to crime and victimisation than a place that is seen to be dark, dingy and horrible. The Government has been very successful with some programs in this regard; first of all, with diverting people from graffiti and, secondly, by reducing graffiti through programs which ensure the graffiti is instantly painted out. Perth has changed significantly with the graffiti program. This is one more step that is necessary. We are saying that where we know the kids claim they are the offenders and they will not do it while we are watching, we must have some ability, first of all, to see whether the kids have those articles on them and, secondly, if they do, they are the ones who must explain it. I have no problem with that whatsoever.

Hon Christine Sharp: You do not think there is any risk attached to this?

Hon PETER FOSS: If it is a risk, it is there already. The member has already said that these people can be searched for drugs and all sorts of things. The police officers already have the power to abuse. There is more than ample capacity to do this, for a multitude of reasons. All this is saying is that we are directing it to, in this case, graffiti. When these articles are found on the offenders, they can be prosecuted. With this amendment, they cannot be prosecuted.

I move on to the comments of the Australian Democrats. I do not mind somebody calling in history to assist; however, if we do that, let us get it right. Historically - I take that as going before 1829, because I think history started before Western Australia was founded by white people -

Hon Derrick Tomlinson: That was prehistory.

Hon PETER FOSS: For some people it was prehistory. In my belief, history goes much further back. I will speak of another historical person. A suggestion made by Hon Norm Kelly seemed to me to indicate that we could never start. I point out that a Greek philosopher had an idea -

Hon N.D. Griffiths: When you said you were going to speak of another historical person, which of your colleagues were you referring to?

The PRESIDENT: Order! This is the second reading and as much as the interjections are very witty, I suggest we proceed.

Hon PETER FOSS: A proposition was put forward by Hon Norm Kelly. We can never satisfy him, rather in the same way as a Greek philosopher proved we could never move. I asked members earlier who was the philosopher, and if a member can tell me I will be very grateful. This philosopher said that before we can go the whole way, we must go halfway.

Hon Christine Sharp: Aristotle.

Hon PETER FOSS: I do not think it was Aristotle.

Hon Derrick Tomlinson: Luigi "Saiva da Moni"?

Hon PETER FOSS: It may have been, but he was more like a Roman philosopher to me! To continue, this philosopher said that before we can go halfway, we must go a quarter of the way; and before we went a quarter of the way, we must go an eighth of the way. He proved that we could never start because we could never get halfway to that first step. That is the proposition from the Democrats.

I believe the remark about our passing policing to the community is a gratuitous one and not relevant to this debate, except for the point raised by Hon Christine Sharp; that is, we must address the causes of crime and part of that is the community taking responsibility not just for the causes of crime, but to ensure there is a sense of community so it is less likely there will be crime. Historically there were community ties. Despite what people may say about the police historically being the people who prosecuted crime, it never was the case. Until Victorian times it did not become an important government function; it was a community responsibility. I am not suggesting we go back to that, but we must take into account community responsibility in addressing this problem of graffiti. Everybody seems to think it can be dealt with by the Government and the police. In fact, we all have responsibilities. The Democrats' ideas on this are missing the point. What they are proposing will make things totally unworkable. They asked why there is a different penalty for people having implements on them, as opposed to carrying out the offence. That was plainly identified by Hon Nick Griffiths. We could amend the whole Police Act for total consistency. This is an amending Bill, not a rewrite of the Police Act. We would never be able to pass any legislation relating to the Police Act on the basis of the proposition put forward by the Democrats, because we could not make an amendment which addresses the current need. Before we could make the amendment, we would need to get perfect consistency throughout all legislation. We have a lot of legislation that works its way through -

Hon Norm Kelly: I was saying that we can address the current need, but we should contain the amendment to the current need and not extend it to the other sections.

Hon PETER FOSS: It fits in there reasonably well. A couple of points have been raised. The first related to why the penalty is different. We will find inconsistencies right through the Criminal Code. We are trying to work our way through that by omnibus amendments to make for greater consistency. A problem with continually amending legislation is that we get inconsistencies in penalties. When that happens we should not do nothing; we should do something. We may bring in an offence which we believe has an appropriate penalty, but if later we believe we should amend other penalties, we then do so.

Hon Norm Kelly: Therefore, is the minister saying it is more appropriate to have that present penalty rather than tying it in with section 80A, which deals with graffiti?

Hon PETER FOSS: What this is saying is that we believe that to be the appropriate penalty. The difficulty is that throughout the entire law relating to criminal offences, one will find inconsistencies. We have looked at the possibility of penalty units. However, problems exist with penalty units, and they are not favoured by parliamentary counsel in this State.

I thank members for their in-principle acceptance of the Bill. I cannot accept the logic offered by either the Democrats or the Greens for the amendments they consider should be made. The Greens' amendment takes the guts out of the whole legislation. We might as well not bother with it if we include their amendment. The Democrats' amendment is excessively bureaucratic and unworkable.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1 put and passed.

Clause 2: Commencement -

Hon NORM KELLY: When does the Attorney General expect this Bill to be proclaimed? It would seem that it should be quite soon. I want to ascertain if any factors exist which would delay its proclamation.

Hon PETER FOSS: Obviously, it is dependent upon its being passed by this Parliament. However, it will require training time for the police. All of them will be informed of the procedures they should follow with regard to it. However, the police are hopeful, if the Bill is passed soon, that it will be in place before Christmas.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 65 amended -

Hon CHRISTINE SHARP: I move -

Page 3, lines 8 to 24 - To delete the clause.

In my speech at the second reading stage I outlined the reasons I propose the deletion of this clause. I have listened to the other speakers, and I remain convinced that members should feel worried about many of these clauses because they will lead

to a significant increase in police powers in an area where it is quite inappropriate and could give rise to some serious secondary consequences.

The CHAIRMAN: I advise the member that her amendment is out of order because it seeks to delete the whole clause. If she wishes that the clause be deleted, she should simply seek to have the Committee oppose the clause.

Hon PETER FOSS: We may as well pack up and go home if this suggested amendment is made, because it completely guts the legislation. It is intended to deal with the fact that most graffiti artists are smart enough not to do their graffiti while they are being watched by a policeman. This legislation means that those who do it while not being watched by a policeman can still be charged because they have the implements with intent, and that intent is capable of being proved, as set out in clause 4(2).

Hon NORM KELLY: I move -

Page 3, after line 13 - To insert the following new subclause -

- (3) A court that convicts a person of an offence under subsection (2) must not sentence the person to imprisonment unless the person has not less than 5 convictions under subsection (2) of this Act.

I appreciate what Hon Christine Sharp is seeking to do. We discussed this after we both put forward our amendments to be placed on the Supplementary Notice Paper. We have similar concerns; however, we have attacked them in different ways. As I said during the second reading debate, I believe the Bill can be amended so that it matches what has been stated in the second reading speech. That is why we have taken the tack of limiting the powers to graffiti offences. For those reasons, unfortunately we will not be supporting the Greens' proposal.

I do not propose to move amendment B4 standing in my name. The reason for wanting to insert this new subclause, as I said in my speech during the second reading debate, is that various legal groups that deal with youth matters have concerns that in this Bill the Government is creating a new offence which carries with it a possible term of imprisonment. The Democrats believe that it is highly unlikely that this would happen in reality. However, it will send the wrong message if we include a prison term. For that reason, we are proposing that there be at least five convictions under this subclause before a prison term is given. It is just a small way of trying to give some direction when sentencing to show that we do not believe that a prison term should be meted out. There are possible scenarios where a person could be before the court on a first offence, but in connection with other charges, and might receive a prison sentence for this offence. We do not feel that is justified. I urge members to support the amendment.

Hon CHRISTINE SHARP: Mr Chairman, it is not clear to me in what sequence the amendments are being dealt with. The amendment in my name precedes this one on the Supplementary Notice Paper. How is the sequence of proposed amendments intended to be dealt with?

The CHAIRMAN: We are dealing with amendment A4 on the basis that I have ruled out of order amendment B4, which was a direct negative of clause 4. Therefore, the member need only vote against clause 4 to achieve the intent of her amendment.

Hon PETER FOSS: This is a nonsense amendment. The problem is trying to get courts to send people to jail, not to not send them. Frankly, a juvenile court will not require a direction from Parliament not to send a juvenile to jail for this offence until at least five convictions have taken place. It is rather peculiar to refer to not less than five convictions, as it does not refer to five successive separate occasions.

Hon N.D. Griffiths: The magic number of convictions. Someone could do five walls on the trot and have five convictions. There is the magic figure.

Hon PETER FOSS: A person could do five in one night for his first time. It is a bewildering amendment. It is more likely that a person will end up in prison before five convictions. By the time they reach six convictions, the court will be placed under great pressure. This amendment will have the reverse effect to what is intended. I sometimes think we need to give closer indications to courts; however, I have never found it necessary to apply such a stricture at this stage before we have even created an offence. It is tilting at windmills.

Amendment put and negatived.

Hon J.A. SCOTT: I listened to the Attorney's explanation for this change. He pointed out that the argument supporting the amendment which was ruled out of order was fallacious. However, as Hon Christine Sharp pointed out, existing laws enable people to conduct such searches. The minister referred to people suspected of carrying illegal drugs, which is an offence; but it is a different matter to be carrying a can of paint, a stencil or a felt-tip pen, which are used in many areas other than graffiti. It is hardly the same situation as carrying drugs or a weapon, the carrying of which is already an offence. One could carry a gun with a suitable licence if in the right place. The Attorney's examples do not fit. Secondly, the proposed clause

will apply the gradual change the Government seeks to laws of this State; namely, taking away the presumption of innocence and reversing the onus of proof. That is a very serious move. Although I sympathise with the aim of addressing the definite graffiti problem, we also must be realistic. Constant break-ins and thefts occur in the suburb in which I live, yet a policeman cannot be found. People ring up and say that a break-in is taking place next door, but the police are not really interested in attending. How on earth the police will use this provision in the way envisaged, I do not know. I do not know whether they are short staffed. A few policemen seem to be around, but they do not appear to be tearing around the suburbs at night.

The Attorney General is wrong when he says that if people are carrying spray cans in the middle of the night it means that they are out to commit crime. For instance, I know my stepson keeps very late hours as he plays in a band. He carries those very same implements home from painting panels to place on stage when performing. He has them on him late at night when walking home, as he is too young to drive a car. He does not use them for graffiti. Under these provisions, he could be booked for graffiti in those circumstances. He might be hard pressed to prove that he was not about to carry out a graffiti act. The clause states that the person is presumed to have the intention referred to in proposed subsection 65(2) if -

- (a) the person has possession of the thing in circumstances that give reasonable grounds for suspecting that the person had the intention; and
- (b) the contrary is not proved.

That is the reversal of the onus of proof. It is a straight-out change to the way in which laws have applied in this State for a long time. It is a very bad move. It is draconian.

Hon PETER FOSS: After history according to the Democrats, we now have had history according to the Greens. The member is wrong. If the member goes back far enough, he will find a different application of the onus of proof from his description. I am pleased that some recent High Court cases have moved closer to the preferred idea of the application of an obligation for a suspect to say something. This clause does not reverse the onus of proof. At all times, the prosecutor must prove the elements of an offence. How do we reach that stage? How does one search the person? First, it is not allowed unless one has reasonable grounds that the person was committing an offence. I gave a good example. If fresh graffiti is found, and a person is standing near the graffiti, but not actually doing it, it is reasonable to ask that person "What have you been doing?" One can ask him to account for why he is in the streets at that time. If one is not satisfied with that explanation, one may have reasonable grounds for carrying out a search. If a search reveals a gold paint can in the pocket, and fresh gold graffiti is on the wall, one comes closer to the offence. The offence reads -

Every person who has in his possession any thing with the intention of using it to cause damage consisting of graffiti.

Firstly, one proves intention, which can be done in a number of ways. It may be through the usual way of proving intention, or by using presumption. The proposed addition to section 65 reads -

A person is presumed to have the intention referred to . . . if -

- (a) the person had possession of the thing in circumstances that give reasonable grounds for suspecting that the person had the intention;

If the member's stepson were walking home from playing in his band, and he could explain the possession of the spray paint, that would be perfectly reasonable. However, if the young person stands in front of a wall covered in gold graffiti, and he has an implement -

Hon J.A. Scott: It does not say that.

Hon PETER FOSS: It talks about circumstances which give reasonable grounds for suspecting. It says that, under those circumstances, one can call upon that person to give an explanation. No matter what the Greens may have said in the second reading debate, it is quite clear that they are against this Bill. Why are they not honest with this Chamber and the public of Western Australia and say they are against it? They are seeking to completely gut this legislation and make it impossible for people to be charged with graffiti offences when they are found with the implement and in circumstances that call for an explanation. Historically that is how courts used to operate. Hon Norm Kelly's history stops at 1830 and Hon Jim Scott's history stops at 1930, so at least Hon Norm Kelly's goes back further. Some matters have got out of hand in terms of reality, and this amendment is an attempt to take the legislation back to some sort of reality so that the police can prosecute some of the people carrying out graffiti, with whom the public are thoroughly fed up. It is not unreasonable to ask people in the circumstances outlined in this Bill for an explanation. If they have a good explanation, that is fine; if they do not, they take the consequences.

Hon J.A. SCOTT: Once again, there is a problem with the Attorney General's argument. He talked about someone carrying gold paint and fresh gold paint being on a wall. Most of the graffiti on walls is black and many people use black paint for many different reasons. People paint their tyres black and many other things. If a person is walking along any street at any time with a can of black paint -

Hon Peter Foss: Painting their tyres at midnight?

Hon J.A. SCOTT: I do not know what the Attorney General has been looking at, but I have seen a lot of black-painted graffiti and very little gold-painted graffiti. The Attorney General talked about the paint being fresh. Spray paints dry instantly, so there is no way of knowing whether it is a week old or an hour old. It is irrelevant. Is the Attorney General suggesting that somehow or other the Greens support graffiti?

Hon Peter Foss: No, but you are against the Bill.

Hon Christine Sharp: You have convinced me, Attorney General. Thank you.

Hon Peter Foss: You are kidding the public by saying you support it when you do not.

Hon J.A. SCOTT: Certainly, I think the Bill goes far too far. That is my honest opinion. There is a problem which needs to be dealt with, but this Bill is stretching the thin blue line even further by enabling the police to deal with these issues in this way.

Hon Peter Foss: You cannot say you support a Bill and then try to take the guts out of it.

Hon J.A. SCOTT: There is a problem in that the powers given are far too wide for what is attempted to be achieved. If people are seen doing something wrong, they should be arrested. The Attorney General said it is impossible to arrest and convict anyone. That is untrue. People have been arrested and convicted in the past.

Clause put and passed.

Clause 5: Section 67B inserted -

Hon NORM KELLY: I move -

Page 4, line 2 - To delete "67A" and substitute "65A".

Page 4, line 4 - To delete "67B" and substitute "65A".

I said in the second reading debate that the Democrats believe it is wrong to support the current clause because it provides broad powers covering sections 65, 66 and 67 of the Police Act. These powers were not even suggested in the minister's second reading speech. It is clear from government comments in this Chamber and in the other place that this Bill is about graffiti, and minimal comment has been made about the broad-ranging powers that this clause seeks to introduce into the Police Act. There could be valid reasons for these extensive powers but they have not been widely enough debated in the community, partly because this Bill has been put forward as an anti-graffiti Bill. For those reasons members should support my amendment.

Hon CHRISTINE SHARP: As I indicated in the second reading debate, when I divided the Bill into three sections and said I was concerned that the second part of the Bill gave increased powers of search and seizure under sections 65, 66 and 67, I had considered opposing this part of the Bill. Having listened to the arguments of the Attorney General, I am now convinced that it would be a proper course to oppose this part of the Bill. Therefore, I support the amendment moved by Hon Norm Kelly.

Hon PETER FOSS: I am pleased that the Greens have come clean. I have pointed out from the beginning that its members have a hypocritical attitude because they have tried to suggest to the public that they support moves designed to do something about graffiti. The reality is that they do not. It is hypocritical to indicate in the second reading debate that they support it but then to propose and support amendments which would have the effect of completely castrating the legislation. I am pleased that at long last we see some honesty in this debate and it is quite plain that the Greens are against moves to combat graffiti.

Hon CHRISTINE SHARP: I do not have a record of what I said in the second reading debate but, thanks to the efficiency of Hansard, that will soon be the case. I am quite sure I did not imply that I supported this Bill enthusiastically, as the Attorney General is suggesting. I made it very clear that I had many concerns about this Bill, and that is why I have moved amendments. If the Attorney General thinks there was an element of hypocrisy in my speech, I can assure him that that was not the case. I have been persuaded by the arguments in this Chamber subsequently that I should have been harder on the Government in the first place.

Hon PETER FOSS: These are fine words but essentially too often the Greens in this Chamber have played to the public and said they supported legislation. The reality is that if the Government went along with their amendments, the legislation would be useless. It is about time their bluff was called and that they faced up to the public for what they are doing. If they do not support the Bill, they should say so. They stand in this place, say they support it with reservations and that some amendments should be made, but their proposed amendments remove the idea behind the legislation. That is what I call

hypocrisy. I do not know what the Greens call hypocrisy. They do not like being accused of hypocrisy, and I understand that. I am very pleased that my arguments have led Hon Christine Sharp to that point of view, because it is about time we had in this Chamber people who were prepared to stand by the views that they hold and to say to the public that they will not support certain legislation. I am sure that some elements of the public will applaud the Greens for that; other elements of the public will think that the Greens do not care about the concerns of the majority of the community. It is about time the Greens started taking some political responsibility. It is far too easy for the Greens, if they do not think they will ever be in government, to play both sides and look as though they are doing something useful. This time, I am very pleased that the Greens are prepared to put their views on the line and tell the public exactly what their views are and what they are opposed to.

Hon CHRISTINE SHARP: The Attorney is quite incorrect in impugning my motives. I am not concerned about whether I appear to be hypocritical. I am concerned to do the best job possible in this Chamber. That is the important thing. When we have the opportunity to look at what was said in the second reading debate, I think the Attorney will see clearly that I supported the third section of this Bill quite unequivocally, because I believe it will give the police some very important practical powers. However, I think I made it clear also that I was concerned about the powers of seizure. If the Attorney General thinks that I am in some way ashamed to oppose that part of the Bill, I assure him that is not so and that I am quite clear about my concern that these additional police powers may not be in the best interests of the State, and that perhaps the Attorney should think about how proud he is of introducing this kind of legislation in this place.

Hon Peter Foss: I am very proud.

Amendments put and negatived.

The CHAIRMAN: That means that amendment J5 on the Supplementary Notice Paper will lapse.

Hon NORM KELLY: I will not proceed with my amendment K5 because it is very similar to that which the Australian Labor Party is proposing in the following amendment. It is clear from what occurred behind the Chair tonight that sometimes the ALP prefers to do a bit of political grandstanding rather than look at the substance of matters; therefore, I am happy not to move this amendment and allow the ALP to continue with its grandstanding and move the amendment.

Hon N.D. GRIFFITHS: I move -

Page 4, after line 12 - To insert the following subclause -

- (2) When a police officer or constable proposes to carry out a search under this section, the officer or constable must explain to the person to be searched that failure to comply with the demand is an offence against this Act.

Unlike some, I am not grandstanding. The Australian Labor Party has a very real concern that proper law enforcement measures do not unnecessarily alienate our youth. If that is grandstanding to the Democrats, so be it. We want to improve our law and make it workable. This amendment proposes to put in place what many police officers do anyway as a matter of practice. It legislates for good practice. I think all responsible people should be in favour of that, and should not denigrate it under the banner of grandstanding. Having said that, I thank Hon Norm Kelly for allowing me to move an amendment which in substantive terms I put on the Supplementary Notice Paper before he put his amendment on the Supplementary Notice Paper. It is very reasonable that when a person who is suspected of carrying a graffiti implement - such as the ubiquitous tin of paint to which Hon Jim Scott referred - is approached by a police officer, that police officer says before he conducts the search, "If you do not go along with what I propose, you will commit an offence." We want people to be law abiding. Some people behave badly, but most people will, when given a reasonable opportunity, behave well. We want to encourage good behaviour - which is what this amendment does - and discourage bad behaviour. That is what good law enforcement policy is all about.

Hon PETER FOSS: The Government accepts the amendment. I agree with Hon Nick Griffiths that it is good practice. The taping of confessions was not favourably received by the police when it was first suggested, and we in this Chamber extended the area of taping, and I think the police now believe that the taping of confessions is the best thing since sliced bread. It is often the case that good practice is for the benefit of the police rather than for their detriment. This is obviously one of the things that must be put in the standing orders before this legislation comes into effect. I have no problem with it. It may be that when the police procedures Bill is introduced, this matter will be dealt with in a more general fashion, but for the time being it is not a bad idea to put it into this legislation.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 6 to 9 put and passed.

New clause -

Hon NORM KELLY: I move -

Page 4, after line 26 - To insert the following new clause to stand as clause 7 -

7. Review of Act

The Minister must -

- (a) carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 2 years from the commencement of this Act;
- (b) prepare a report based on the review made under paragraph (a); and
- (c) cause the report prepared under paragraph (b) to be laid before each House of Parliament within 3 years after the commencement of this Act.

Because of the progress of this committee stage, I believe that the final version of this Bill will be quite flawed, but given that the Chamber has supported giving the police these powers, it is very important to ensure that there is a review of the effectiveness of this legislation and that a report is tabled in the Parliament so that we can see how the police have used those powers. The proposal that a review of the effectiveness of this legislation be carried out after two years and that a report be prepared and tabled within each House of Parliament within three years of the commencement of this legislation is similar to standard clauses in government legislation, which allow for a review after five years. The reason for the shorter time frame in this case is the possibility that these powers will be abused. Two years is a sufficient period to allow the police to become familiar with how to use these powers and for a sufficient number of cases to have gone through the courts to give a realistic indication of how this legislation is working. The amendment provides a reasonable time frame to develop a review and for a report to be tabled in the Parliament. I have serious concerns about the extensive powers of the Bill. All members should support my proposal for a review to take place in this time frame.

Hon CHRISTINE SHARP: I support the new clause proposed by Hon Norm Kelly for the reasons I have given during this debate. As Hon Nick Griffiths has mentioned, we would prefer to see a review of the entire Police Act, but given that the minister has failed to provide any undertaking that that will be done, I will support the lesser amendment for this aspect of the amended Police Act to be reviewed as soon as possible.

Hon PETER FOSS: Review clauses have their place, especially in major pieces of legislation putting in place a broad scheme. However, this amendment is descending into far too much detail and creates a precedent which we would regret. We would almost need a commissionaire for every civil servant to check what they are doing and see whether this or that clause of a piece of legislation works appropriately. The Parliament has occasion to pass legislation and review it in due course without going down to individual clauses. I share the wish expressed by Hon Nick Griffiths, echoed by Hon Christine Sharp, that we have a review Bill, a Bill which totally updates police procedures. We are all hopeful that that will come forward and it is highly desirable that it do so. However, if we were to add a review provision to this legislation, we would spend time reviewing bits of the Act instead of getting on with the job.

Hon NORM KELLY: I understand that the Police Service conducts a review of new legislation which concerns it after a year or so. In my mind, a Police minister would be remiss in his or her duty if he or she did not want to see such a review and the effects of legislation. This amendment is simply extending that one step further so the Parliament itself can see some semblance of a report about the powers which the Parliament has vested in the Police Service.

Hon N.D. GRIFFITHS: Hon Christine Sharp referred to the minister's undertaking. I have been a member of this place since May 1993 and the issue of Police Act reform is a matter I have raised every year on more than one occasion, sometimes by way of question. Invariably the answer has been in the form of an undertaking. The hallmark of the Government has been promises, promises and no delivery. It is not appropriate to vote for the review clause because of the lack of an undertaking; there have been more undertakings than one would care to mention. Having said that, if Governments spend their time reviewing every piece of legislation, they will not spend their time getting on with the job. Important though this legislation is, what the Attorney General said about the proposed clause being an amendment and a precedent is appropriate. Further, if the resources of the Police Department as distinct from the Police Force were used up in reviewing this piece of legislation, given the history of the department in the relatively short period I have been here, it would delay even further what the Attorney General has described as a police procedures Bill. I emphasise that we need a Police Act which deals with powers, procedures and administration and a further Act which deals with summary offences, rather than a review of an amendment Bill to an outdated Act. That is where our efforts are best placed. Therefore, although the Australian Labor Party has consistently supported review clauses, particularly in major pieces of legislation, it does not agree with what is proposed.

Hon J.A. SCOTT: The question of reviewing police Acts, and in this case looking at whether to review one section of this Police Amendment Bill, is interesting. I am not sure what the process of a review looks at. Some recent changes to various Acts of Parliament have brought about significant changes in criminal activity, like the changes made to regulating

pawnbrokers and their trade. The regulation has been effective, but we have seen a move towards violent crimes against people, bags being snatched and bricks thrown through windows. People are committing violent crimes in an attempt to get drug money. I am not sure whether we would pick up that in a broad sweep better than by looking at individual Acts. I would be interested to hear from the Attorney General whether the possibility of a change like this causing a change to some other area of activity is considered. It seems that that is what is happening at the moment; we shut off a problem and it moves somewhere else, sometimes with an even worse result, as has happened with the pawnbrokers. Society was safer before even though that channel of crime has been successfully shut down. Do these reviews look at those things?

Hon PETER FOSS: Yes, they do. It is a matter of concern. Dealing with crime is like squeezing a balloon; if one is not careful and squeezes in the middle, it will bulge out at either end. We are dealing with the question of the cause of crime. Until the causes of and responses to crime and a number of other matters like situational crime are attacked, we will have difficulties. The Government is trying to do that by attacking on all fronts; it is the only way to deal with it. One cannot give up and let people steal goods and fence them to avoid problems with violent crime; that is hardly a solution. Human behaviour is hard to predict. However, people do not feed drug habits through graffiti; it is an opportunistic and situational crime rather than a drug-driven crime. When we are involved in drug-driven crime we must look at the alternatives. For example, when we deal with the regulation of prostitution we must be careful to deal with drug habits as that is one of the problems there. I hate to say it, but prostitution in many ways is a better way of providing money than having women involved in violent crime. That does not mean we do not deal with prostitution but that when we do deal with it we also must make certain that we have the capacity to deal with the underlying causes, one of which is drug dependency. We look at potential changes, but to model them would require a computer with incredibly complex software. However, it is a matter of which we are conscious and must continue to be conscious.

I appreciate Hon Nick Griffiths' comments about the ideal situation of having the work going towards the total review and reform of the Police Act; however, that is not in place. If that Bill comes before the Parliament before the period under my proposed amendment expires, that may be well and good. However, there is no guarantee that we will see those new police Bills coming into this place before that time. Therefore, without that guarantee, it is important that we review this Act. It is an amendment Act only. However, it is a significant amendment Act and one on which we should ensure proper scrutiny.

New clause put and a division taken with the following result -

Ayes (5)

Hon Helen Hodgson
Hon J.A. Scott

Hon Christine Sharp

Hon Giz Watson

Hon Norm Kelly (*Teller*)

Noes (25)

Hon Kim Chance
Hon J.A. Cowdell
Hon M.J. Criddle
Hon Cheryl Davenport
Hon Dexter Davies
Hon E.R.J. Dermer
Hon B.K. Donaldson

Hon Max Evans
Hon Peter Foss
Hon N.D. Griffiths
Hon John Halden
Hon Ray Halligan
Hon Tom Helm
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon Mark Nevill
Hon Ljiljana Ravlich
Hon B.M. Scott
Hon Greg Smith

Hon Tom Stephens
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Ken Travers
Hon Muriel Patterson
(*Teller*)

New clause thus negated.

Title put and passed.

Bill reported, with an amendment.

On motion by Hon Peter Foss (Attorney General), resolved with an absolute majority -

That leave be granted under Standing Order No 15 to put the Bill through its remaining stages in this sitting.

Report

The report of the Committee adopted.

Third Reading

HON PETER FOSS (East Metropolitan - Attorney General) [8.46 pm]: I move -

That the Bill be now read a third time.

HON NORM KELLY (East Metropolitan) [8.46 pm]: In my contribution to the second reading debate I mentioned that the Australian Democrats supported this Bill because we believed that the Bill could be improved to match the second reading speech of the Attorney General. Because of what has occurred in the committee stage of the Bill, I believe that the

Bill and the speech do not match and the extended powers that the Bill gives the police do not have sufficient measures or have not had appropriate community debate to allow it to be supported. For those reasons, although I hoped we could improve the Bill, unfortunately we cannot support the Bill at this stage.

Question put and passed.

Bill read a third time and returned to the Assembly with an amendment.

STANDING COMMITTEE ON LEGISLATION

Extension of Time

HON B.K. DONALDSON (Agricultural) [8.47 pm]: I am directed to report that the Standing Committee on Legislation has resolved that the time in which it has to report on the Weapons Bill be extended from 10 November to 26 November 1998. I move -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 387.]

HON PETER FOSS (East Metropolitan - Attorney General) [8.48 pm]: Although I understand the exigencies that are placed upon the committee, it is always a problem when referring matters to the Standing Committee on Legislation. It not only takes time but also a lot more time than one would think it would if the job is to be properly done. This was one of the matters that concerned the Government when the legislation was first referred to the committee. I do not like to say "I told you so" but perhaps I should do so in the circumstances. I say that without any criticism of the committee. However, I believe it is asking only for an opportunity to do the job properly. It is a concern that the Government had. It is an important piece of legislation and we are concerned to see it being further delayed.

HON N.D. GRIFFITHS (East Metropolitan) [8.50 pm]: I share a concern that the Weapons Bill, which was due to come back from the Legislation Committee today, will not come back for a relatively longer period if this motion is passed.

I wish to put the Attorney's "I told you so" comments in context. The Bill in question was introduced in this House on 19 August 1998. It was referred to the Legislation Committee after a second reading debate that did not occupy the time of the House unduly - in fact, it was debated for only a couple of hours. The matters that formed the basis of the referral are serious. I very much regret the delay, but the Government's delay in bringing on the second reading debate was even greater. Although I should not refer to an order of the day, I point out that the Surveillance Devices Bill was introduced in the Legislative Assembly a year ago. When the Attorney General refers to law and order matters and uses that "I told you so" tone, it smacks of "I say one thing and do another". Having said that, I regret that the committee has not completed its task, but I accept its expertise and note that its members do a very good job, as we have seen on many occasions.

Question put and passed.

BOTANIC GARDENS AND PARKS AUTHORITY BILL

Second Reading

Resumed from 17 September.

HON J.A. COWDELL (South West) [8.53 pm]: The Australian Labor Party welcomes this measure, supports the Bill and wishes it well in its much delayed passage.

Indeed, members on this side must agree with most of the statements made by the minister. I will not repeat all of them but will concur with some. Indeed, Kings Park is a name to conjure with these days. Of course, when it comes to election time, parties promise a Kings Park of the north and a Kings Park of the south. Only last night in Collie it was put to me that the farm coming up for sale could be the Kings Park of the Collie region, although it abuts about five shires. Nevertheless, that is an indication of the esteem in which the park and its board are held. Any measure that enhances and facilitates the role of the board is to be welcomed.

The minister stated in his second reading speech that the proper management of the park was an important issue for all Western Australians and that currently the asset was being managed under an Act that is more than a century old. Although it has been amended on various occasions, there was a need for a thorough overhaul. The Opposition agrees. A significant proposal in this legislation is to vest Bold Park in the existing Kings Park Board and to enable the management of both of those major parks.

The Government stated that the current legislation - the Parks and Reserves Act - is limited in that it is silent on the functions and powers of the State's botanic garden, that it provides very limited and unclear protection for the bushland involved, that it does not address the importance of Kings Park as a tourist and cultural heritage attraction, and that it severely inhibits the ability of the board to raise revenue and to deliver quality services and facilities. I believe those services and facilities have

been provided to an exceptionally high standard even under century-old legislation. Finally, the Government stated that the Act in question provides no statutory basis for important research work into the conservation of our floral heritage.

The Opposition sees the need to address these various deficiencies, statutory protection for the garden within Kings Park and the enhancement of bushland management. I note that the authority is entitled the "Botanic Gardens and Parks Authority". Perhaps it would have been better to call it the "Botanic Gardens, Urban Bushland and Parks Authority", because managing urban bushland is as important as managing botanic gardens.

The Government has pointed out the need for the new authority to have a clear focus on managing both Bold Park and Kings Park as tourist and recreation facilities. I was reminded earlier this evening to mention the need for adequate signage as two of my parliamentary colleagues who went wandering during the dinner recess became somewhat disoriented but fortunately made it back to the Chamber. I said I would raise that issue in my speech and I have done so while recognising the parks' importance as tourist facilities.

It was appropriate that those who drafted the legislation looked closely at the Victorian Royal Botanic Gardens Act 1991 and the New South Wales Royal Botanic Garden and Domain Trust Act 1980. I thank the officers who gave me a briefing on this matter and satisfied my few concerns.

I note with approval that the legislation specifically excludes the power to charge for entry to Kings Park, thus guaranteeing free public access. This is to be welcomed, particularly in the current era in which the list of free entry parks is rapidly diminishing and the other list of entry-charge parks is increasing as soon as it becomes apparent that money can be made. Although I welcome the assurance that no entry charges will be made into Kings Park and Bold Park, and I hope any other urban bushland, I hope we return to the situation in which the national parks managed by the Department of Conservation and Land Management are free to the public of this State. For the modest income that CALM makes from those sources that change should be made and I look forward, upon the restoration of the people's government, to some enlightened changes, not to mention access to beaches for the populace of the south west and elsewhere.

Obviously the Bill allows the new board to charge entrance fees for events or functions. I have been pleased to see the way the board has developed such functions, particularly the Shakespearean productions in recent years in Kings Park, using the backdrop most effectively. Presumably it will apply to the events that occur in Bold Park if this legislation covers the amphitheatre there.

The Labor Party welcomes the initiative of providing for a foundation that will ensure an appropriate appeal for private support and sponsorship. If it were successful, and I wish it well, I would not like to see this prove to be an alternative and provide an excuse for the Government to reduce its allocation to the management of these important parks. We would not want to see the new board go along the path of CALM of converting park areas to productive uses to make an income.

I noticed in one of the reports I was reading that the problems with some of the weeds and veldt grass eventuated because of a fundraising scheme when the board was short of funds and wanted to develop pasture or whatever else.

Hon Max Evans: I am lost; can you explain that further?

Hon J.A. COWDELL: Evidently the board, in presumably the 1920s and 1930s, was looking for ways to enhance its income and it saw agricultural-cum-pastoral pursuits as a way of doing that.

Hon Max Evans: You are discrediting your own speech. You should get your facts right.

Hon J.A. COWDELL: That is my understanding. I read a report that indicated that the problem with some of the grasses at Kings Park was that they had been introduced by the board.

Hon Max Evans: Are you saying the veldt grass was planted to run livestock?

Hon J.A. COWDELL: That was in the report. I look forward to the minister's response. My point is that I fully support the foundation so that the park board may have additional resources with which to develop that excellent facility rather than substitute resources for government allocations.

The other matters raised in the minister's speech were straightforward. I welcome the management plans, which will be developed and subject to scrutiny, and the relevant review of the Act and the requirement for ministerial approvals for granting leases or licences for longer than five years, for erecting permanent structures for roadworks or for other major capital works exceeding \$100 000 in value.

The final section dealt with by the minister was a range of penalties under the legislation. They seem to be comparable with the regime elsewhere but the minister might comment on whether that is the fact. The Australian Labor Party supports this bill and the initiatives in the minister's second reading speech which I highlighted. We look forward to the fact that this Chamber will now pass the Bill in a speedy fashion.

HON GIZ WATSON (North Metropolitan) [9.05 pm]: The Greens welcome the introduction of this Bill. It is a welcome

change. We acknowledge that it is necessary to amend an outdated Act. The objectives of the Parks and Reserves Act of 1895 are an interesting indication of what parks and botanical gardens were created for in the nineteenth century. Of course it was for beautification, the introduction of exotics and clearing of land. I will read the powers included in the Act and contrast those objectives with what we hope to achieve with a new Act.

Under the "Certain powers included in the general powers" to do with the Parks and Reserves Board it reads -

5. (1) In the exercise of its general powers in respect of the parks and reserves committed to them a Board of control and management may, among other things, do as follows:
 - (a) Fence in or otherwise enclose, clear, level, drain, plant, and form walks and carriage drives through and over such parks and reserves, or any part thereof;

It sounds like open slather for putting in roadways or whatever we want. To continue -

- (b) Construct dams and reservoirs for the retention and formation of sheets of water thereon;
- (c) Otherwise improve or ornament such parks or reserves, and do all such things as are calculated to adapt such parks and reserves to the purposes of public recreation, health, and enjoyment;
- (d) Establish and maintain zoological gardens therein;

It is interesting that in the light of Hon John Cowdell's comments regarding running of stock paragraph (e) reads -

Grant licences for the depasturing of animals on such park lands and reserves, and take for the same such fees as the Board may, by any by-law, from time to time appoint;

The Act contains a provision to graze animals on those reserves. I believe Hon John Cowdell was correct that at various times animals were able to graze there.

Finally, paragraph (f) reads -

Grant licences for the removal of any sand, gravel, or other earth or mineral, and for cutting and removing wood under such restrictions, and at such reasonable price, or such weekly, monthly, or yearly sum as the Board may think fit.

It is in contrast to what the community now expects parks to be managed for.

In the second reading speech it was stated that the existing Parks and Reserves Act was silent on its functions and powers. It is inadequate in its powers and functions for modern day thinking and management of parks and bushland. However, it was not silent, but was expansive about what could be done within parks. I concur with the comments in the second reading speech that the powers in the Act were very limited and unclear concerning protection for bushland. Indeed, that is the understatement of the year because those powers seemed to allow anything but the protection of bushland. Obviously the Bill reflects community expectations and acknowledges the importance and value of bushland and managing botanical gardens, something that has been understood for longer. I believe the Bill will go a long way towards meeting those expectations.

I concur that Kings Park is an icon for the State of bush management and conservation. I would be delighted if other outstanding pieces of bushland were also treated with the same degree of reverence and respect and as much attention was put into their management and conservation as is the case with Kings Park. In assessing whether this Bill addresses issues to do with the best management of Kings Park and Bold Park, I wish to ensure that the powers of the board, as created, enable the maintenance of biodiversity and the natural attributes of the bushland component of those parks. I foreshadow that I will move amendments in the committee stage, which the Greens will argue will improve or clarify the objectives of management being the maintenance of native biodiversity, rather than the more general objective of the conservation of flora and fauna, which is potentially open to interpretation because it does not specify whether the Government is talking about managing that area of bushland for its native vegetation and fauna attributes.

Bushland is a community asset which we are valuing more as we understand what it contains. It is important that we do not have the situation whereby the objective of making money either from tourist visitation or recreation overshadows that of conserving and managing those areas for future generations. This Bill has the correct balance and has built-in provisions which enable that balance to be struck. I also note that the Bill addresses the issue of community involvement in the creation and completion of management plans, which I welcome.

It is now accepted that the community has a right and is enthusiastic to be involved in consultations on the management plans for areas of bushland. Community groups and individuals have expertise which can be used in the formation of the best management plans for these areas. Members will be aware that many people in the community now become involved in the practical aspects of conserving and managing bushland. I know that both Bold Park and Kings Park have very active

community groups working with them and the Bill allows for their involvement. I acknowledge that it was a difficult Bill to draft. It attempts to cover the management of two different land uses; that is, botanical gardens and parkland - a created environment - and the natural bushland area of Kings Park, Bold Park and any other reserves that might be vested in the board. Therefore, the Government has drafted a Bill that accommodates the management of the two different objectives. I support the intention of the Bill to allow the board to manage other areas of bushland, particularly within the urban area. That provides an excellent opportunity for other areas of significant bushland in Perth to come under a sound management regime. Within the metropolitan region I suggest there are some very good areas which could become regional parks and which would meet all of the criteria for addition to the reserves regime. I mention the creation of a regional park south of Guilderton. It might be a useful addition to the responsibilities of the board if it were possible for that area to be managed as a regional park.

I pay tribute to the work of the Kings Park Board in the area of bushland management, particularly in relation to research. I am familiar with the work it has done in the management of environmental weeds such as bridal creeper, and the breakthroughs it has made in our understanding of the role of smoke in the regeneration of native Western Australian plants. That is vital work. I cannot speak highly enough of the research work that has been carried out, and also the protection of endangered flora. I have taken the time to visit the park and look at its research facilities, which are very impressive. I am sure this Bill will provide the authority with the security and necessary powers to continue that good work. In line with the comments of Hon John Cowdell, I express words of caution about charging fees to access parks and reserves. I accept that a provision exists for the charging of fees for certain events within Kings Park, and I accept the rationale behind that approach. However, the Greens strongly oppose fees being charged to enter urban bushland, national parks and reserves across the State. They are community assets and communal property. Charging an entry fee is inappropriate, so we need to set aside adequate funds from the consolidated fund to look after those areas and to recognise their value to the whole community.

The issue of sponsorship is also addressed in this Bill. We should be watchful of the companies that work in conjunction with boards which are managing public parks. The Bill does not set in place guidelines or restrictions for sponsorship. That is covered within a policy statement. I refer to the Kings Park sponsorship policy dated September 1998. The policy acknowledges that companies which are potential sponsors should be assessed for their suitability. I was interested to note the criteria used by the Kings Park Board. Paragraph (c)(iii) provides for a review of the public profile of the organisation to avoid conflict and embarrassment. I imagined that the board would require something more tangible than potential embarrassment. The criterion in paragraph (iv) is to reject sponsorship offers from organisations that have a "poor public image". I hope that we will look a bit deeper than the image of a company, and would be concerned about a company's environmental record rather than place emphasis on its image. Some companies would be able to present a good public image, but if one delved deeper their environmental records would be dubious and require a rigorous assessment. Paragraph (viii) requires a complete search of the company and parent company to evaluate the complete corporate image. Again, many companies put a lot of effort into the gloss on their corporate image, and I trust that the board will be vigilant in thoroughly examining the companies that wish to become associated with what is a state icon that has an extraordinary importance to the Western Australian community and, particularly, is dearly loved by conservationists who have put a lot of effort into assisting with its conservation.

I foreshadow moving amendments during the committee stage to clarify the issue that I raised earlier about the objectives of management of the bushland component.

HON NORM KELLY (East Metropolitan) [9.23 pm]: The Australian Democrats support the Bill. I understand that it was originally intended to pass this legislation through Parliament before the celebration of the one-hundredth anniversary of Kings Park. Unfortunately, that did not occur. However, it is good to see this legislation is now before the House, just a few years after the park's one-hundredth anniversary.

The current legislation has serious limitations, which have been mentioned by previous speakers, and I will not go through them in great detail. There is currently inadequate protection for the botanic gardens contained within Kings Park. Because of the evolving nature in the usage of Kings Park, the current legislation does not adequately address the responsibility of Kings Park as a tourist and cultural heritage attraction. It has severe limitations on its ability to raise revenue and to deliver quality services and facilities for people who use the park. It is a tourist icon in this State in which all Western Australians have a legitimate interest, no matter where they live in Western Australia. They have that interest in and ownership of that park, in much the same way that Western Australians - no matter where they live - have an interest in and ownership of the forests of the south west. We should protect all areas of natural beauty in a similar way.

The park has many uses, whether tourism, recreation or its scientific work in the botanical area. Kings Park is world renowned for the quality of its work. We are concerned about the issue of maintaining free public access, and it is reassuring that the Government has expressed its commitment to maintain that through the provisions in this Bill. Although the Bill allows people to be charged for going into the park for specific events, at least people can choose to pay that fee and to receive a direct benefit from the event they will attend. We do not have any problems with that and appreciate the Government's commitment to free general access to the park.

The new legislation encompasses Bold Park, and is set up so that new areas can be vested within the Botanic Gardens and Parks Authority. We would like to see that facility used readily. Other members have mentioned desirable sites for vesting in the authority's control, so that in future we may see bushland and various regional parks come under the control of the authority. The Bill also allows for the research and intellectual property rights to be expanded, so there will be a power to exchange botanical specimens between scientific and educational institutions throughout the world and to trade in the disposal of plants, seeds, fungi and the like. The management plans will undergo a public consultation process. There will be scrutiny of the future uses of the park when ministerial approval is required for the authority to exercise its powers relating to the disposal or acquisition of land, for granting leases or licences for longer than five years, for erecting permanent structures, for roadworks, or for other major works which exceed \$100 000 in value. Because people have that ownership of the park, the proposals that have been put forward in recent years, such as for the new restaurant and cafe complex, have generated a lot of public interest and vigorous debate.

Clause 9 provides that the authority is required to carry out a wide range of functions for the care, control and management of the parks and designated lands. The minister will have broad powers to appoint people to the authority. We are concerned that a future minister may want to concentrate the membership of the authority in areas such as tourism and neglect the research, scientific and conservation areas. However, we have been given an assurance by the Minister for the Environment that she will try to ensure that the membership of the authority reflects those functions as widely as possible. Although that is reassuring at this stage, ministers come and go, and we will look at that matter closely in future years to ensure that the membership of the authority retains its integrity by dividing its efforts evenly between those various functions.

We support the amendments that have been foreshadowed by the Greens (WA), because they address the need to retain the words "biological diversity", which are sometimes overlooked in the older-style terminology. We congratulate the Government on the Bill and support the Bill.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.32 pm]: I thank all members for their strong support for the Botanic Gardens and Parks Authority Bill. Obviously everyone has a soft spot for Kings Park and Bold Park. I lived in West Perth for 28 years, and Kings Park was part of my life when I was growing up. I lived in Mt Claremont for 20 years, and Bold Park was just around the corner. Therefore, I have been very closely associated with those parks.

It is interesting that in recent years, this House has passed legislation to allow the Kings Park Board to charge people to attend events within Kings Park. We considered that matter when the flower show was held in Kings Park for the first time, but we did not make any change for the first year. After that, we realised that it would cost a lot of money to make the flower show bigger and better, and the House was quick to pass legislation to allow charges to be levied. I think the board made \$150 000 last year, compared with \$20 000 in donations. That money goes back into making Kings Park a better place for everybody. More shows are being held there. That not only raises money but also brings a whole new clientele into Kings Park. People enjoy it for different reasons, and that is an excellent thing.

I have been very much associated with the Lotteries Commission's child activity centre at the old Hale School oval. The commission advanced about \$1.3m for that centre, and it tells me it has been so successful that it has not had to cut the lawns because they have been mowed down by children. That is a marvellous facility and brings a lot of people into Kings Park. It has a little coffee shop which is also very popular. One weekend I saw about 20 or 30 cars parked in Kings Park Road, and I thought a tennis tournament must be on and there was not enough room in the park to park vehicles. However, most of those people were at the child minding centre; only a few were playing tennis. That centre draws very big crowds. Pat O'Sullivan from the Meerilinga Young Children's Foundation has told me that Perth can do with another one or two of these centres. We are looking at whether we can improve the activity centre at Burswood Park near the Vlamingh memorial to make it bigger and better, because there is a great need for it. The activity centre at Perth Zoo is also very popular. Parents take their children to the zoo, and many of those children spend a large part of their time playing on the swings and roundabouts there. That is very good.

Kings Park Tennis Club has been an icon of Perth and Kings Park since well before my time. Major tennis tournaments such as the Davis Cup have been held there. In the 1950s, it was proposed to put the swimming pool that is now at Beatty Park in Kings Park on the corner of Thomas Street and Kings Park Road. However, the Parliament at the time decided it should be situated at Beatty Park.

I have a story for Hon John Cowdell about the veldt grass in Kings Park. We will do more research, and the people here tonight may be able to give me the full answer, but I have always thought that the veldt grass escaped from the university. It is a bit like all the lorikeets around Perth. There are now thousands of them. They actually escaped from people's homes years ago, and that was a major mistake. There is now veldt grass all around the suburban area.

In my younger days, a lot of people used to go horse riding in Kings Park. I am not certain whether that is prohibited now. Tim Keenan is one of the top orthopaedic surgeons in Perth, and his father, Patsy Keenan, used to be a regular rider to Kings Park from Subiaco. When I lived in West Perth, we had the wingies and stumpies hostel across the road, and they had big stables there and people would ride horses in the park. It was quite an active place for riding horses.

Hon Kim Chance: Wingies and stumpies? Is that politically correct?

Hon MAX EVANS: The TPis. They were wingies and stumpies from the First World War. They had the bowling greens and everything else, and they were known as wingies and stumpies. People felt very kindly about them. They were wonderful old chaps. One famous person who stayed there was Douglas Bader, the legless pilot, and my mother raced across to get his autograph for me. It was quite an institution. That is part of what Kings Park has been over the years.

Comments have been made about the reservoir. We all know that the reservoir is there and covered over and has been a big part of the park.

Comments have also been made about the board. Hon Norm Kelly commented on the letter he received from the minister, which gives an assurance that the appointments to the board will be made following proper consideration of a full range of expertise relevant to the functions of the authority. From my knowledge I am aware that over the years, we have had very responsible boards. Kings Park is an icon of Perth, and I do not know of any board that has gone off the rails over the years.

Many years ago, a couple of old guns were found that had been buried by the rotunda near the war memorial. The board members obviously did not want to put them on show any more but did not know how to take them out of the park, so they dug a hole and buried them, and they were dug out again many years later. We still do not know what else we might find buried in Kings Park. I am certain the board will do a good job. The board needs not only experts but also caring people who understand what the public wants. The botanical gardens have been very well looked after over the years, and the direction is to go a lot further towards improving on the botanical gardens.

The Government will be supporting the amendments proposed by Hon Giz Watson. I am very glad the amendments use the words "biological diversity". We had a big show at the Western Australian Museum last year, which was opened by me but attended by the Lord Mayor of London. The sponsors used the word biodiversity. I asked all the top men at the Museum who run the show, and not one of them could explain to me what that word meant. I am glad those words will be put into the Bill, because it will help the next generation to know what we mean. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Murray Montgomery) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clauses 1 to 8 put and passed.

Clause 9: Functions -

Hon GIZ WATSON: I move -

Page 7, line 9 - To delete the words "the flora and fauna" and substitute the words "any native biological diversity".

Hon J.A. COWDELL: The Opposition supports all of the amendments standing in the name of my colleague Hon Giz Watson.

Hon GIZ WATSON: I will elaborate quickly on part of my contribution to the second reading debate. The intention is to clarify that what is to be conserved and enhanced is indeed native vegetation. The proposed words make that very clear. Another point which arose when I discussed this potential amendment with people from Kings Park is that it also serves the purpose of covering fungi, which currently are no longer classified as flora. If we had not looked at some sort of amendment here, perhaps we would have missed out on mushrooms and all those other fungi which it is very important to include in the objectives of the functions and powers of the authority.

Hon MAX EVANS: Being my age, I prefer the words flora and fauna, but the Government supports the amendment.

Amendment put and passed.

Hon GIZ WATSON: I move -

Page 7, line 14 - To insert after the word "to" the word "conserve,".

Hon B.K. DONALDSON: I wonder whether this is a little bit of an overkill. Clause 9(2)(b) refers to conserving and enhancing the flora and fauna of the designated land. The amendment moved by Giz Watson is to have paragraph (d) read "to conserve, develop, manage, display and undertake research". Her amendment is unnecessary. The intent of her amendment is picked up in paragraph (b).

Hon GIZ WATSON: Paragraph (b) covers the general conservation and enhancement of the designated land. The member

will note that paragraph (d) refers to "collections of Western Australian and other flora". There are two separate divisions. The amendment is adding the additional purpose relating to Western Australian and other flora.

Hon B.K. Donaldson: This is developing and managing. I believe that conservation comes under paragraph (b).

Hon GIZ WATSON: Paragraph (d) refers to another function of the authority to do with collections of material. Does that answer the question?

Hon B.K. Donaldson: It does not answer it but I will go along with the amendment.

Hon J.A. COWDELL: I view with concern the attempt by the government backbench to hold up this important government legislation and to derail the minister in this regard. I indicate that the Opposition will have no part in this exercise!

Amendment put and passed.

Hon GIZ WATSON: I move -

Page 7, line 17 - To delete the words ", flora and fauna" and substitute the words "biological diversity".

Page 7, line 18 - To delete the words ", flora and fauna" and substitute the words "biological diversity".

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 10 to 52 put and passed.

Clause 53: Regulations -

Hon GIZ WATSON: I move -

Page 39, lines 17 and 18 - To delete the words "flora and fauna" and substitute the words "and biological diversity".

Page 39, line 20 - To delete the words "flora and fauna" and substitute the words "and biological diversity".

By way of brief explanation, these amendments are to achieve consistency in the Bill. The arguments for supporting them are exactly the same as those for the first amendment I moved.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 54: Review of Act -

Hon NORM KELLY: I originally proposed to move some amendments. However, as it has been pointed out to me that there are still some inconsistencies in what I was seeking to achieve in these amendments, I will support this clause as it stands.

Clause put and passed.

Clauses 55 and 56 put and passed.

Schedules 1 to 3 put and passed.

Title put and passed.

Bill reported, with amendments.

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

Minutes to be Provided to Lawyer Representing Hon John Halden

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.53 pm]: I move -

That the Clerk be authorised to provide to Ms J. Wager a copy of the minutes of the meeting of the Constitutional Affairs and Statutes Revision Committee held on 30 October 1992 and that the document be released subject to the privileges of this House under the Parliamentary Privileges Act 1891.

Very briefly, in support of the motion, members will be aware of a letter read out by the President at the beginning of the sitting today requesting the provision of this information to enable Ms Wager to protect the interests of her client, as I understand it. That person is Hon John Halden, who is involved in a forthcoming court case. I am happy to move that this document be made available.

Question put and passed.

PEARLING AMENDMENT BILL*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) [9.54 pm]: I move -

That the Bill be now read a second time.

This Bill amends the Pearling Act to allow fees payable under that Act to be paid by instalments. The Bill results from a commitment to the fishing industry following the introduction of cost recovery for the State's six major commercial fisheries in 1995. The legislation will enable the payment-by-instalment option to be offered to pearling licensees for the start of the next licensing period, commencing on 1 January 1999. The legislative framework to enable payment by instalments commenced for all other managed fisheries in the 1996-97 financial year. The option of the payment of fees by instalment was requested by the industry to assist in spreading fee payments throughout the year. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

ADJOURNMENT OF THE HOUSE

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

That the House do now adjourn.

Alcoa Wagerup Refinery - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [9.56 pm]: I will use this opportunity to comment on the debate on the urgency motion on the morning of Tuesday, 27 October. In that debate Hon Jim Scott brought attention to some problems that were occurring at the Alcoa refinery in Wagerup. A number of members took part in the debate. Some misunderstandings as a result of comments in that debate have been brought to my attention. Members will recall that Hon Jim Scott gave a detailed description of some matters that seemed to be affecting the health of people who lived in Wagerup and of those who worked in the refinery. Members will recall the contribution of Hon Jim Scott, who moved the motion, and those of Hon Max Evans and Hon Mark Nevill. People from Wagerup have been in contact with me since that time and have relayed some misunderstandings of what was being debated on that occasion. Comments were made on radio about how people viewed what had been said.

I believe Hon Mark Nevill was misquoted, and misunderstood, in that it was suggested that he did not think there was a problem from the workers' side and that the issues which concerned them were perhaps more psychosomatic than anything else. I take this opportunity to advise those people to read the *Hansard* of 29 October when Hon Mark Nevill advised the House during the adjournment debate that he had not intended in his comments to denigrate those people in any way or to say that there were no problems at the refinery. In fact, I think in his speech on the urgency motion, he included the words "at the time". During that adjournment debate, he also said that Alcoa was doing all it could to alleviate any problems that might be seen to be occurring at the refinery and that there would be an inquiry into the matter the subject of the urgency motion.

I place on the record that the Labor Party has the strongest respect for health and safety of workers, no matter where they may be. The health and safety representatives in this State do a very good job on behalf of the work force, and the Labor Party is the first to recognise that. Some threats have been made against health and safety representatives. They certainly put their jobs on the line when they do their jobs correctly. Therefore, no member of the Labor Party would decry the job that those people do. We respect the positions they hold within the work force. I wanted to clear up that matter.

The other matter is that from my conversations with residents at Wagerup and the health and safety representatives, it appears that Alcoa's commitment to an inquiry is mostly centred on the concerns of the residents and that the people who work there will not necessarily be a part of that inquiry. I hope to meet with representatives of Alcoa soon to discuss this matter. I have never in the past had reason to doubt that Alcoa would act in anything but a most honourable way in matters which concern both its work force and the people who live in the vicinity of its refineries. Members will recall the matter of waste burning at a liquor burning plant. I do not understand the procedures. However, I understand some difficulties have been alleviated in other countries by using methods different from those used at Wagerup. However, that matter will come out in the inquiry in which Alcoa will participate.

The reason I am on my feet is to ensure that we will now have in *Hansard* the complete picture and that any misunderstandings which may have arisen because of statements from members on this side of the House will have been clarified. Members of the Labor Party have made it clear - I want to use this forum to continue to underline the fact - that we have the utmost respect for health and safety representatives; we have the utmost respect for people who live in areas

where dangers exist, whether real or imaginary. In this case it should go on record. Hon Mark Nevill tried to make the point that Alcoa accepts there have been difficulties. It has gone some way to try to overcome those difficulties. An inquiry will take place. We are concerned that the inquiry be a complete inquiry and that it include not only the residents of the town, but also the people who work in the refinery.

Lane Block Logging - Adjournment Debate

HON GIZ WATSON (North Metropolitan) [10.02 pm]: I rise to speak on a matter which is of great concern and some urgency. I wish to inform members of what is happening in the south west forests at this time. It is important that members know exactly how dangerous things are getting in the forest blocks that are currently being logged. I took the opportunity this weekend to visit Lane block, which is just out of Northcliffe, and to meet with the very brave group of people who are attempting to prevent further logging of old-growth forests. I want to share with the House how dangerous the game is getting down there. It is possible that lives are being put in danger because the Government is not -

Hon B.K. Donaldson: They are breaking the law.

Hon GIZ WATSON: I will deal with the comment that they are breaking the law. What is happening in Lane block and Wattle block, and will continue to happen in the south west forests, is that a group of brave, persistent and selfless people are attempting to ensure that old-growth forest is not logged. They have the support of 87 per cent of the Western Australian population. It is inexcusable that the logging is continuing. The logging is continuing in areas that are already interim listed for their heritage value. Indeed, the Government is contravening its own agreement, which I will refer to. It is contained in the national forest policy statement of 1992, which was agreed to by the Western Australian Government. It was a statement signed by all participating Governments, with the exception of Tasmania, at the Council of Australian Governments' meeting held in Perth in 1992. The Governments signed a strategy to protect old-growth forests and wilderness. The statement says -

The Governments have agreed to a strategy designed to conserve and manage areas of old-growth forests and wilderness as part of the reserve system . . .

In recent years the wood production industry has relied less on old-growth forests and drawn increasingly on regrowth native forests and plantations. The Governments' agreed approach to conserving and managing old-growth forests will facilitate continuation of this transition.

It goes on to say -

The Governments' agreed approach to conserving and managing old-growth forests and forested wilderness has five basic elements:

I will refer to one of them. The third element says -

. . . until the assessments are completed, forest management agencies will avoid activities that may significantly affect those areas of old-growth forest or wilderness that are likely to have high conservation value.

What is going on currently in our south west forests is completely in contravention of that agreement which was signed by the Western Australian Government.

Hon W.N. Stretch interjected.

Hon GIZ WATSON: The matter of who is breaking the law is significant.

Several members interjected.

The PRESIDENT: Order! I am trying to listen.

Hon GIZ WATSON: It is an interesting question when people deliberately choose to break laws. It is a time when we, as decision makers and as a community, need to start thinking about why people feel something is so important that they will break a law to do something about it. I remind members that there are cases - I can quote dozens historically - when it is the right thing and an important statement to break the law. Would members say that Gandhi should never have encouraged his supporters to break the law, or that Martin Luther King, when he was marching for rights in the southern states of America, should never have broken the law? If the law is wrong or is not being upheld, it is the duty of people to challenge it.

Hon Kim Chance interjected.

Hon GIZ WATSON: Indeed. Therefore, the deliberate act of challenging laws is a legitimate political action when it is deemed that all other avenues have been exhausted. All other legitimate avenues of trying to persuade this Government to listen to 87 per cent of the population who do not want any more logging of old-growth forests have been exhausted. What other choices do people have left?

On Sunday night I went into the temporary control area and spoke to a young man who was sitting up on a tree platform. By putting his own life at risk, he is attempting to protect that area of forest. I cannot speak highly enough of his dedication and that of his supporters.

Members need to be aware of situations that have arisen elsewhere. In California, a cat-and-mouse game has been going on, and the authorities have not considered the safety of protesters. In a recent case, a member of an organisation called Earth First was protesting against logging of redwood forest. I am sure members are aware of the significance of Californian redwood. It is almost as magnificent as our karri. This protester was hit by a tree that was felled while he was protesting. It glanced off another tree and he was killed. It is also interesting to realise that immediately after that happened, the man who was doing the felling was immediately remorseful and went with some of the other protesters and prayed for the man who had been killed. I do not wish to be dramatic, but we are heading towards that kind of situation in our forests.

I draw members' attention to a press release issued by the Minister for the Environment, Cheryl Edwardes, on 26 October 1998 which stated -

Mrs Edwardes said the safety of both protesters and timber industry workers was the reason for the request.

That is the request to declare a temporary control area. That is a rather hollow thing to say when the Government then allows operations to continue in a way that is jeopardising not only the lives of the protesters, but also the fallers, because they are beginning to break their own rules in terms of safety practices and exclusion areas around the felled trees. I know this because I spoke not only to the protesters, but also to the Department of Conservation and Land Management people who were attending that area.

I implore this Government to see some sense in this argument, because these protesters will not stop. They will continue to protest in the forests, with my full support, until such time as this Government realises we have plenty of trees, and we do not need to knock down trees which have taken hundreds, if not thousands, of years to grow and will never be replaced in anybody's lifetime.

Question put and passed.

House adjourned at 10.10 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

MR RICHARD LEWIS

Government Consultancy Contracts

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

In relation to former Liberal Party MLA Mr Richard Lewis -

- (1) Has Mr Lewis, or any company he is associated with, undertaken any consultancy work for the Government since June 30, 1996?
- (2) If yes to (1) above -
 - (a) what consultancy contracts has Mr Lewis received since June 30, 1996;
 - (b) what work did the contracts involve;
 - (c) what remuneration did he receive; and
 - (d) what were the terms of employment?

Hon N.F. MOORE replied:

- (1) No.
- (2) Not applicable.

MR RICHARD LEWIS

Membership of Government Boards

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

With regards to former Liberal Party MLA Mr Richard Lewis -

- (1) Is Mr Lewis a member of any Government boards?
- (2) If yes to (1) above -
 - (a) what Government boards is Mr Lewis member of;
 - (b) what positions does he hold;
 - (c) when was he appointed to these boards;
 - (d) when do his appointments cease;
 - (e) what remuneration does he receive for these positions; and
 - (f) what specific skills and background does Mr Lewis possess in relation to each board?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) (a)-(f) The Hon Richard Lewis is involved in the following:
Chairperson, East Perth Redevelopment Authority
First appointed on 24/3/1997. His current term is due to expire on 31/12/2000
Chairperson fees, \$24,000 per annum.

Director, Western Power Corporation
Appointment runs from 20/7/1998 to 31/12/2000
Director fees, \$34,680 per annum.

Mr Lewis' knowledge of and experience in small business, local government, State Government, and in particular, as former Minister for Planning, as a surveyor and his knowledge of the development industry make him highly suited to take on the above responsibilities.

ALINTAGAS AND WESTERN POWER

Membership

196. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Energy:

In relation to appointments to each of the governing boards of AlintaGas and Western Power Corporation -

- (1) What are the criteria for appointments?
- (2) Who is responsible for appointments?
- (3) What are the full names and ages of the current members?
- (4) When was each member appointed?
- (5) What are the educational or professional qualifications of each member?
- (6) When does the term of each member expire?
- (7) To what fees or other payments are board members entitled for performing their roles on the board?

Hon N.F. MOORE replied:

Western Power Corporation

- (1) Western Power adopts World's best practice criteria when making nominations to the Minister for appointments to the Board.
- (2) The board may recommend an appointment to the board. The Governor appoints the non-executive directors on the nomination of the Minister.
- (3)

Malcolm Macpherson	53
Hector Stebbins	68
Ian Warner	61
Carol Devitt	45
Daniel Smetana	54
Richard Lewis	58
David Eiszele	58
- (4)

Malcolm Macpherson	15.12.94
Hector Stebbins	15.12.94
Ian Warner	15.12.94
Carol Devitt	15.12.94
Daniel Smetana	15.12.94
Richard Lewis	29.07.98
David Eiszele	01.01.95
- (5)

Malcolm Macpherson - BSc, FAusIMM
Hector Stebbins - BComm, MSc (Econ), FAIB
Ian Warner - RFD, LLB
Carol Devitt - BComm (Hons), MPhil (Oxon)
Daniel Smetana - Dip Comm, FCPA, FAIM
Richard Lewis - Dip Cartography, Dip Eng Surveying
David Eiszele - MBus, Dip Civ Eng, CP Eng, FIEAust, FAIM, FAICD
- (6)

Malcolm Macpherson	31.12.00
Hector Stebbins	31.12.98
Ian Warner	31.12.98
Carol Devitt	31.12.99
Daniel Smetana	31.12.99
Richard Lewis	31.12.00
David Eiszele	Not applicable
- (7) Directors \$37 800, Chairman \$88 250. David Eiszele is paid no additional fee to his salary as Managing Director.

AlintaGas

- (1) Relevant experience, expertise in an area which will lead to a balanced Board and proven ability to work in a Board environment.
- (2) Governor on nomination of the Minister after consultation with the Board.
- (3)

Ian Baker	64
Anthony John Howarth	46
Phillip John Harvey	55
Haji Yaakob Izan	49
John Edward Arthur Shawley	56
Dwane Patrick Buckland	60
- (4)

Ian Baker	15.12.94; reappointed 31.12.97
Anthony John Howarth	29.7.98
Phillip John Harvey	appointed by virtue of holding office as Chief Executive Officer

Haji Yaakob Izan	first appointed 15.12.94; reappointed 31.12.96
John Edward Arthur Shawley	first appointed 15.12.94; reappointed 31.12.96
Dwane Patrick Buckland	15.12.94

- (5) Ian Baker - Bachelor of Science (Honours)
 Anthony John Howarth - Accounting Certificate, FIABF, FAIM, ASIA
 Phillip John Harvey - B.E. (Hons), Dip NAAC, B Comm, FIEAust, CP Eng, FAICD
 Haji Yaakob Izan - Bachelor of Economics (Honours), M.B.A, PhD (Accounting and Economics)
 John Edward Arthur Shawley - Honours Degree in Physics
 Dwane Patrick Buckland - Bachelor of Arts (Economics)
- (6) Ian Baker 31.12.00
 Anthony John Howarth 31.12.00
 Phillip John Harvey continues with appointment as Chief Executive Officer
 Haji Yaakob Izan 31.12.1999
 John Edward Arthur Shawley 31.12.1999
 Dwane Patrick Buckland 31.12.1998
- (7) Chairman \$70 000, Directors \$30 000. Phil Harvey is paid no additional fee to his salary as Chief Executive Officer.

ALINTAGAS AND WESTERN POWER

Meetings and Code of Conduct

197. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Energy:

In relation to appointments to each of the governing boards of AlintaGas and Western Power Corporation -

- (1) What is the attendance record at meetings of the board of each member in the last financial year?
- (2) How frequently is the board required to meet?
- (3) How frequently did the board meet in the last financial year?
- (4) What procedures govern the conduct of the business of the board?
- (5) Are these procedures in written form?
- (6) Are minutes taken of each board meeting?
- (7) To whom are those minutes distributed?
- (8) Has the board a "code of conduct" or "code of ethics" to govern the conduct of either members of the board or staff of the organisation?
- (9) Has the board a register or record of the directorships or other positions held by members which the board uses to determine likely conflicts of interest between members and the organisation?
- (10) Has any member of the board declared any conflict of interest or pecuniary interest during the last financial year?
- (11) What procedures apply if a member of the board declared such an interest or if the board determines a member has such an interest?
- (12) What induction or other procedures exist to acquaint incoming board members with their statutory obligations and other duties as board members?
- (13) Are these induction or other procedures contained in any document or manual?
- (14) If yes, will the Minister for Energy table the relevant document?

Hon N.F. MOORE replied:

Western Power Corporation

- (1) The attendance record at meetings of the board for each member is set out below:

	No. eligible to attend	No. attended
Malcolm Macpherson	13	13
Hector Stebbins	13	13
David Eiszele	13	13
Barry Flanagan	8	8
Carol Devitt	13	13

Dan Smetana	13	11
Ian Warner	13	13

- (2) Monthly, and as determined by the board from time to time.
- (3) Regular monthly meetings together with other special meetings throughout the year.
- (4) Corporations Law, CCH Manuals and Electricity Corporation Act.
- (5)-(6) Yes.
- (7) All board members.
- (8)-(9) Yes.
- (10) No.
- (11) If it is a material personal interest the board member can neither vote nor be present when the matter or resolution is being addressed by the board.
- (12) An extensive Induction package.
- (13) Yes.
- (14) No.

AlintaGas

- (1) Of the 19 meetings physically held, the attendance of Directors was as follows:

I Baker	17
S A Hohnen	13
D P Buckland	18
Professor H Y Izan	19
J Shawley	18
P J Harvey	19

T Howarth was not a Director during 1997/98.

- (2) The Board's current practice is to meet monthly with special meetings as required.
- (3) 19 times (once per month, with some special Board meetings also held).
- (4) Corporations Law, Schedule 1 of the Gas Corporation Act 1994 and otherwise are as determined by the Chairman.
- (5) In the case of Schedule 1, yes.
- (6) Yes.
- (7) Directors only.
- (8)-(10) Yes.
- (11) This is governed by Schedule 2 of the Gas Corporation Act 1994.
- (12) A Director's Manual is being prepared, but otherwise it is carried out informally by the Secretary.
- (13) In the process of being developed.
- (14) No.

ALINTAGAS AND WESTERN POWER

Stakeholders

199. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Energy:

In relation to appointments to each of the governing boards of AlintaGas and Western Power Corporation -

- (1) Has the organisation determined who its stakeholders are?
- (2) If yes, who are they?

Hon N.F. MOORE replied:

I am advised:

Western Power Corporation

- (1) Yes.
- (2) Western Power identifies stakeholders as individuals or groups who have influence over the Corporation's public perception and reputation. They may be categorised into the following groups:
 - Internal Employees
 - External Groups, including:
 - Government/Regulatory Bodies
 - Peak Bodies (i.e. CCI, WAMA)
 - Community Groups (i.e. WACOS, Salvation Army)
 - Media
 - Financial Institutions
 - Customers
 - Suppliers

AlintaGas

- (1) The *Gas Corporation Act 1994* provides that the corporation is owned by the Minister for Energy as a corporation sole.
- (2) Not applicable.

ROAD CONSTRUCTION

Effect of Goods and Services Tax

224. Hon LJILJANNA RAVLICH to the Minister for Transport:

- (1) What assessment has been made of the potential increase on the cost of road construction under a GST?
- (2) Has an assessment been made of what road construction projects will be cut in the event of cost increases caused by a GST?
- (3) Which construction projects will be cut first?

Hon M.J. CRIDDLE replied:

- (1)-(3) From the information available the GST will not increase costs.

ROAD CONSTRUCTION

Expenditure

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

- (1) What is the latest estimate of the total expenditure on road-building from the whole of the current financial year?
- (2) How does this compare with the last year of the Labor Government (1992/93)?
- (3) How much of this road funding has come from -
 - (a) the levy/tax on fuel purchases; and
 - (b) Commonwealth funding?
- (4) Has the Minister estimated what the expenditure will be for the next financial year?
- (5) If yes, what is it?

Hon M.J. CRIDDLE replied:

- (1) The total expenditure budget of Main Roads Western Australia for 1998/99 is currently estimated at \$668.5 million.
- (2) Expenditure by Main Roads in 1992/93 was \$368.9 million which excludes \$42.2 million of funds brought forward from previous years.
- (3)
 - (a) \$236.9 million is expected to be raised from the replacement for the Fuel Franchise Levy in 1998/99.
 - (b) \$80.665 million in 1998/99.
- (4) Yes.
- (5) The total expenditure budget of Main Roads Western Australia for 1999/00 is estimated at \$754.5 million.

RAIL SAFETY ACT

304. Hon TOM HELM to the Minister for Transport:

- (1) In the matter of the *Rail Safety Act* would the Minister advise the House if he has been given Crown Law advice in regard to the Act that pointed out the potential for conflict between the *Rail Safety Act* provisions and the provisions of the *Occupational Health and Safety Act*?
- (2) If he was, would the Minister explain why the House was not advised that there might be a potential for conflict?

Hon M.J. CRIDDLE replied:

- (1) The Crown Solicitor has advised that there are presently no inconsistent provisions in either Act. However, a number of administrative details are currently being addressed at departmental level to ensure that conflict does not occur in the administration and enforcement of these statutes.
- (2) Not applicable.

METROBUS REDEPLOYMENT PROGRAM

308. Hon LJILJANNA RAVLICH to the Minister for Transport:

With respect to the redeployment program of MetroBus/Transport -

- (1) How many full time workers have been offered full time permanent positions?
- (2) How many workers are still in the "twelve week" transition period?
- (3) How many of the redeployees, out of the total number, have been offered areas of employment relevant to their occupational skill base?
- (4) Which employer organisation is contributing to the employees superannuation funds?
- (5) How is this cost being defrayed by this employer organisation?

Hon M.J. CRIDDLE replied:

- (1) 12.
- (2) 403.
- (3) All 403 redeployees have been placed in retraining placements relevant to their skill base.
- (4) MetroBus.
- (5) Consolidated Fund.

MT MAGNET-SANDSTONE-LEINSTER ROAD

312. Hon TOM STEPHENS to the Minister for Transport:

With regard to the Mt Magnet, Sandstone, Leinster Road -

- (1) Is it correct that funding for the sealing of this road will commence in 1998/99?
- (2) Is the Minister aware of concerns of people living in Sandstone for the need for the road to pass through the town of Sandstone, rather than bypass it?
- (3) Will the Minister assure the House that this road will pass through Sandstone and not bypass it?

Hon M.J. CRIDDLE replied:

- (1) Yes.
- (2)-(3) At various public meetings the great majority supported an alignment south of the town centre. The Sandstone Shire Council has also endorsed such an alignment. I am aware that a number of residents favour upgrading of the existing route and I believe a bypass may not provide the best outcome. However, I have recently seen a revised plan for a semi-bypass, which I have accepted as being a reasonable solution.

PERTH-KALGOORLIE RAILWAY LINE, MAINTENANCE

319. Hon DERRICK TOMLINSON to the Minister for Transport:

- (1) What was the annual cost of maintenance and general upgrading of the Perth-Kalgoorlie railway line in -

- (a) 1995/96; and
 - (b) 1996/97?
- (2) What is the estimated cost of maintenance and general upgrading of the Perth-Kalgoorlie railway line this financial year?
- (3) What is the estimated annual cost of the *Prospector* train between Perth and Kalgoorlie?
- (4) What is the source of funds for -
- (a) upgrading and maintaining the Perth-Kalgoorlie railway line; and
 - (b) running the *Prospector* service?

Hon M.J. CRIDDLE replied:

- (1) (a) \$14.121 million.
 - (b) \$20.843 million.
- (2) \$24.972 million.
- (3) Operating costs for 1998/1999 are estimated at \$10.680 million.
- (4) (a) Anticipated expenditure of \$24.972 million on upgrading and maintaining the Perth-Kalgoorlie railway this financial year will be sourced from internally generated funds and from loans obtained through the Western Australian Treasury Corporation, less proceeds from asset sales and capital bank account balances.
- (b) Anticipated expenditure of \$10.680 million for the operation of the *Prospector* services this financial year will be sourced from internally generated funds, however, the net cost (operating costs less revenue) will be funded from the Western Australian Treasury Corporation by way of a community service obligation payment.

GERALDTON-MT MAGNET ROAD, COST OF WIDENING

335. Hon MARK NEVILL to the Minister for Transport:

- (1) How does the Minister explain the difference in the cost for recent widening of the Geraldton/Mount Magnet Road near Yalgoo, when it was claimed \$1.6m was spent on the road and the contractors only received \$1.3m?
- (2) Was the cost 60 per cent above the amount which Main Roads had provided for it, in its budget?
- (3) Why was there such a big discrepancy between the contract price and the Main Roads WA estimate?
- (4) Where did the \$300 000 difference between the alleged contract price referred to in the media release and the contractor was paid go?

Hon M.J. CRIDDLE replied:

- (1) The roadworks contractor was paid \$1.373 million. The total project cost was \$1.696 million including supervision costs and Main Roads' corporate overheads.
- (2)-(4) The original project budget was \$1.401 million. There were additional funds of \$295 000 needed as the roadworks contract price came in above budget estimate, to cover minor scope changes and for Main Roads' corporate overheads.

BUSES, EXPERT REFERENCE GROUP

336. Hon MARK NEVILL to the Minister for Transport:

- (1) Who are the members of the "expert reference group" to provide independent advice to the Minister on the most appropriate fuel choice for Perth's buses in the long term?
- (2) When is the "expert reference group" required to report to you?
- (3) Will the Minister give a commitment to immediately release the report to the public of Western Australia when it is received?

Hon M.J. CRIDDLE replied:

- (1) Mr Brian Bult (Chairman) Managing Director - Voith Australia Pty Ltd
- Mr Alan Bray Managing Director - PATH Transit

Mr John Stanley Environmental Economist
 Mr Kevin Bishop Manager Corporate Sales - AlintaGas
 Dr Phillip Morgan Assistant Director, Air Quality Management - Department of Environmental Protection
 Mr Greg Martin Executive Director Metropolitan Division - Department of Transport

- (2) The Expert Reference Group is required to complete its work and report to the Minister for Transport by December 1998.
- (3) Yes.

ELLE MACPHERSON, ADVERTISEMENTS

354. Hon KEN TRAVERS to the Minister for Tourism:

- (1) When were discussions first held with Elle MacPherson, or her business associates, on the production of additional advertisements?
- (2) Who was involved in the discussions?
- (3) Where did the discussions take place?
- (4) Was the Minister aware of the discussions and did they have his approval?

Hon N.F. MOORE replied:

- (1) Discussions were first held on 12 May 1998. It should be noted that Ms Macpherson's future commitment to Western Australia was also flagged in discussions held 15 and 18 August 1997 in New York. However, the primary purpose of the August meetings was to negotiate for Ms Macpherson to attend the launch of the Brand WA television commercials in London, held in September 1997, it was not to secure her services for a second series of television commercials.
- (2) Kevin Carton, Chairman, and Simon Walsh, General Manager National Sales and Marketing of the Western Australian Tourism Commission, and Mr Stuart Cameron of Artistmanagement Associates Inc, representing Ms Macpherson.
- (3) Los Angeles.
- (4) Yes.

BRAND WA ADVERTISEMENTS

356. Hon KEN TRAVERS to the Minister for Tourism:

With regard to the placement of the Brand WA advertisements as outlined in the May 7, 1997 document tabled in Parliament -

- (1) Has the schedule, as outlined, been maintained?
- (2) If not, will the Minister table an updated schedule?
- (3) For each series of placements what was the actual cost of running the advertisements?
- (4) To date what has been the total cost of running these advertisements?

Hon N.F. MOORE replied:

- (1) The broad strategy has been maintained, although modifications have been made to timing and placement in some markets due to the changing dynamics of the tourism markets.
- (2) Yes. The updated schedule for the 1996/97 and 1997/98 financial years as well as estimates for 1998/99 follows:

YEAR	LOCATION	COST	CAMPAIGN TIMING
National 1996/97	Placement in Sydney and Melbourne	\$624,954	Apr/May 1997
International 1996/97	Placement in Malaysia	\$187,407	Apr/May 1997
International 1997/98	Placement in Singapore and Indonesia	\$1,087,085	Jul-Oct 1997

International 1997/98	Placement in United Kingdom	\$1,115,298	Sept–Nov 1997
International 1997/98	Placement in Singapore and Malaysia	\$362,127	Mar–June 1998
National 1997/98	Placement in Sydney and Melbourne	\$294,723	Oct 1997
International 1998/99	Placement in Malaysia	\$18,548	Jul/Aug 1998
National 1998/99	Placement in Sydney and Melbourne	\$300,000	Feb–Mar 99
National 1998/99	Placement in Perth	\$190,000	Feb, Apr–May 99
International 1998/99	Placement in Singapore and Malaysia	\$350,000 (*)	Mar 99
International 1998/99	Placement in United Kingdom	\$1,059,000 (*)	Feb/Mar 99

(*) Estimates only, including costs and campaign timing.

(3)-(4)

National 1996/97	Placement in Sydney and Melbourne	\$624,954	Apr/May 1997
International 1996/97	Placement in Malaysia	\$187,407	Apr/May 1997
International 1997/98	Placement in Singapore and Indonesia	\$1,087,085	Jul–Oct 1997
International 1997/98	Placement in United Kingdom	\$1,115,298	Sept–Nov 1997
National 1997/98	Placement in Sydney and Melbourne	\$294,723	Oct 1997
International 1997/98	Placement in Singapore and Malaysia	\$362,126	Mar–June 1998
Total costs		\$3,671,593	

ELLE MACPHERSON, ADVERTISEMENTS

357. Hon KEN TRAVERS to the Minister for Tourism:

- (1) Has the Western Australian Tourism Commission Board of Commissioners approved the proposed additional Elle Macpherson advertisements?
- (2) If yes, when did they discuss and approve these advertisements?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) At the WATC Board of Commissioner's meeting of 28 May 1998, it was approved to progress the concept of additional television commercials featuring Elle Macpherson and on the 28 August 1998 at the WATC Board of Commission's meeting, the final advertising concepts were approved.

FLETCHER INTERNATIONAL EXPORT ABATTOIR, NARRIKUP

367. Hon KIM CHANCE to the Leader of the House representing the Minister for Employment and Training:

With regard to the Fletcher International Export abattoir at Narrikup -

- (1) Which training/labour market programs are being utilised at the abattoir and which of these programs involve -
 - (a) State agencies; and
 - (b) Commonwealth agencies?
- (2) Are there any instances of qualified tradespersons being employed at the abattoir as trainees in any program identified in (1) above?

- (3) Are there any instances of persons who are employed as trainees but are actually acting as trainers?
- (4) What criteria are used in the assessment of a trainer's qualifications and suitability?
- (5) Do the programs meet national competency standards as established by the Meat Industry National Training Advisory Council ("MINTAC")?
- (6) What structured training is being provided in accordance with the traineeships?
- (7) How is the provision of training outcomes being acquitted?
- (8) Do all of the trainers who are providing instruction in the training programs being utilised at Narrikup have the appropriate national certification?
- (9) What wage subsidies are being paid under the training arrangements?
- (10) How many employees are involved in wage subsidy training arrangements?
- (11) What has been the extent of labour turnover so far at the Narrikup abattoir?

Hon N.F. MOORE replied:

- (1) The only training program known to be operating is the Traineeship in Meat Processing (Abattoirs) Australian Qualification Framework Level 2. State and Commonwealth Government agencies are involved in this program, those agencies being:
 - (a) The Western Australian Department of Training which provides off-the-job training component of the traineeship.
 - (b) Department of Employment, Education, Training and Youth Affairs (DEETYA) which provides employer incentives payments.
- (2) Yes, but they should not have the competencies which are part of this Traineeship. Two trainees have been registered despite having the competencies gained through a butchering apprenticeship. Action is underway to correct this situation.
- (3) No.
- (4) The training organisation has to undergo a formal accreditation process to gain the Registered Training Organisation status which is required before it can become eligible to be funded to deliver the Traineeship. Part of the process is to ensure that all trainers used by the Registered Training Organisation have the appropriate skills.
- (5) Yes.
- (6) The appropriate mix between structured off-the-job training and on-the-job training is the responsibility of the Registered Training Organisation. All competencies defined in the Traineeship have to be achieved through a combination of learning processes.
- (7) By entering the achievement of competencies in the Training Record Book.
- (8) Yes. Please refer to question (4).
- (9)-10) None known to the Department of Training.
- (11) Only the company could answer this question, although it is known that to date there have been 215 trainees commenced and 19 cancelled.

MT CHARLOTTE REWARD, MINING OPERATIONS

371. Hon GIZ WATSON to the Minister for Mines:

Can the Minister assure the House -

- (a) that no blasting will occur in association with the Mount Charlotte Reward and Northern Ore Body open pits owned by Normandy Mining and Homestake Gold other than the two identified underground blasts associated with the implosion of the floor pillars; and
- (b) that no fly rock will leave the Mount Charlotte Reward and Northern Ore Body open pits owned by Normandy Mining and Homestake Gold at any stage of mine life?

Hon N.F. MOORE replied:

- (a) The proposal for KCGM's extension of its Mt Charlotte mine by opening the Reward and Northern Orebody open

pits was submitted to the EPA earlier this year. The EPA has invited public submissions on the Environmental Review submission. The eventual conditions placed on the project by the EPA may restrict blasting activities at these operations.

- (b) Blasting operations at the proposed Reward and Northern Orebody open pits must be carried out in accordance with mining safety legislation. It is incumbent on the Registered Manager of the future mining operations to conduct blasting operations in accordance with the regulations in the Mines Safety and Inspection Regulations 1995. These address such issues as fly rock very specifically.

MT CHARLOTTE REWARD, COMPENSATION TO WILLIAMSTOWN RESIDENTS

372. Hon GIZ WATSON to the Minister for Mines:

Can the Minister advise what compensation processes are available to the residents of housing in the Williamstown area of Kalgoorlie, who have had the value of their houses diminished by up to \$30 000 due to the proximity of proposed mining at the Mount Charlotte Reward and Northern Ore Body open pits owned by Normandy Mining and Homestake Gold?

Hon N.F. MOORE replied:

The provisions of subsection (5) of section 123 of the Mining Act 1978 may have some relevance. However, the question is a legal one, the answer to which should be sought through independent legal advice.

MT CHARLOTTE REWARD, STABILITY REPORTS

373. Hon GIZ WATSON to the Minister for Mines:

- (1) Is the Department of Minerals and Energy aware of recent stability reports from consultants concerning seismic activity relating to blasting and underground mining operations at the Mount Charlotte and Cassidy operations owned by Normandy Mining and Homestake Gold?
- (2) If so, can the Minister table these documents?

Hon N.F. MOORE replied:

- (1) The Department of Minerals and Energy is aware that KCGM has commissioned consultants to report on matters relating to seismicity in the Mt Charlotte mine as part of the company's on-going geotechnical engineering program at the mine. The Department has been briefed on the consultants' views and the possible implications for future mining operations have been discussed in general terms with KCGM management.
- (2) The Department has not been provided with a copy of the documents in question.

VOCATIONAL EDUCATION AND TRAINING, FUNDING FOR NON-CORE SERVICES

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

- (1) Is the Minister for Employment and Training satisfied that all Expressions of Interests submitted for the allocation of funding for non-core functions were treated in a fair and proper manner?
- (2) Is the Minister satisfied that the guidelines for successful applicants to demonstrate capacity to represent employer and employee associations views were met?
- (3) Will the Minister provide the names of the employee associations giving their written support to the Housing Industry Association ("HIA"), Building Industry Group Trust ("BIGT") and the Chamber of Commerce and Industry ("CCI") applications?
- (4) Which unions provided letters of support for the HIA, BIGT and CCI applications?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) The State Training Board has power under the Vocational Education and Training Act 1996 to recognise industry training advisory bodies for the purposes of obtaining industry training information. The Board also has power to issue Guidelines in relation to the criteria to be met for such bodies to be recognised by the Board. The Board issued these Guidelines as part of the calling for applications. The criteria have been formulated by reference to an industry basis and not an industrial relations basis of employer or employee organisations. The selection of applicants has been made in accordance with those criteria.
- (3)-(4) Not applicable. The guidelines and criteria for selection as industry training advisory bodies were developed on an industry and not an industrial relations basis of employer or employee. There was no requirement for applicants to demonstrate employee association or union support.

CALM, ANNUAL LEAVE ENTITLEMENTS

389. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:
- (1) How many people employed by the Department of Conservation and Land Management ("CALM") have received payments in lieu of accrued annual leave for -
 - (a) 1996/97; and
 - (b) 1997/98?
 - (2) What is the total cost of these payments?
 - (3) What is CALM's current liability for unused leave entitlements?

Hon MAX EVANS replied:

- (1)
 - (a) Nil.
 - (b) 16.
- (2) \$44 990.33.
- (3) As at 30 September 1998, current liability for annual leave was \$5.147 million, current liability for long service leave was \$5.533 million, to give total current liability of \$10.680 million.

HOMESWEST, SALE OF PROPERTIES

394. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

With regard to the sale of Homeswest housing stock since January 1, 1995 in the following regions -

- (a) Mirrabooka;
- (b) Fremantle;
- (c) Cannington;
- (d) Albany;
- (e) Bunbury;
- (f) Kalgoorlie;
- (g) Geraldton;
- (h) South Hedland;
- (i) Broome; and
- (j) the City,

can the Minister for Housing provide the names of -

- (i) the real estate agencies, and;
- (ii) the settlement agencies, that handled the sales?

Hon MAX EVANS replied:

- (i) (a)-(j) It is not possible for Homeswest to commit the resources required to answer the question in its current form. If the Hon Member has a specific question on real estate agents used by Homeswest then I would be prepared to commit the resources to answer these questions.
- (ii) Whilst there are some exceptions, generally Homeswest settles properties on its own behalf. The purchasers appoint their own settlement representatives.

DEPARTMENT OF LAND ADMINISTRATION CONTRACTS

398. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

With regards to contracts awarded by the Department of Land Administration since January 1, 1993, valued at \$500 000 or more, for each contract can the Minister for Lands state -

- (a) the date it was awarded;
- (b) what the contract was awarded for;
- (c) the cost of the contract;
- (d) if the contract was advertised, where and when was it advertised;
- (e) which other companies tendered for the contract;
- (f) what was the actual final cost of the contract?

The answer was tabled. [See paper No 386.]

WATER CORPORATION, SALE OF ASSETS

401. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

With regards to the Minister for Water Resources' failure to answer sub-questions (c) and (d) of question 2053 of April 28, 1998, concerning the sale of Government assets valued at \$1m or more -

- (1) Is the Minister aware that all other Ministers provided complete answers to this question?
- (2) Will the Minister now provide an answer to this question?
- (3) If not, why not?
- (4) Why does the Minister regard the sale of assets by Government departments commercially confidential?

Hon MAX EVANS replied:

- (1) Yes.
- (2) No.
- (3) The information requested is commercial information of the Water Corporation that is not made available to the public.
- (4) The Water Corporation is required to act commercially and the information is accordingly held confidential between the Corporation and the purchaser.

DEPARTMENT OF ENVIRONMENTAL PROTECTION, BUDGET AND STAFF

407. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

- (1) What were the budget outlays for the Department of Environmental Protection over the last five financial years?
- (2) How many people were employed in the Department of Environmental Protection for the last five financial years?
- (3) In relation to (2) above -
 - (a) how many were in administrative occupations; and
 - (b) how many were in research occupations?

Hon MAX EVANS replied:

- (1) The Department of Environmental Protection's budget allocations for the past five years are as follows:

1993-94	\$11.04 million
1994-95	\$15.60 million
1995-96	\$16.04 million
1996-97	\$17.68 million
1997-98	\$17.54 million

- (2) The average full time equivalents (FTE) for the Department of Environmental Protection during the last five financial years are as follows:

1993-94	155.2
1994-95	156.2
1995-96	167
1996-97	187
1997-98	205.1

- (3) (a) The number of employees in administrative positions were:

1995-96	35
1996-97	44
1997-98	46

(The statistical breakdown of employee categories is only available for the past 3 years.)

- (b) The number of employees in research positions were:

1995-96	10
1996-97	12
1997-98	12

"Research occupation" is defined as those officers undertaking a program of scientific research.

It should be noted that the Department has a classification of Environmental Officer that includes staff undertaking some scientific and environmental management roles.

The staff numbers in this classification were as follows:

1995-96	67
1996-97	89
1997-98	89

JANGARDUP MINESITE, MINISTERIAL CONDITIONS

409. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

- (1) What processes are followed to ensure that Ministerial Conditions and proponents commitment of Environmental Protection Authority approved projects are complied with?
- (2) How often are Ministerial Conditions and proponent commitment checked for compliance?
- (3) What action can be taken if Ministerial Conditions or proponent commitment are not complied with?
- (4) Do Ministerial Conditions or proponent commitment exist for Cable Sand's Jangardup mineral sands mine?
- (5) If yes, when were these last examined to ensure that they had been complied with?
- (6) Is there a Ministerial Condition that Cable Sands (WA) contribute funds to encourage the establishment of extra housing in Nannup?
- (7) If yes, how much money has Cable Sands contributed and when did it take place?
- (8) Is there a Ministerial Condition or proponent commitment that, prior to mining the ponds area, the checking for the existence of aquatic fauna outside the area to be mined be carried out?
- (9) Has this been carried out?
- (10) If yes, will the Minister for the Environment table a copy of that report?
- (11) If no, why has the study not been done ?

Hon MAX EVANS replied:

- (1) After Ministerial conditions are approved on a project under Part IV of the Environmental Protection Act (1986) (the EP Act), an audit programme is prepared in consultation with the proponent. The audit programme is an agreed timetable for implementing the project and normally, Performance and Compliance Reports are required to be submitted on a regular basis.
- (2) The most common reporting requirement is for annual Performance and Compliance Reports. Audit inspections of projects approved under Part IV of the EP Act are also carried out either on a random basis or may be prompted if further information is required following the review of a Performance and Compliance Report. Advice from the public, other Government agencies or local authorities may also result in audit inspections being undertaken.
- (3) The EP Act empowers the Chief Executive Officer of the DEP to report any breach of a Ministerial Condition to me, as Minister for the Environment. For those matters which are not quickly resolved, Section 47 of the EP Act provides a requirement in law for the proposal to be implemented according to the conditions imposed on the project. Recent revisions of the EP Act provide for substantial penalties for breaches of the EP Act.
- (4) Statements 103 and 455 provide conditions applying to the Cable Sands' Jangardup operations.
- (5) The Jangardup operations were subject to a compliance audit inspection on 25 March 1997. Performance and Compliance Reports are submitted on a regular basis by Cable Sands.
- (6) Conditions and commitments in the Minister's statement are usually restricted to environmental issues.
- (7) The DEP has not audited the commitment which relates to additional housing because the commitment does not relate to environmental matters.
- (8) A commitment was made to check the existence of aquatic fauna, prior to mining the ponds area, outside of the area to be mined.
- (9) Cable Sands commissioned a study of wetlands in the area of Jangardup. The study was reported in "Aquatic fauna of eight wetlands on the coastal sand plain of South West Western Australia" by Martinick and Associates, March 1991.

- (10) A copy of the report is available in the Department of Environmental Protection library.
- (11) Not applicable.

ELLE MACPHERSON, DISCUSSIONS WITH PREMIER

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

- (1) Did the Premier, or any of his staff, hold any discussions with Elle Macpherson, or any of her representatives, during his visit to the United States of America last year?
- (2) If yes, -
 - (a) where did the discussions take place;
 - (b) who attended; and
 - (c) what was the purpose of the discussions?

Hon N.F. MOORE replied:

- (1)-(2) I met with Elle Macpherson's Manager in Los Angeles and the promotion of Western Australia was discussed.

MURRAY DISTRICT HOSPITAL

448. Hon J.A. COWDELL to the Minister for Finance representing the Minister for Health:

Further to question 1701 of June 17, 1998 -

- (1) How many of the 130.67 FTEs employed at the Murray District Hospital as at June 17, 1998 have -
 - (a) taken up employment with Health Solutions at the Peel Health Campus;
 - (b) taken up employment with private nursing homes;
 - (c) been offered redundancies; and
 - (d) taken redundancies?
- (2) What transition payments have been made to staff transferring to private providers?
- (3) What payments have been made to staff accepting redundancy?
- (4) What redundancy payments are anticipated by December 31, 1998?
- (5) How many staff will be employed at the Murray District Hospital, by area of service, as at December 31, 1998?
- (6) How many staff is it anticipated will become redeployees by December 31, 1998?

Hon MAX EVANS replied:

- (1) (a) 35.
 - (b) None to date, as dementia patients in Riverside ward at Murray District Hospital will not transfer to private nursing homes until mid-December.
 - (c) Expressions of interest for voluntary severance were sought from all permanent full-time and part-time staff in September 1998.
 - (d) 5.
- (2) \$363,636.53 paid to date.
- (3) \$63,851.96 paid to date.
- (4) Unknown at this stage as the numbers of staff electing to transfer to private nursing homes, seeking redeployment within the public health sector or accepting voluntary severance is not known.
- (5) The number of employees as at 31 December cannot be estimated, as the process of redeployment, voluntary severance and staff transferring to private providers will not be complete at that time. As indicated in the response to Question 335 of 22 October, the Health Service requires 48.525 FTE to permanently staff the current service demand at Murray District Hospital.
- (6) All staff whose positions are excess to requirements will have the opportunity to be registered as redeployees, if they do not elect to take voluntary severance.

PUBLIC SECTOR STANDARDS - AMENDMENTS TO ACT

478. Hon TOM HELM to the Minister for Finance representing the Minister for Public Sector Management:

In view of the legal impediment placed on the Public Sector Standards Commissioner which forced him to make an adverse finding on all the WorkSafe Commissioners instead of Mr Bartholomaeus who was responsible for the policy I ask -

- (1) Will the Minister for Public Sector Management be seeking changes to the *Public Sector Management Act*?
- (2) If not, why not?

Hon MAX EVANS replied:

- (1)-(2) This issue will be considered in the context of proposed amendments to the Public Sector Management Act 1994 currently under examination by the Government.

SWAN AND CANNING RIVERS CLEAN-UP - ADVERTISING CAMPAIGN

507. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) What is the estimated cost of the Water and Rivers Commission advertising campaign to clean up the Swan and Canning Rivers?
- (2) Which advertising company is producing the campaign?

Hon MAX EVANS replied:

- (1) The Water and Rivers Commission does not currently have an advertising campaign to clean up the Swan and Canning Rivers.
- (2) Not applicable.

WATER CORPORATION - INCREASES IN CHARGES

510. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Can the Minister for Water Resources confirm that the percentage increases for the average cost of Water Corporation services to metropolitan residential consumers since 1993 now total 25 percent?
- (2) If not, what has been the total percentage increase since 1993?
- (3) If yes, can the Minister confirm that this is approximately twice the inflation rate during this period?
- (4) Why is the Government placing such a financial impost on families for an essential service?

Hon MAX EVANS replied:

- (1) No.
- (2) The average increase in water and sewerage charges, between the charges applicable in 1992/93 and those applicable today, is 24.2%.
- (3) Over the period September 1992 to September 1998, the Consumer Price Index (CPI) for Perth has increased by 13.4%.
(Source: Data from Australian Bureau of Statistics)
- (4) Metropolitan residential customers are subsidised by metropolitan commercial customers. In recent years the increase in metropolitan residential prices has been used to reduce this cross subsidy.

MINISTER FOR COMMERCE AND TRADE - INTERNATIONAL ITINERARIES

515. Hon KEN TRAVERS to the Leader of the House representing the Minister for Commerce and Trade:

- (1) Will the Minister for Commerce and Trade table the itineraries for his Ministerial visits to -
 - (a) India on January 21 to January 26, 1996;
 - (b) Thailand on June 4 to June 8, 1996;
 - (c) Kuala Lumpur on September 11 to September 15, 1996;
 - (d) India on November 3 to November 9, 1996;
 - (e) UK and Germany on May 19 to May 31, 1997;
 - (f) Indonesia on August 3 to August 7, 1997; and
 - (g) China on September 20 to October 1, 1997?
- (2) If not, why not?

Hon N.F. MOORE replied:

This information has already been provided in response to your Parliamentary Question 2016 dated 30 June 1998. A copy of the response to Question 2016 was forwarded to your electorate office on 15 July 1998.

WATER CHARGES - GASCOYNE

517. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

What was the cost of water for irrigators in the Gascoyne region in each of the following years -

- (a) 1992/93;
- (b) 1993/94;
- (c) 1994/95;
- (d) 1995/96;
- (e) 1996/97;
- (f) 1997/98; and
- (g) 1998/99?

Hon MAX EVANS replied:

Standard irrigation charges for Carnarvon, which includes the Gascoyne region, are as follows:

	YEAR	ANNUAL CHARGE (\$/ha)	VOLUME CHARGE (\$/1000m ³)
(a)	1992/93	\$176.00	\$137.50
(b)	1993/94	\$194.00	\$151.25
(c)	1994/95	\$213.00	\$166.40
(d)	1995/96	\$234.00	\$183.05
(e)	1996/97	\$245.70	\$192.20
(f)	1997/98	\$258.00	\$201.80
(g)	1998/99	\$270.90	\$211.90

COMPUTER VIRUS - DAMAGE REPORTS

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

I refer to the statement of the Minister for Commerce and Trade of Friday, September 25, 1998 that computers with either the Window 95 or 98 Operating System would be vulnerable to damage from the W23CIH Spacefiller computer virus on the following day Saturday, September 26, and ask -

- (1) Has the Minister for Commerce and Trade received any reports of damage caused by this virus on September 26, 1998?
- (2) What action has the Minister taken to find out what damage was caused?
- (3) Why was no warning given prior to October 26, 1998 similarly to the warning given prior to September 26, 1998?
- (4) Has the Minister received any reports of damage caused by the virus on October 26, 1998?

Hon N.F. MOORE replied:

- (1) I am aware that more than 400 Western Australian personal computers were discovered to be infected. Fortunately, these were fixed and no permanent damage or data loss occurred. Damage did occur in other parts of the world.
- (2) All agencies were contacted after the event by officers of the Office of Information and Communications in the Department of Commerce and Trade.
- (3) All agencies were immediately circulated after the 26 September incident and advised to frequently use the latest version of their virus detection software which, unlike some older virus killing software, deals with this particularly damaging and unique virus. That eliminates the need for regular warnings.
- (4) No.

LANDCORP - SALE OF SURPLUS LAND

542. Hon MARK NEVILL to the Minister for Finance representing the Minister for Lands:

What other areas of land is identified as "surplus government land" by LandCorp proposed to be sold?

Hon MAX EVANS replied:

LandCorp is currently assisting a number of government agencies to identify and develop disposal options for surplus land holdings in the metropolitan area and major regional centres.

QUESTIONS WITHOUT NOTICE

NEW BREED SECURITY - CONTRACTS

437. Hon TOM STEPHENS to the minister representing the Minister for Services:

- (1) How many security-related contracts have been awarded to New Breed Security by state government departments?
- (2) What are the names of departments which have awarded these contracts?
- (3) Is there any consideration in the tendering process for companies to pay equitable wages to members of their work force?

Hon MAX EVANS replied:

I thank the member for some notice of this question. I am advised by the Department of Contract and Management Services as follows -

- (1) No contracts have been awarded by CAMS, but this department is aware of a contract awarded to New Breed Security.
- (2) The Parliamentary Services Department at Parliament House has awarded this contract.
- (3) Tenders and contracts require companies to comply with the law. The conditions of contract for CAMS state that with respect to all work done in Western Australia under the contract, the contractor shall observe, perform and comply in all material respects with all relevant industrial awards, industrial agreements and orders of competent courts or industrial tribunals applicable to the services and the work to be done under the contract.

BUNBURY REGIONAL HOSPITAL - FUNDING SHORTFALL

438. Hon TOM STEPHENS to the minister representing the Minister for Health:

I ask this question on behalf of Hon Bob Thomas, who originally gave notice of it and who is away on parliamentary business.

- (1) What was the budget allocation for the Bunbury Regional Hospital in the 1998-99 Health budget?
- (2) Can the minister confirm that current spending levels indicate that the hospital is already over budget?
- (3) If so, what is the estimated annual funding shortfall at this stage of the budget cycle?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) The 1998-99 purchasing allocation for the Bunbury Health Service is \$24.38m in total. This is an increase of 13.2 per cent from 1997-98. The Bunbury Health Service has allocated \$19.291m of this funding to the Bunbury Regional Hospital.
- (2) In the September 1998 management report, Bunbury Health Service reported that, based on current spending levels, a budget overrun will occur. The Health Department of Western Australia is currently analysing the management report.
- (3) Until the Bunbury Health Service management report and the associated end-of-the-year projection is fully assessed, it is not possible to judge accurately this situation. Furthermore, due to the move to the south west campus during the current financial year, a number of contract matters are still to be finalised. The outcomes of these negotiations will impact on the total allocation to the health service and, therefore, will affect the end of year out-turn projections. The management report and current spending overrun projections are being analysed within the context of the changes taking place.

SENTENCING MATRIX - CONSULTATIONS

439. Hon N.D. GRIFFITHS to the Attorney General:

- (1) What consultation did the Attorney General engage in with respect to the sentencing, reporting and formalisation proposals he referred to as a matrix?
- (2) In particular, did he consult with the Law Society of Western Australia, the Western Australian Bar Association or the judiciary?
- (3) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(3) About a year ago, shortly after I returned from observing this in Oregon in the United States, I announced that I intended to deal with this matter and bring in a sentencing matrix. I did not receive any comment from any person in response to that. I then proceeded to develop the legislation. I did not consult anybody on the text of that legislation. In particular, having respect for the views of the member opposite, I did not consult the judiciary because I know how strongly he feels about my using those members as a source for devising legislation. Usually, immediately after a Bill has been second read, I ask for the comments of the Law Society and those of the Bar Association. Again, as the member is probably aware, sometimes those comments are slow to come, so occasionally, to speed up a matter, I refer a Bill on an individual basis to a member of each of those associations seeking a response on an individual basis, rather than as a group. In this case, I did not do that. I cannot think where I have referred an entire Bill to an association for comment prior to a second reading speech being made.

SHARK BAY WORLD HERITAGE AREA - MINERAL LEASE

440. Hon NORM KELLY to the minister representing the Minister for the Environment:

- (1) Is the minister aware of a proposal to take up 3 200 hectares of Shark Bay World Heritage area as a mineral lease?
- (2) Was the minister or the Environmental Protection Authority made aware of this proposal prior to approval being granted for the most recently constructed bar across Useless Inlet?
- (3) Does the minister support the excision of 3 200 ha of the Shark Bay World Heritage area for mining purposes?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1)-(3) Providing the information in the time required is not possible, and I request that the member place this question on notice.

MEMBERS OF PARLIAMENT - PROVISION OF SERVICES

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

I refer to the provision of services to members in the areas of management of on-site support, help desk information, training of electorate staff, and upgrading of computers, printing and software.

- (1) Will the Ministry of the Premier and Cabinet be taking over this service provision?
- (2) If so, how will confidentiality be maintained, particularly with information on computers?
- (3) What assurance is there that all members will receive equal priority of assistance, particularly when ministerial offices command superior status in the Parliament?
- (4) Will the minister table the results of the survey undertaken by the Ministry of the Premier and Cabinet in respect of electorate office preference for administration of computers?

Hon N.F. MOORE replied:

- (1)-(4) I thank the member for some notice of this question and I ask that it be placed on notice.

TRAILSWEST PROGRAM - FUNDING

442. Hon MURIEL PATTERSON to the Minister for Racing and Gaming:

Under the State's very successful TrailsWest program, can the minister outline the criteria used in the allocation of funding priorities with different projects, the role that community participation plays in obtaining funding and how many grants have been allocated to the south west in the last round of funding?

Hon MAX EVANS replied:

This program is administered by TrailsWest, a secretariat within the Ministry of Sport and Recreation. The secretariat is advised on the program by the TrailsWest Advisory Committee. TrailsWest advertised the program against agreed criteria: Project justification; community input and support; maintenance and management planning; connections; cultural heritage and environmental conditions; trail user education; trail access and sharing opportunities; planning process; partnerships, sponsorships and volunteers; and design considerations. Local government authorities and community not-for-profit groups are encouraged to apply. The TrailsWest Advisory Committee assesses the applications against the criteria and recommends

groups to the Lotteries Commission board for funding. In assessing the applications against the stated criteria, the TAC applies further considerations of equity and balance across the regions' user groups - that is, bike, walk or ride - and the type of project; for example, planning, upgrading, construction or promotion. In 1997-98, 90 applications were received with a total value of \$705 910. Of those, grants for 60 were approved, with a total value of \$500 760. Local government authorities accounted for 26 approvals and local not-for-profit groups accounted for 35 approvals. Community participation and the use of not-for-profit groups and volunteers is extremely important to the program and, therefore, it is high on the list of selection criteria. Of the 60 grants approved across the State in 1997-98, 20 were for the south west region, with a value of \$187 600. This was the largest allocation to any region in the State.

WESTERN AUSTRALIAN TOURISM COMMISSION - CORPORATE HOSPITALITY BUDGET

443. Hon KEN TRAVERS to the Minister for Tourism:

I refer to the notes supporting the financial statement contained in the 1997-98 annual report of the Western Australian Tourism Commission.

- (1) Can the minister confirm that he gave a direction which allowed the WATC to exceed its budget for corporate hospitality by \$147 000?
- (2) If so, what was the corporate hospitality budget for the WATC in 1997-98?
- (3) Why did the WATC need to increase this amount by \$147 000?
- (4) What was the cost to the WATC of running a suite at the Federation Internationale de Natation Amateur - FINA - World Swimming Championships?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Yes. I also directed the Western Australian Tourism Commission to pick up the tab to save the Hotham Valley railway, which was put into terrible financial circumstances by the previous Labor Government.

Hon Ljiljanna Ravlich: Stick to the answer.

Hon N.F. MOORE: I will give the House some history. The previous Labor Government burdened that organisation and the present Government with a serious debt. If I had not provided a direction to the Tourism Commission to exceed its budget, there would be no Hotham Valley railway because it would have gone bankrupt. It is technically bankrupt. It is being supported by the Government to keep it operating. I will tell the House the whole story one of these days if a member asks me a question about it. However, yes, I did give a direction with respect to the corporate hospitality budget.

- (2) The overall corporate hospitality budget for the Best on Earth in Perth series for 1997-98 was a total of \$204 661. These costs included components such as signage, invitations, promotional material, corporate gifts, food and beverages. The Tourism Commission had budgeted \$50 000 for corporate hospitality for the events in which EventsCorp was contractually involved.
- (3) The World Swimming Championships was not an event managed by EventsCorp. However, it was decided that, because the World Swimming Championships was the largest of all the Best on Earth in Perth events, it should also be part of the WA suite program. This, together with other additions such as corporate gifts and very important person lanyards, was estimated to incur a cost of \$147 000.
- (4) The total cost of the WA suite at the Federation Internationale de Natation Amateur World Swimming Championships was \$100 160. That suite was open for about 12 days. It entertained well over 1 000 guests from other countries, interstate and the local community. It was used as an opportunity to promote Western Australia. I think it was called the champions club. An area in Challenge Stadium was set up with a display of Western Australian produce. It was set up in such a way that we could entertain a large number of international guests to promote Western Australia and it was a tremendous success. Everybody who went there had the same view. It was an amazingly successful competition, and it was a successful championship for Western Australia. I have no problems with ensuring that our guests are properly entertained while they are here.

PRISONERS - WORK RELEASE PROGRAMS

444. Hon HELEN HODGSON to the Attorney General:

- (1) How many prisoners incarcerated in Western Australian prisons are currently eligible to be involved in work release programs?
- (2) How many of those prisoners have had their involvement in work release programs approved?

- (3) How many of those prisoners are currently participating in work release programs?
- (4) How many approvals for work release have been granted in the past six months?
- (5) (a) Has the minister made any recommendations or directions in respect of access to work release programs in the last 12 months?
- (b) If so, will the minister table these recommendations or directions?

Hon PETER FOSS replied:

- (1)-(5) The preparation of an answer to this question involves considerable time to research and compile. I therefore ask that the member place this question on notice. I ask also that the member specifically re-submit it because of the considerable resources which will be required to assemble this information.

Hon Ljiljanna Ravlich: If the Government had not got rid of the state public servants it would have had people available.

Hon PETER FOSS: That is absolute nonsense.

The PRESIDENT: Order! A number of members want to ask questions, some of whom are interjecting. Clearly their questions will not be asked because we will run out of time.

Hon PETER FOSS: I want to explain that these offenders are dealt with as individuals rather than statistical units. In this day and age we are certainly hoping to upgrade our computer program so that we can deal with them as statistical units. Unfortunately, it is a personalised system at the moment. Therefore, if we are asked whether a particular prisoner is eligible for work release and, if so, all the details, we can answer the question. When the member asks us to provide the information on a statistical basis, we have to search the records of each prisoner to ascertain it. Obviously, we are spending money on upgrading our information system. Therefore, I suggest that, if the member does not wish us to waste a huge amount of resources in writing a special program just to give her the answer to this question, she should ask it after the new computer system is operating. It will be considerably easier for us to give the answer.

BEACH PARKING - FEES

445. Hon RAY HALLIGAN to the minister representing the Minister for Local Government:

- (1) Can the minister indicate if any other councils north of Cottesloe have indicated a desire to introduce beach-side parking fees?
- (2) If so, what steps have been taken to prevent this happening?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) The Minister for Local Government is not aware of any local governments north of the Town of Cottesloe which have indicated a desire to introduce beach-side parking fees.
- (2) Not applicable. However, if a council sought to do so in a similar way to that proposed by the Town of Cottesloe, the existing provisions of the Local Government Act 1995 could be used to prevent or limit the application of such local laws.

WATTLE AND LANE FOREST BLOCKS - LOGGING

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

- (1) Is the minister aware that the Department of Conservation and Land Management is supervising logging in Wattle and Lane Forest blocks while protesters are present in the coupe?
- (2) Is the minister aware that, given that the protesters' whereabouts is not known by the fallers, felling may occur less than two tree heights distance from protesters and would therefore be in contravention of the safety distance agreed to under regulations pursuant to the Occupational Safety and Health Act?
- (3) Is the minister aware that at approximately 2.30 pm on Friday, 6 November, a tree was felled which may have been only one and a half tree lengths from the tree platform supporting protesters at Lane block?
- (4) Why will the minister not permit inspection by a WorkSafe WA inspector to check and prevent dangerous contraventions of the safety regulations?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1)-(4) I am advised that CALM officers are working with experienced timber industry personnel, the Australian Workers Union and the police to ensure harvesting proceeds in a safe manner.

GERALDTON PORT AUTHORITY - DISCUSSIONS WITH MINISTER

447. Hon KIM CHANCE to the Minister for Transport:

- (1) Did the minister, his predecessor, any of the minister's staff or any officer from the Department of Transport have discussions or correspondence with the Geraldton Port Authority concerning the desirability of contracting out port services for the purpose of reducing the influence of the Maritime Union of Australia?
- (2) If so, when did these discussions take place and between whom were they conducted?
- (3) Will the minister table all relevant correspondence and file notes?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1)-(3) Obviously I cannot be expected to comment on conversations or discussions conducted before I became minister. However, I can inform the member that our policy on waterfront reform has been, and continues to be, to ensure that port users receive reliable, flexible and competitive port services. It is not about union membership or non-union labour; it is about guaranteeing continuity of operations on the docks through direct negotiation between worker and employer. This Government is committed to assisting port authorities to operate in the most efficient and effective way in order to facilitate trade in this State. The Government detailed this vision in the role of ports statement issued in November 1994. Port authorities are being provided with the flexibility to operate with an increased commercial focus through initiatives such as the Port Authorities Bill.

WA TOURISM COMMISSION - HOSPITALITY SUITES

448. Hon LJILJANNA RAVLICH to the Minister for Tourism:

- (1) Apart from the Federation Internationale de Natation Amateur World Swimming Championships, has the Western Australian Tourism Commission provided hospitality suites or similar guest facilities for any other events since January 1997?
- (2) If yes, for what events was hospitality provided?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Yes. The provision of corporate boxes or areas is one of the contractual obligations by event organisers to the State under most event contracts.
- (2) Hopman Cup 1997; Heineken Golf Classic 1997; Rally Australia 1997; World Track Cycling Championships 1997; World Triathlon Championships 1997; Whitbread Round the World Race 1997; World Cup, Darts 1997; Hopman Cup 1998; Heineken Golf Classic 1998 -

Hon Ljiljanna Ravlich: You must be kidding! We cannot get answers to parliamentary questions because of a lack of resources, and you're providing hospitality!

The PRESIDENT: Have you finished, minister?

Hon N.F. MOORE: I have a long way to go yet, Mr President; perhaps I should start again! The list continues with the Festival of Perth 1998; the Margaret River Masters Surfing Championships 1998; the Rugby Union test match - Australia versus South Africa 1998; and Rally Australia 1998.

As the answer explains to the member, it is a necessity under most contracts, when acquiring a world championship, for the Government or the organisers to provide corporate hospitality. That has always been the case. EventsCorp was set up by the previous Government, and has done a good job in attracting international sporting events to Western Australia.

Hon Peter Foss: Members opposite do not want them!

Hon N.F. MOORE: Having read out the best list of events held anywhere in the world last year, members opposite can only say that we wasted money because we entertained some people! Most people we entertain are volunteers for Western Australian sporting organisations; namely, community leaders and those who work in the community for no return other than fulfilling the need to contribute to the community. The Government makes the decision, as we have magnificent sporting events attracted to Western Australia, to provide some corporate hospitality to such people. I make no apology whatsoever for providing such recognition to those people for their work and the contribution they make to our society.

I am glad the member gave me the chance to read out that list of events. This Government and EventsCorp particularly have not received the recognition they deserved during 1997-98 with the Best on Earth in Perth program. Twelve international sport events were held in Perth, which is the most isolated capital city in the world. I answered a question earlier this year indicating that the net economic benefit to WA from the Best on Earth in Perth events was \$150m.

Hon Ljiljanna Ravlich: Where is the breakdown?

Hon N.F. MOORE: Despite that benefit, all the member opposite can do, as usual, is whinge and whine.

COCKBURN SOUND - PORT DEVELOPMENT

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

- (1) Will the minister confirm the statement by the Minister for Commerce and Trade, who told the community group Com-Net that it was never intended to build two new ports in Cockburn Sound, and that the proposals were simply a way for Hon Eric Charlton to stir up the Maritime Union of Australia?
- (2) If the Minister for Commerce and Trade was correct -
 - (a) why were expressions of interest sought from port developers;
 - (b) why were expressions of interest documents sold for more than \$1 000; and
 - (c) will interested parties have their expenses refunded?

Hon M.J. CRIDDLE replied:

This question was asked in the name of Hon Tom Stephens.

Several members interjected.

The PRESIDENT: Order! I have a problem. I cannot understand why Hon Jim Scott from the Greens (WA) is asking a question for the Leader of the Opposition.

Hon Tom Stephens: He is not. The Government is so incompetent that it cannot get names right! I did not ask the question.

The PRESIDENT: Order! Other members want to ask questions. What is the reason for this situation?

Hon J.A. Scott: I sent this question under my name last Friday.

The PRESIDENT: It is fine if it is the member's question.

Hon M.J. CRIDDLE: I thank the member for some notice of this question.

- (1) I am not in a position to comment on a statement another minister may or may not have made.
- (2) Notwithstanding the answer to (1) -
 - (a) The Government is currently considering proposals for a private port made in response to a request for proposals to build, own and operate a multi-function port in competition with other port facilities in the State.
 - (b)-(c) It is normal practice for such formal processes to require a non-refundable fee in relation to reproduction, briefing and administrative costs.

ARTS FUNDING

450. Hon CHERYL DAVENPORT to the Minister for the Arts:

- (1) Is the minister aware of the call last week by Mr David Blenkinsop, the Director of the Festival of Perth, at the launch of the 1999 festival program, for the Premier to take over the role of cultural captain and to banish the perception that the Government is indifferent to the arts?
- (2) Is the minister also aware of the comments made in *The West Australian* on 3 January this year that the arts had slipped to the bottom of the agenda, and that the responsible minister was unable to make big decisions that would determine the arts' future?
- (3) Can the minister explain his continued lack of interest in the Arts portfolio?

Hon PETER FOSS replied:

- (1)-(3) I only have five minutes, which is a pity - thank you very much, Dorothy!

The PRESIDENT: Order! I want to give the call to the Minister for the Arts, not because I cannot see him, but because people downstairs rely on me to give the call so the cameras can be directed to the speaker.

Hon PETER FOSS: Interestingly, we have had a 20 per cent increase in arts funding since I became Minister for the Arts. In addition, this Government made up a half-million dollar overdraft acquired by the Labor Government. Also, in order to try to make things look good, that Labor Government used up two years' budgets in one year, and our incoming Government had to make up that shortfall.

Hon Ljiljanna Ravlich: Why are you not going to the events?

Hon PETER FOSS: Be quiet; otherwise, I will have the question asked again so I can finish my answer!

Also, no capital money was being directed to the arts under the Labor Government - none. Since coming to government, we have constructed the Mandurah and King Street arts centres. Also, as part of the much-maligned \$100m for the convention centre, the Premier has specified that, in addition to the sporting facilities, the project should include studios -

Several members interjected.

Hon PETER FOSS: Members opposite did nothing in government.

Hon Ljiljanna Ravlich: Why did you not go to the opening of the Festival of Perth?

The PRESIDENT: Order! If we continue with such interjections, we may as well move on to orders of the day. Members are not listening to answers. Hon Ljiljanna Ravlich will desist from having personal stand-up fights with whoever is answering the question.

Hon PETER FOSS: Mr Blenkinsop's comments, in particular, I find to be extraordinary. I suppose at long last he is leaving and feels free to make all the nasty statements he has always wanted to make. He received almost half a million dollars extra under this Government for his festival. Recently, this Government gave extra money to the Festival of Perth to enable it to change directors - a very good payment, it would seem - and further money was arranged by Hon Max Evans to overcome a funding shortfall resulting from changes in the value of the Australian dollar. The festival has done well.

Mr Blenkinsop's gripe has been that he would like a large number of facilities built in Perth for the benefit of his festival, which extends over three weeks and is mainly for overseas product. As I was saying before I was interrupted, it is intended that the \$100m to be directed to the convention centre, as well as enabling the provision of sporting facilities, will bring in, we hope, studios for films and a theatre for drama and will provide the flexible space for which Mr Blenkinsop has often called.

A world of difference can be found between what is being said and what is being done. A large amount of extra money has been paid to the arts under this Government. Under the previous Government, the money provided constantly diminished. However, Labor Governments go around saying how good they are at supporting the Arts. In fact, the current opposition spokesperson for this portfolio has been spreading the myth that this Government is not interested in the arts. No minister or shadow minister has shown more interest in this area than that shown by Hon Max Evans and me; between us, we cover everything. No-one would attend events for the Labor Party if it were not for the member for Perth. The Opposition's useless Arts spokesperson would not know, because she does not go to the events. The only time the member for Thornlie attends the arts is for interstate or international shows. She has not the slightest interest in the arts in WA - she never attends. She accepts invitations fairly often; I give her that.

Hon Mark Nevill: I saw her at the opera.

Hon PETER FOSS: Yes. Members will see her at the big opening nights, and the big taxpayer-funded events.

The PRESIDENT: Order! The minister will direct his comments to the Chair.

Hon PETER FOSS: The Opposition's spokesman started this amazing nonsense purely from lack of knowledge, as she is never there - although she says she will attend she usually does not. With a bit of luck Ms Diana Warnock, the member for Perth, will be there as she attends a lot of events. However, one never sees Ms Sheila McHale because she does not go and she does not support the small people who put in the work. During the ArtRage Festival, I attended 25 events and I went to one twice.

Hon N.D. Griffiths: They see too much of you.

Hon PETER FOSS: They do see too much of me. I go to everything and I have never seen anybody from the Labor Party because it is not interested. Mr Blenkinsop is a fascinating person.

Hon Ljiljanna Ravlich: You really are taking this hard.

Hon PETER FOSS: No. I have always wanted this opportunity because *The West Australian* has the same problem. It believes the Opposition's spokesman for the Arts. It does not bother to check or to ask me how many events I attended at

the ArtRage Festival; it just listens to the false information put out by the Opposition spokesman. The Festival of Perth is important, but I still regard arts in Western Australia as more important than foreign arts. Hon Max Evans and I attended the poster launch. Mr Blenkinsop said he was pleased to see two ministers present. I do not know what Mr Blenkinsop thinks of himself and how many ministers he needs to turn up to his performances. Practically every night that I am not in here - sometimes I get a pair - I am attending arts events. It is about time I stood up and told the Opposition that it has it wrong. I will give its spokesman the benefit of the doubt and say she is not telling things wrongly, she just does not know because she does not go.

Several members interjected.

Hon PETER FOSS: I attend more arts events than any other minister or shadow minister has ever done. The present shadow minister must be the worst of them all because she attends fewer events than Hon Kay Hallahan did.

The PRESIDENT: Order! I ask the minister to draw his answer to a close. Other members are waiting to ask questions. Hon Derrick Tomlinson interjected.

Hon PETER FOSS: Hon Derrick Tomlinson has made a good complaint -

Several members interjected.

Hon PETER FOSS: He complains that I attend too many events and he does not have the opportunity to go.

Several members interjected.

Hon PETER FOSS: I always go. The arts were in a derelict condition when this Government took over. In the first few years the Government was involved in paying back the debt which was owed. The Art Gallery had an agreement with the Government to pay dollar-for-dollar on its foundation. Not only did the Labor Government not pay the dollar-for-dollar, it deducted from the Art Gallery's consolidated revenue funds the amount the gallery had raised. Not only did the Labor Government not honour its promise but it took the money out of the gallery's budget.

MILK VENDORS - DISTRIBUTION ADJUSTMENT ASSISTANCE SCHEMES B AND C

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

If all former milk vendors who have been offered additional assistance under distribution adjustment assistance schemes B and C accept that offer, what would be the total amount of additional assistance payable?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

The Minister for Primary Industry informs me that specific assistance to the milk distributors/vendors leaving the industry is available under the Dairy Industry Act. Any further assistance payments to be made to eligible milk distributors/vendors under distribution adjustment assistance schemes B and C are being assessed on a case-by-case basis. These payments are subject to the deductions outlined in the sixth report of the Standing Committee on Public Administration.

GERALDTON HEALTH SERVICE

452. Hon KIM CHANCE to the minister representing the Minister for Health:

- (1) Is the minister aware that the medical advisory committee for the Geraldton Health Service has warned that the additional funds to the hospital would only resolve that hospital's immediate financial difficulties?
- (2) Can the minister confirm that the extra funds are not sufficient to allow the hospital to provide extra services for elderly or psychiatric patients?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) The medical advisory committee of the Geraldton Health Service is being consulted by the board about the current budget negotiations with the Health Department. The outcome of these negotiations will be an adjustment to the health service funding which equates to the services it provided in the 1997-98 financial year. The board acknowledges the capacity for the Geraldton Health Service to provide additional services through improvements in efficiency and changes to the case-mix profile of the hospital.
 - (2) The additional funds provided to the Geraldton Health Service includes a component which the health service will be able to use to enhance local services.
-