Legislative Council

Tuesday, 14 June 1994

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

MINISTERIAL STATEMENT - MINISTER FOR EMPLOYMENT AND TRAINING

Employment Programs Funding; Integrated Employment Assistance Strategy

HON N.F. MOORE (Mining and Pastoral - Minister for Employment and Training) [3.34 pm] - by leave: Western Australia currently spends almost $5m annually on a range of employment services, including -

> the Employment Equity program, under which $2.375m funds 29 community based organisations to assist job seekers, especially those who are disadvantaged in the labour market, to access employment and training opportunities;
>
> the Youth Action scheme, which provides $760 000 for eight projects providing counselling and referral services to school leavers in transition from school to work or training; and
>
> the Aboriginal Employment Development program, which provides $360 000 for nine officers statewide to promote and assist the involvement of Aboriginal communities and organisations in developing locally based enterprise, employment and training initiatives.

A number of concerns have been expressed about the future of these programs recently. On visiting some of these programs in recent months, I have found a remarkable record of achievement. However, there are also some issues which remain to be addressed. These include the extent to which the existing programs conform to this Government's firm belief that real, sustainable employment can only be generated through enterprise development and economic growth.

In addition, I am concerned to ensure that there is complementarity and not duplication and wasteful overlap between the services provided by state and Commonwealth agencies. This is particularly so following the Commonwealth's employment paper "Working Nation", which looks to the community sector to complement the provisions of the Commonwealth Employment Service in offering case management services to the long term unemployed. The Government is mindful of the plight of the unemployed and the need to assist them to share in the benefits of the economic recovery.

Today, I am able to announce my decision that the State Government's existing menu of employment services is to be integrated under a new state employment assistance strategy. I have instructed the Department of Training that funding for the existing state employment projects will be provided until 31 December 1994. From then on, the annual cycle of funding for the employment program is to be shifted to a financial year basis - July to June. Initially, from 1 January until 30 June 1995, and beyond that date, the projects will be funded under the integrated employment assistance strategy. A new initiative will also be piloted, which I will outline later. Under the integrated strategy, the administrations of a small number of projects are likely to be amalgamated. I have instructed the department that a consultative process is to be undertaken to ensure that there is an improvement of services to clients. Ongoing State Government funding ensures the projects' capacity to bid for Commonwealth White Paper funds when these materialise.

To address issues raised in the recent Auditor General's report on community sector provision of publicly funded programs, projects under the employment assistance strategy will be subjected to new, rigorous, performance agreements clearly specifying outcomes which the Government is seeking. The present array of employment projects has been in existence for several years, with no comprehensive evaluation of policy

settings and program effectiveness. A targeted monitoring and evaluation program will be established and implemented, to provide better justification through objective data for future decisions about funding of projects. Consultation with projects in this regard will commence immediately. I will also be referring the profile of our project to the State Employment Committee to seek industry's perspective on the relevance and appropriateness of our response to employment service requirements.

As I indicated earlier, the Government will begin piloting a new enterprise employment initiative from 1 January 1995, for introduction in July 1995. Under this initiative, which will be part of the integrated employment assistance strategy, strategic projects which promote the creation of real and sustainable employment opportunities in Western Australia, particularly within the small business sector, will be funded. The pilot program will be based on the following objectives -

> to create real and sustainable employment opportunities in Western Australia;
>
> to improve the linkages between economic development, employment creation and skills formation; and
>
> to assist the development of employment opportunities within the small business sector.

Again, the State Employment Committee will have an important role to play in endorsing the strategic objectives for the enterprise employment initiative and other programs under the state employment assistance strategy. A consultative process is to be implemented to progress this initiative and develop funding guidelines, program objectives, and arrangements for monitoring and evaluation. The enterprise employment initiative, within the employment assistance strategy, is consistent with the State Government's objective to focus scarce resources on employment programs which are flexible, accessible and regionally focused and which result in the creation of real and sustainable jobs.

Consideration of the statement made an order of the day for the next day's sitting.

COMMISSION ON GOVERNMENT BILL

Assent

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

MOTION - TOMLINSON, HON DERRICK, CHAIRMAN OF STANDING COMMITTEE ON LEGISLATION, REMOVAL

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [3.46 pm]: I move -

> That Hon Derrick Tomlinson be, and is hereby, removed as the Chairman of the Standing Committee on Legislation.

It is now some weeks since I gave notice of my intention to move this motion - one rarely moved. Bearing in mind the circumstances which surround the activity of the Chairman of the Legislation Committee and the committee itself, one must firstly be bemused by what has happened in recent times. More importantly, one must examine the role of the chairman of that committee, Hon Derrick Tomlinson. One expects that the role of the committee chairman is to provide guidance and leadership to the committee and its members. If he does not do that, Mr President, he faces an assessment of whether he has been derelict in his duty to that committee. I am led to the conclusion that this chairman should not be the chairman of this committee not by statements made elsewhere or by somebody else, but by Hon Derrick Tomlinson's statements in the Press.

I now remind the House of certain matters which occurred within the House and which were reported in the Press. I do so to clarify my comments, to identify the aspects to which I attach the greatest gravity, and to indicate why this motion should be supported by the House. Members will recall that the Government introduced the Commission on

Government Bill, which indicated that an investigation should be conducted of some 24 scheduled matters. Those 24 scheduled matters were the embodiment of 14 recommendations of the Royal Commission into Commercial Activities of Government and Other Matters. One of those 24 scheduled matters, item No 19, was an investigation of parliamentary privilege. I remind the House that all members of the House voted for the second reading of the Commission on Government Bill, including the chairman of this committee, Hon Derrick Tomlinson, who made the point that he supported item No 19 remaining within the Bill. However, as time elapsed and the report was tabled while this Parliament was in recess, the chairman of that committee was reported at page 4 of *The West Australian* of 29 April as follows -

> But a Liberal MP who chaired the committee yesterday conceded he agreed with the Opposition's view that there was room for an investigation into the rule and that he had voted with his Liberal colleagues merely to maintain party solidarity.

We are talking about a chairperson who can lead and provide guidance to a committee. The motion to establish the standing committees of this House was moved by the then Liberal-National Party opposition, which included Hon Derrick Tomlinson. Hon Derrick Tomlinson knows full well the role of those committees. He supported the role of those committees.

We have said in this House on many occasions that one of the reasons for committees is to take legislation or matters of public importance out of the hothouse and the political constraints of this Chamber and into a more reasonable environment where members can consider their options and put forward their personal views. Members' personal views may be influenced by their ideology or belief system. However, I suggest that that is not embodied by a statement from the chairman of a committee that he voted with his Liberal colleagues merely to maintain party solidarity. It is said from time to time that members of the Opposition vote as a caucus, but I suggest that a number of well known members of the Opposition who have chaired committees have not done that; namely, Hon Tom Helm, who is still in the Chamber, and Hon Garry Kelly. Those members, along with other Labor members and chairpersons, put forward what they believed was a considered view according to their responsibilities to this House as a member of a committee. They did not vote with the committee in order to maintain party solidarity.

The article states also -

> Committee chairman Liberal MLC Derrick Tomlinson, said he believed the two Opposition committee members had made an important point that no harm would be done in merely taking advice from COG and that changes to parliamentary privilege could not be made without Parliament's approval.

I guess it is fair to say that that is a particular problem which the chairman of the committee created for himself. However, he then proceeded to make some more problems for himself. Hon Derrick Tomlinson supported the Bill at the second reading, with item No 19 in it; when the committee presented its report, item No 19 was out of it, because of his vote as chairman of that committee, along with the votes of his two Liberal Party colleagues; and when the Bill came back into the House, lo and behold, item No 19 was not to be removed! Hon Derrick Tomlinson then made some comments to the House, and by 6.00 pm found himself paired. He may well have been paired, as he will no doubt suggest, for parliamentary business.

Hon George Cash: He was.

Hon JOHN HALDEN: I am sure he was. I would not question it. It is an undoubted right. The chairman of this committee, in this controversial circumstance, paired himself in order to nullify an opposition vote. More importantly, he then proceeded to not present the report of his own committee or, to the best of my knowledge, to not delegate to any member opposite responsibility for presenting the committee report.

Hon George Cash: I said the Government was not prepared to accept the situation, in the same way that you, when you were handling the Port Kennedy legislation, rejected the report of the Legislation Committee.

Hon JOHN HALDEN: That is an interesting point, which exemplifies why this motion is so important. Hon George Cash is referring to the Port Kennedy inquiry conducted by the Legislation Committee, which at that time was chaired by Hon Garry Kelly. My recollection - and it may be wrong - is that the chairman of the committee at that time had a different view from that of the former government. However, Hon Garry Kelly's conviction of his responsibilities as chairman of that committee was such that even though he was faced with pressures, he did present the committee's report. He did not make equivocal statements. Furthermore, he did not make statements to the Press which demonstrated his total incompetence to make a consistent decision. Hon Garry Kelly, whatever sins he might have had, was at least consistent and prepared to present the views of the committee which he chaired. He was not an equivocal chairman. He did what was required of him by this House. Hon Garry Kelly provided guidance and leadership and did not at any stage shirk from his responsibilities and duties as chairman of that committee. That is significantly different from what we have seen and read in regard to Hon Derrick Tomlinson.

Hon Derrick Tomlinson is reported in *The West Australian* of 3 June 1994, in regard to his not being present in this House, as follows -

> Mr Tomlinson said yesterday he regretted his decision to miss the debate in favour of keeping a long-standing commitment to attend a political function.
>
> But had he been present for the vote he would have rejected his own advice and supported the unamended Bill.

That is with item No 19 back in - not the way he voted in the committee. The article continues -

> Explaining his about-face -

I suggest it is his continual about-facing!

> - he said: "Every decision you make is a conscious decision. You have to weigh the principles at issue and the politics of the situation. It's about choosing between alternatives. Sometimes you have to make a choice which is not your preferred choice."

Hon George Cash: That is what life is all about.

Hon JOHN HALDEN: The Leader of the House assists me again!

Hon George Cash: Surely you don't agree with every word in every single Bill that has gone through this place since you came here?

Hon JOHN HALDEN: No, I do not. But the point is that sometimes one must make a choice which is not one's preferred choice.

Hon P.R. Lightfoot: You weren't the preferred choice of almost half your colleagues.

Hon JOHN HALDEN: That is right, but I am sitting here and the member sits on the Government's back bench and he is likely to remain there. I will not be distracted. The difficulty that the chairman faced was that sometimes a person must make a choice which is not his preferred choice - but from discussions in the Press no-one would know what the preferred choice of Hon Derrick Tomlinson was because from day to day, from moment to moment, seemingly it altered. This whole issue is about the ability to lead. It is about the ability to provide guidance and leadership, and to carry out one's duties. The great difficulty in leading is that sometimes one must make difficult choices. One must be consistent, and as Hon Tom Helm will submit and, if he were here, Garry Kelly would tell us, one must make decisions that are sometimes against the view of one's party.

I raise the position of the party versus the committee. If they get a chance, perhaps some opposition speakers may disagree with me. If we are to have a committee system, there must be some putting aside of party structures and influence. We have all accepted that to a certain degree, and certainly the Labor members whom I have highlighted have done that. I have no interest in how Labor Party members perform on a committee. I may have an interest once they have put down their views, and I may have a clear view - I

may agree or disagree, but the time for me to do so is when they have registered their views. It is not for me to do that while the committee is sitting; it is not for my Labor parliamentary colleagues to decide at a committee that it is a little caucus of two or three. It is the time to put forward the collective view. I can understand, of course, that because of our different party beliefs we will often line up the same. That is a fact of life, and that may require an individual view. But that is not what Hon Derrick Tomlinson said. I have cited his words; they are not my words. He said that he voted with his Liberal Party colleagues merely to maintain party solidarity. Once the committee report came down and came to this House I understand that Hon Derrick Tomlinson, Hon Bill Stretch and Hon Ross Lightfoot may well have come under pressure - and of course they would not have caucused or been subject to the rules of Caucus. They may have come under considerable pressure from the party room regarding their stance. I do not know, but I can imagine. Labor Party rules are much more honest and clear cut. The party room makes a decision and, on the floor of this House, members are obliged to uphold that decision. We do not run away from that situation. That has been the rule in our party room for probably the entire century during which the party has existed. But in a committee situation it is a different matter.

All that needs explanation and brings us to another significant issue for this House to consider. This House has staked its reputation on its committee system. It has built up an expectation within the community and, if I may be so bold, even within this Chamber, that within a committee the barriers of party solidarity are lowered and made less resistant to outside pressures. But when we hear comments such as, "I voted with my mates because of party solidarity", and that may be an embellishment on my part -

Hon Derrick Tomlinson: Perhaps there have been other indulgences also.

Hon JOHN HALDEN: There may well have been. But I suggest that brings into disrepute our entire committee system. Some people question the very existence of this Chamber. I am such a person, but if we are to have a role we must have some integrity when we perform that role. I contend that our role is very much about being a House that reviews not necessarily "in the House", because we are aware of the rigidity of the House, but in the less formalised atmosphere in the committee system. We cannot have a chairperson saying that he voted on a particular issue even though he could say he agreed with the opposition and he decided to vote with his mates. That brings the committee system into disrepute and it brings the House into disrepute. These are not my words; they are the words of the committee chairman talking to the Press.

I may be misquoting the member, but I understood Hon Reg Davies to say last week that in a committee a Labor member had to seek advice from the party, or from me, as the case may have been -

Hon Reg Davies: I said that I was aware that recently a Labor member said that he was a member of the Labor Party, was elected as a member of the Labor Party, and was a member of Caucus; therefore, that was where he took his directions.

Hon JOHN HALDEN: I want to use that situation as an example, because if we are talking about the same person, he came to me in regard to that matter.

Hon Reg Davies: I did not name any member or committee.

Hon JOHN HALDEN: And I do not propose to do that. My understanding is that a proposition was made for that committee to form another committee to investigate a related matter. Clearly, that is a situation for a decision in the Caucus. It is a matter for the party room; it was not a matter of consideration that the committee had been charged by this House to deal with. The member was correct about our party rules, but he was not in any way compromising the deliberations or the integrity of the existing committee. I do not wish to be specific because I do not want to complicate that situation in any way.

It is appropriate to be specific in my remarks regarding the Standing Committee on Legislation being brought into ill-repute. Last week I said that some articles in *The West Australian* had suggested such ill-repute. That was met with great derision and hilarity from members opposite, as if *The West Australian* could not make an objective

assessment about the degree of disrepute into which that committee had brought itself as a result of its actions. I then told the House that it was not just *The West Australian*, but that political analysts and academics had also made the same comment - not that I would weigh with any less importance the view of *The West Australian* than that of political analysts and political commentators; I see them as one another's peers in this matter.

I will revisit some of the comments made concerning the Commission on Government debacle by reading from David Black's "The State Scene" in the *Sunday Times* of last Sunday. I quote -

> The about-face by Coalition members of the Upper House Legislation Committee on the Commission on Government bill raises two separate issues, each of considerable importance.
>
> On one hand there is the repudiation of significant recommendations contained in Part Two of the Royal Commission report. On the other there is the effect this will have on the standing committee system of the Legislative Council.
>
> The political background to the establishment of the Commission on Government is relevant in this regard. Having accepted with acclamation Part One of the Royal Commission Report, the Coalition parties called for unreserved implementation of its recommendations.
>
> Then came the bombshell in Part Two when issues such as the failure of collective Cabinet responsibility in the WA Inc days were left for political resolution while the royal commissioners focused instead on issues of electoral reform.

I will table the article rather than waste the time of the House by reading it all. However, further on it also states -

> The spectacle of the major standing committee having its recommendations overridden - and with the committee chairman not even participating in the crucial vote - was a sad blow for those who believe in bicameralism.
>
> If Mr Tomlinson could not have been present that night the Government should not have brought on the bill. One cannot escape the conclusion when the Government has a majority in both Houses Western Australians would get much better value for their money if there was only one House of Parliament.
>
> I cannot believe that the Government would have lost anything by accepting the recommendations of those of its own members who sit on the legislation committee.

The article ended with -

> It was a Liberal member - the late Hon Bob Pike - who moved the motion to establish the first legislation committee. The onus is now on the Liberal Party to refute the notion that the Legislative Council is a toothless tiger except when Labor is in power.

Not only David Black had something to say about this matter; reported on 4 June in *The West Australian* Curtin University Associate Professor of Public Administration, Allan Peachment, said -

> Limiting it to the matters of corrupt, illegal and improper conduct let the parliamentary executive off the hook.
>
> It blames people, not the system.

He says further -

> Professor Peachment believed the Government would fear having to reject any recommendations reducing its upper House power.
>
> The State Parliament passed legislation on Thursday morning to create a WA royal commission-recommended inquiry into sweeping political reforms.

> It passed with a controversial clause which would exclude more than half of the 24 possible reforms because they were not relevant to corrupt, illegal or improper conduct.

In the same article, Curtin politics lecturer and former Labor policy adviser, Lance McMahon, said -

> The government's decision was an unashamed snub to those who voted Liberal in the hope of seeing the recommendations implemented.
>
> He believed the Lawrence government would have been locked into all the royal commission recommendations but the Court government did not want to be first shackled by a COG.

I do not want to inflame those opposite by reading the editorials and political comments of Stephen Loxley or Malcolm Quekett, or the reporting by Grace Meertens of the little COG debacle we had. They are also critical of this committee's deliberations and processes.

Hon Derrick Tomlinson may well have been away on parliamentary business that night; I do not question that. However, as I said in a radio interview with Hon Derrick Tomlinson, Hon Cheryl Davenport had a longstanding pair for that night - as I recall, from about 24 April. Nonetheless, she stayed to participate in the debate. I know - neither of us could go - that she was to attend a political meeting with the Swan electorate council of the Australian Labor Party. She was not the chairperson of the Legislation Committee, and was not required to do more than present her views about what had happened.

Another spectacle occurred which I can only describe as an embarrassment for the House and for this committee, when Hon John Cowdell had to speak to the committee's recommendation, supported by Liberal members, from which he and Hon Cheryl Davenport dissented. The chairperson was not here and seemingly no-one had been delegated the responsibility to present the committee's view. What can one say? One does not get outraged, because it is nothing more than a dereliction of duty.

To sum up, I began my speech by saying that a chairman of a committee must have the ability to lead a committee; he must provide guidance and leadership and uphold the responsibilities and duties of the office to which he is elected. On all grounds, it is my contention that Hon Derrick Tomlinson has failed. He has not lived up to the requirements of this House or of our committee system. The proof of that is not by way of innuendo or supposition on my part or half truth or belief; rather, it is in the words and actions of the chairman of the committee himself. There is no need to hypothesise, or speculate. The words of Hon Derrick Tomlinson are on the public record.

The task for the House now is very simple - it is to accept, as I have laid out, that certain duties and requirements are placed on a chairman of a committee. If they are not lived up to this House has no other course than to support the motion I have put; not to do so would be to bring this House into the disrepute it found itself in as a result of the COG Bill. Having detailed the argument, the Liberal and National Parties, which always have the numbers in this House, will again flex their muscles and protect one of their own, as they have done before in quite outrageous circumstances.

I refer to the Minister for Transport who has been protected on a number of occasions purely by the use of the blunt instrument - the numbers. One hopes that in this matter the House will accept the reasoned and logical argument that I have presented. Hon Derrick Tomlinson will be condemned by the words out of his own mouth. I support the motion.

HON DERRICK TOMLINSON (East Metropolitan) [4.20 pm]: Hon John Halden has taken me somewhat by surprise because I thought the intention of the motion was that I would be censured by this House for what I did, or more precisely for what I did not do; namely, to be present in the House when the matter was debated. I was not aware that the censure motion related to a newspaper report about what I said or did. I do not intend to debate the newspaper report. I prefer to debate what I did or, in the perspective of the Opposition, what I did not do. The only aspect of *The West Australian* report of

Thursday, 28 April to which I will respond relates to section 19 of the schedule to the Commission on Government Act and states -

> But a Liberal MP who chaired the committee yesterday conceded he agreed with the Opposition's view that there was room for an investigation into the rule and that he voted with his Liberal colleagues merely to maintain party solidarity.

I refer the House to the dissenting opinion of Hon John Cowdell and Hon Cheryl Davenport on section 19. For the benefit of those who have not read the report I quote section 2 of the minority report -

> The Minority rejects the explicit removal of specified matter 19, which gives effect to Recommendation 33 of the Royal Commission Report (Part II).
>
> We believe that Parliamentary privilege can withstand any further study, scrutiny or investigation.
>
> Specified Matter 19 in fact only refers to a very limited aspect of parliamentary privilege and states that consideration be given to ". . . permitting proceedings in Parliament to be questioned in a court or like place [but] while preserving the principle of free speech in Parliament".

I state now, as I did previously, that that is a valid point of view which is worthy of consideration; however, whether it is a correct point of view is debatable. It is correct to say, as the dissenting report said, that clause 19 of the schedule to the Commission on Government Bill restricts consideration to that matter; that is, with a view to "permitting proceedings in Parliament to be questioned in a court or like place while preserving the principle of free speech in Parliament". It was a limited reference of the parliamentary privilege to the Commission on Government. The debate of the matter in the Legislation Committee went beyond that restricted reference to the very issue of whether parliamentary privilege could be investigated by any other body except Parliament. The Legislation Committee requested the Clerk of this House to prepare a position paper explaining the legal position and foundation of parliamentary privilege. That paper is appended to the report in schedule 1. I strongly recommend that members of this House read it and try to understand it. I refer in particular to that part of the opinion which states -

> All legal commentators agree that s 1 was effective to incorporate the *Bill of Rights* into WA law. Article 9 enacts:
>
> > That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

It is prohibited by law - by article 9 of the Bill of Rights - that parliamentary privilege can be debated in any court or place out of Parliament. The Legislation Committee, faced with clause 19 of the schedule to the Bill which stated that only this part of parliamentary privilege should be considered, was then confronted with the legal position. I point out that that legal position - I hope I am not misrepresenting you, Mr President - was the position that you presented to the royal commission at the time it wanted to examine what was said in this Parliament. You pointed out at the time that the legal position prohibited the royal commission from so doing. If the royal commission was prohibited from so doing by law, the Legislation Committee in considering section 19 of the schedule had to consider that position. The debate moved from a simple consideration of what was proposed in clause 19 of the schedule to the Commission on Government Bill to a consideration of the general principle. It was that consideration of general principle on which the committee was divided 3-2. It is obvious from the minority report that the division was on party lines. That is the only response I will make to the newspaper report. I will address the question of the so-called about-face. To do that I will require your indulgence, Mr President. It is necessary for me to explain the policy of the Commission on Government Act, because the policy is central to the debate in this instance. The policy of what was then the Bill is contained and made very clear in section 5 of the now Act.

[Resolved, that the motion be continued.]

Hon DERRICK TOMLINSON: Under section 5 of the Act the Commission on Government is directed to ask two questions about the matters contained in the schedule. The first question on each of the matters is: Is it relevant to the prevention of corrupt, illegal or improper conduct by public officials? The second question the COG is required to ask of each of the items in the schedule is: To what extent is it relevant to the prevention of corrupt, illegal or improper conduct by public officials? The commission is then required to inquire into the relevant matters to the extent that they are relevant to the prevention of illegal or improper conduct by public officials. If the matters are deemed to be not relevant, the commission is not required to consider them. Of those matters which it does consider to be relevant, the commission is required to consider them only to the extent that they are relevant. That is the policy of the Bill and the Act. I draw the attention of the House to paragraphs 8 and 9 of the committee's report in which that is made quite clear. They explain the policy of the Bill and the consequence of clause 6 of the Bill. I will not elaborate on that: I simply ask members to read the report, because in paragraphs 8 and 9 the policy of the Bill is made quite clear and the policy of the Bill is that which I have just stated.

The committee was advised that any decision of the COG on those questions - is it relevant and to what extent is it relevant - were justiciable. In other words, any decision of the COG on those matters could be challenged by a person who established standing before the Supreme Court. When the committee received that advice it engaged legal counsel for an opinion. It invited Dr Stephen Churches to appear before it to answer four specific questions about standing and whether those matters were justiciable. The opinion given to the committee by Dr Churches was that the matters could be challenged in a Supreme Court if a person were to establish standing before that court in those matters.

I again invite members to refer to paragraph 11 of the committee's report in which that question of standing and the matters being justiciable are explained. The consequence of a challenge to the Supreme Court is this: If the Supreme Court found in favour of the plaintiff - in other words found that the COG had been wrong in its opinion, had been wrong in its decision that a matter was not relevant or had been wrong that a matter had been relevant only to this extent and had either decided not to proceed with consideration of it because it was not relevant or considered it only to the extent that it was to the COG relevant - the Supreme Court could of itself determine the matter before the court. Therefore, the discretion which had been given to the COG by the Act would be exercised by the Supreme Court. Again, I refer the House to paragraph 14 of the committee's report. Having heard that that clause was justiciable and having heard that the discretionary authority of the commission, and consequently the discretionary authority of the Parliament, could be taken over by the Supreme Court, the committee then sought an amendment which avoided those two possibilities. The amendment was that which was eventually contained in the proposed amendment to clause 5 of the Bill. The consequence of the amendment proposed was to change the policy of the Bill, and it changed it quite substantially.

I advise members that questions of policy are essentially political questions and political questions are matters for this House to decide. The principle always pursued in this House is that the policy of the Bill is debated and settled in the second reading debate. When the second reading stage is voted on, the policy of the Bill is established. It has always been the practice of the Legislation Committee when a Bill is referred to it after the second reading debate to consider the policy as established. Therefore, the role of the committee is to consider matters of detail in the same way that, as in the Committee stage of debate in this House, matters of detail, clause by clause, are considered but the policy of the Bill remains.

By members' proposing to amend clause 5 they were proposing to alter the policy of the Bill. The committee was aware of that. When the Government considered the report it rejected that shift in policy; therefore, it rejected the proposed amendment. The Government had been aware of the legal consequences of clause 5. It was aware that the

decisions of the COG relating to clause 5 were justiciable. The Government also had a legal opinion to the effect that they were not justiciable. It was aware that they were and it had a legal opinion that they were not. That does not surprise me. In almost every matter there are alternative legal opinions and they are usually resolved by the court. The Government was prepared to accept the possibility that there might be a legal challenge after the commission had reported.

Its position was that if there were a legal challenge in the Supreme Court, the matter would be resolved then. For the time being, the urgent matter was to have the commission appointed so that it could set to work on the recommendations of the royal commission. The Government was more concerned to have that independent body review the recommendations in the original terms of reference of the royal commission; that is, the prevention of corrupt, improper or illegal conduct by public officials, to have those matters referred to an independent body, and then to advise the Government on action to be taken. When the Government took that position, rejected the recommendations of the committee, rejected the shift in policy of the Bill, and insisted on the policy of the Bill already agreed to in the other place and in the second reading debate in this House, it left members of the Legislation Committee to decide their positions. I do not speak for Hon Bill Stretch or Hon Ross Lightfoot, and neither should I, since their decisions are not challenged in the motion before us; I speak only for myself. I reviewed the alternative positions of the Legislation Committee and the Government, and debated them on at least three occasions with my colleagues. The debates on those occasions were vigorous debates in an intellectual sense - not in any physical sense - in which the alternative positions were argued. Having listened to and participated in that argument, I accepted the Government's position that the original policy of the Bill should prevail.

I would like to place on the public record and the *Hansard* record that at no time did any person apply any pressure in any form, covert or overt, upon me to conform to the Liberal Party position. It was my decision, arrived at of my own free will, having participated in the deliberations of the Legislation Committee, heard the legal advice given to the Legislation Committee, participated in the party room debates, heard the legal opinion of the party room debate, and listened to the alternative political positions. If I had believed at that time that the Liberal Party's decision was not a proper one, I would not have made the same decision. If I were asked to vote on that matter today, I would vote the way I would have voted had I been in the House at the time. That brings me to the matter of my absence from the House.

At 2.26 pm on 19 May I faxed from my office to the Government Whip, Hon Muriel Patterson, a request to be paired from the dinner break on Wednesday, 3 June. At 10.37 am on 23 May I received a fax in reply approving that pair. At 2.30 pm on Wednesday, 1 June I was advised by the Government Whip that I was paired for the whole day and did not have to remain in the Chamber if I chose not to. Three Opposition members - Hon Tom Stephens, Hon Mark Nevill, and Hon Bob Thomas - were elsewhere on parliamentary business, and three Government members had been paired to accommodate them. I was one of those three Government members paired for the whole day from 2.30 pm. I chose to remain in the House - no pressure was put on me - because my arrangement was to be in the House until the dinner break and to be elsewhere on parliamentary business after the dinner break. I chose to remain and not to vote on any of the matters which may have been voted on. At 4.00 pm I was advised by the Government Whip that the Leader of the House intended to bring on the Commission on Government Bill for debate at some time during that afternoon or evening. In fact, the Committee stage was brought on at 5.30 pm.

As Hon George Cash has already indicated by interjection, the motion to consider the report of the Legislation Committee was rejected, and the Leader of the House requested that the Bill in the form agreed to in the second reading debate be considered. There was no supplementary paper or notice of motion by any member to amend the Bill. To my knowledge - I may stand corrected - at no time during the Committee stage was an amendment moved. I participated in the debate for the first half hour, and at the dinner break I had to decide whether to honour my commitment in my electorate or to stay. The

passage of the Bill through the Committee stage was in the hands of the Leader of the House, as has been the case with every Bill dealt with in the 34 reports considered by this House, after they have been referred to the Legislation Committee. The only exceptions were two reports made by the Legislation Committee on Acts which were not subject to debate in this House. Never has a report of the Legislation Committee been debated. I refer honourable members to *Hansard* for confirmation of that.

I refer members in particular to the debate on the Port Kennedy Bill, during which all members of the Legislation Committee were present. In fact, the Chairman of the Legislation Committee at that time, Hon Garry Kelly, was also Chairman of Committees in the Legislative Council. As Chairman of Committees he could not participate in the debate and he left the Chair once to respond to a challenge I made that he had issued a press release and, in spite of my requests, had not given me a copy. He left the Chair to explain that he had told me copies of the press release were in the drawer of the desk in his office and I was free to take one. That was the sum total of his involvement in that debate. All other matters relating to that report on the Port Kennedy Bill were initiated by two members of the then opposition - Hon Peter Foss and me.

In retrospect, I regret that I was not present, and I regret that I stood by my pair. I would have enjoyed the debate and I would have voted with the Government. I would have done so of my own free will and with a clear conscience. The Legislation Committee had done its job conscientiously and had recommended amendments. Those recommendations were rejected by the Government because they were contrary to the policy of the Bill. The committee, having drawn the attention of the Government to the possible legal consequences of its legislation, must allow political decisions to be made by the Committee of the Whole House. I accept that, and the decision of my party, and I draw members' attention to paragraph 3 of the committee's report in which this is said -

> The committee believes, unless the House tells it otherwise, that part of its review of legislation is to draw to the attention of the House the committee's opinion about the necessity or otherwise of legislation referred. The House must then decide whether or not the legislation should proceed.

The committee, having made recommendations to amend or to alter the policy of the Bill, must then allow the House to decide. Because policy is essentially a matter of politics, the consideration of matters in the Legislation Committee is different from the political context of this House.

Hon Tom Helm: Did you ask the Minister for his opinion?

Hon DERRICK TOMLINSON: I did not have to ask the Minister because the policy of the Bill had been deliberated on in the party room at successive stages in the development of the Bill. I was aware of the policy of the Bill. I made clear the policy of the Bill in the Legislation Committee. I was conscious that the amendments of the Legislation Committee altered the policy of the Bill. When we debated the report within our party room the policy of the Bill was debated quite vigorously.

Hon Tom Helm: Before it came here?

Hon DERRICK TOMLINSON: Having debated it, having considered the alternatives, and the political context, every individual must make a conscience decision. I made a conscience decision, and my conscience is free about the decision I made. Hon John Halden has attacked on the basis of a newspaper report; I have presented the facts. It is up to the House to deliberate not on a newspaper report - we might as well deliberate on "Modesty Blaise" -

Hon John Halden: I believe in Modesty. She has credibility.

Hon DERRICK TOMLINSON: It is up to this House to deliberate upon the facts, and I have presented the facts to the House.

HON J.A. COWDELL (South West) [4.55 pm]: I always enjoy a speech by Hon Derrick Tomlinson, particularly as it bears on "Modesty Blaise", and on his own free will as we heard today.

Hon T.G. Butler: Particularly because they are so few and far between.

Hon N.D. Griffiths: If he had some free will, he would be sitting next to Hon Reg Davies.

Hon J.A. COWDELL: One always appreciates that in the speeches of Hon Derrick Tomlinson the louder he gets the less he says. As the speech continued he got louder and louder. However, to get back to some of the relevant points that were made, I did enjoy the dissertation on parliamentary privilege presented by the Chairman of our Standing Committee on Legislation. I would have looked forward to such a dissertation at the appropriate time when specified matter 19 came up. I am sure we would have all been edified by such a dissertation at that stage; however, other business precluded that. I did enjoy the dissertation on the role of the Supreme Court and why this should continue, and so on and so forth. His was a wide ranging speech winding up with an impassioned reference to "Modesty Blaise", and we all appreciate that.

I bring the attention of the House back to what happened to the report of the Legislation Committee. The Legislation Committee has been treated with contempt. As I look through the agenda of our committee, the level of that contempt is apparent in a number of ways, not all of which would be immediately apparent to the House. First, we have the sort of contempt shown by the referral of the Fisheries Management Bill to the Legislation Committee. This was a wonderful Bill, but we found that the Minister was conducting an inquiry at the same time as we were supposed to be conducting one. We found people coming along to talk to us who were participating in the ministerial inquiry. We found that the draft Bill we had before us was a ministerial idea which had not even been worked up into a final draft Bill. Here was the contempt of referring ideas to us.

Hon Tom Helm: So you could formulate policy; how nice.

Hon Derrick Tomlinson: Draw attention to that in your report too, Mr Cowdell.

Hon J.A. COWDELL: There was the contempt of the referral of Acts rather than Bills. In my innocence, perhaps, I did not appreciate how much influence one could have with Bills rather than Acts, but Government members of the committee soon pointed out to me that one could expect to have very little influence when an Act rather than a Bill came to a committee such as the Legislation Committee and that we should not be wasting our time on any Acts that were sent to us. This was a waste of the good time and energy of the Legislation Committee. Then, of course, we had referrals of the nature of the Strata Titles Bill. We more or less said, "What are we supposed to be doing here?" The answer was that the Minister wanted a little public feedback. The committee would place an advertisement in the newspaper to get some feedback, so that is our relevant role. These were all forms of contempt of the committee.

The Commission on Government Bill was both a contempt and a charade. It was referred to the committee as a Bill, but obviously with the intent, unstated, that the Government had no intention of allowing any change whatever. The Bill was still referred, when that was obviously the intent of the Government. Its having been referred to us, the committee came down with a series of unanimous recommendations. This Chamber, in the absence of the chairman of the committee, overthrew the unanimous recommendations of the committee. They were overthrown with two of the government members of the committee voting against their own recommendations on the floor of the Chamber. This was the contempt that broke the camel's back with respect to the Legislation Committee.

[Continued on p.1523.]

[Questions without notice taken.]

MINISTERIAL STATEMENT - MINISTER FOR FAIR TRADING

Uniform Credit Legislation

HON PETER FOSS (East Metropolitan - Minister for Fair Trading) [5.35 pm]: I seek leave to make a statement about uniform credit legislation.

Hon JOHN HALDEN: I understand that we are in the middle of a debate. I am happy to grant leave at some time after the debate.

The PRESIDENT: Order! The member can vote against it.

Hon John Halden: I do not want the Minister to be offended.

The PRESIDENT: I do not want to influence members' decisions, but it is not uncommon to seek leave on a matter when changing from questions without notice to other business.

Leave granted.

Hon PETER FOSS: Since 1987 all Australian jurisdictions have been working on the development of new, simpler uniform credit legislation. In 1984 some states, including Western Australia, enacted their existing credit legislation which applies to contracts for personal borrowings under $20 000. This legislation has been widely perceived as complex, difficult for consumers to understand and burdensome to industry.

The joint national development of new credit legislation is reflected in a uniformity agreement between the states entered into in 1993. By that agreement, first, Queensland will enact a new Credit Act in a form approved by all jurisdictions. Second, other jurisdictions will either enact application of laws legislation which will have the effect of adopting the Queensland Act or pass alternative consistent legislation. Third, amendments to the Queensland legislation will not be possible unless the Ministerial Council on Consumers Affairs authorises such amendments by a majority vote. Fourth, jurisdictions which enact alternative consistent legislation undertake that their legislation will be consistent with the Queensland legislation at the outset, although it need not be exactly coextensive. Western Australia has chosen to enact alternative consistent legislation. The implications of this are that the degree of regulation imposed by the Western Australian legislation may be less than that imposed elsewhere, but where the alternative consistent legislation regulates a matter it must do so in the same way as the uniform legislation.

Two concerns have arisen for Western Australia in choosing the path taken; namely, first, the uncertainty that purely national regulation will be sufficiently responsive to local concerns; and second, the very substantial caution evident in the reports of the Edwardes select committee and the current Standing Committee on Uniform Legislation and Intergovernmental Agreements towards development of uniform legislation schemes. Nationally, governments have set themselves a timetable reflected in the uniformity agreement for the enactment of the credit legislation. In summary, the timetable requires initial enactment by Queensland, with other states, including Western Australia, to follow within six months of the passage of the Queensland legislation. Practical concerns have delayed the Queensland legislation so that it now appears that Queensland will require until 1 September 1994 to pass its Bill. Other states, including Western Australia, will be required to follow by 1 March 1995. Western Australian legislation has not yet been prepared because of the delay in the provision of a draft of the Bill to be presented in the other states. I have now received a copy of the proposed Queensland Bill, which I seek leave to table.

Leave granted. [See paper No 106.]

Consideration of the statement made an order of the day for the next sitting.

MOTION - TOMLINSON, HON DERRICK, CHAIRMAN OF STANDING COMMITTEE ON LEGISLATION, REMOVAL

Resumed from an earlier stage of the sitting.

HON J.A. COWDELL (South West) [5.38 pm]: The Legislation Committee has been held in contempt. I referred earlier to Green Paper referrals, set-in-concrete Act referrals, and ministerial survey referrals all showing contempt for the committee. Of course, the overthrow of the unanimous recommendation of the committee recently witnessed was the most contemptuous treatment of that committee. That was made worse by not only

the chairman's failure to put the committee's point of view, but also his repudiation of those views after he had signed and supported those unanimous views.

Interestingly, the chairman pointed out in his explanation that he had managed to come by further information after the committee had deliberated. This information had brought home to him, and presumably his government colleagues on the committee, the need to change his mind. It is a pity that opposition members of the committee were not privy to that information which came to light. Could it not have been put to the opposition members of the committee prior to the committee's recommendation? Reference was also made to a new legal opinion received by the Government. Once again, it is a pity that this legal opinion was brought to the attention of government members of the Legislation Committee at a date subsequent to the committee's report. As I recall - I might be mistaken - we did ask whether the Government had a legal opinion about this matter which might help us in our deliberations, and we were told the Government was not willing to give us its legal opinion, if it had one. It is regrettable that all of the members of the committee were not in a position to be acquainted with those latter day Government views or opinions.

The impact of the defeat on the floor of the House of a unanimous committee recommendation is deplorable, particularly when we look at its effect on the Legislation Committee and the committee system. The Legislation Committee was working well. No disputed elections for chairman or deputy were referred to this House for resolution or otherwise. There were no adversarial contests in the committee based on party lines. There was lengthy and diligent discussion of Bills, and considered reports. All the members of the committee should be complimented on that effort. However, we now have the situation where the Legislation Committee is in a malaise. The committee agreed at its last meeting that the chairman would, in due course, report to the House, stating that the committee would not proceed with the Acts and Bills before it, with the exception of the workers' compensation legislation, until such time as the committee was reconstituted.

Hon Derrick Tomlinson: Would you like to explain why?

Hon J.A. COWDELL: There were a number of factors, and I am sure others will speak on this matter, but it was the unanimous view of the committee that we would not proceed. One very relevant factor was that we had just spent 13 hours over eight days to reach a consensus, in the main, on the Commission on Government Bill, and that had been overthrown on the floor of the Chamber; therefore, we needed clarification about the other items that were on our agenda. One example is the committee's consideration of the Workers' Compensation and Rehabilitation Amendment Act, where, on my calculations, the committee has spent 40 or 50 hours in considering a refinement of the conciliation procedure. The committee has gone to conciliation and review hearings in Western Australia, and to Victoria to look at the procedure in that jurisdiction, and it has come forward with a range of considered recommendations in regard to conciliation.

Other important factors have been considered by the committee. Why are the Western Australian workers' compensation insurance premiums the highest in the country? Our premiums, of between 3.2 per cent and 4 per cent - no-one can get any official figures out of the system - are treated by the Victorians as a joke. Another important area which the committee has been considering is occupational health and safety, which should be dealt with as part of a changing ethos in workers' compensation. Those are important areas for further consideration.

I speak as one member of that committee, but not as a sole voice in this regard, and we said, "Shove it. If we have gone to all this trouble to get consensus on one issue, look at what happened to the last consensus finding, so why bother? Let us end it here. We are not going to spend another 40 or 50 hours on each workers' compensation term of reference to come up with the best opinion. We will recommend that the Government look into it in greater detail itself. We will not proceed to do it ourselves."

The Legislation Committee has been affected by the rejection by this Chamber of a unanimous recommendation. Of course, other factors determine the view of the

Legislation Committee, including the possible reconstitution and expansion of that committee. But we need reform. We need not just a new chairman. We need some equity in representation and in the chairing of committees. We need greater allocation of time, resources and status by this House. These are the paramount requirements. We need a meaningful role - not the consideration of Green Papers or ideas, for which we do not have a brief; not the consideration of Acts which are set in concrete; not acting merely as a ministerial survey unit; and certainly not a cavalier rejection of a unanimous recommendation of this committee.

HON P.R. LIGHTFOOT (North Metropolitan) [5.46 pm]: I did speak somewhat briefly last week on the substance of this motion.

Hon John Halden: You mean the second best legislation.

Hon P.R. LIGHTFOOT: At the end of the day, we will have an official vote about whether the Chairman of the Legislation Committee should remain or go. I do not think the so-called repudiation of the potential recommendations of the Legislation Committee is all that serious, to the degree that because that happened, we should necessarily replace the chairman of that committee. I have some empathy with Hon John Cowdell - I hope that does not condemn him to a political Bastille - because I too find the situation somewhat frustrating. The Legislation Committee has gone through what I consider to be a very worthwhile exercise, where all five members of the committee have served aspirations which I think the late Hon Bob Pike would have considered to be of a worthwhile nature. We all have had some input that has been documented and acknowledged to be of substance. However, at the end of the day, it is this Chamber which has to decide whether that is of substance and is of benefit to this House and, ultimately, to the people of Western Australia. I remind the House that there was a unanimous vote to accept the Commission on Government Bill. No-one from this or the other side crossed the floor. One could say that tactically no-one was in a position to do that, and I agree, but the freedom to use one's feet was still there. The choice was made by everyone on that side, as consciously as it was made by everyone on this side, to support the Bill in its present, unamended form. That is the way of the committee.

Hon John Halden: How can you say that? We had not gone through the Committee stage.

Hon P.R. LIGHTFOOT: It may not be what we consider to be the best way or the ultimate end of our recommendations. I would not wish those recommendations had found that end, but when the House decided that that was the way to go, that was the end of the matter, because the committee was set up to advise and to recommend to this House. The committee is not a dictatorial group of people; it is an advisory panel that recommends to the House a certain course. If this House decides not to take that course, that is no call to replace the chairman. I think members will agree that the chairman of that committee may be described as perhaps a lumbering giant of a man with a voice to match. That is not a bad start for a chairman.

Hon John Halden: I think he is embarrassed already. You had better sit down quickly.

Hon P.R. LIGHTFOOT: I think members will agree that the chairman of that committee is articulate. Members will agree that when he speaks, some members opposite slump down in their seats - not because of the decibels of his voice but because of what he has to say - to try to get away from the penetrating voice of Hon Derrick Tomlinson. Members will also find unanimously that Hon Derrick Tomlinson conducts himself with dignity, and with the respect of both sides of politics of which the committee is composed. I see no reason to support the motion to remove the chairman.

Further to that, I did a straw poll among members and I found there were - not surprisingly - sufficient members on the committee to replace the chairman.

Hon T.G. Butler: That is interesting.

Hon P.R. LIGHTFOOT: If the Leader of the Opposition had come to me and asked whether the Chairman of the Legislation Committee should be replaced, I would have answered that I had conducted a straw poll and that in no way in the world would he be

replaced. In that circumstance, we would have saved hours of debate in this place. I regret there is no cross-fertilisation - if I may use that term - of ideas that allows the breakdown of this adversarial position that the Opposition always adopts. We try at times to penetrate and break down that position but it does not happen.

Hon John Halden: Oh dear, are we doing that?

Hon P.R. LIGHTFOOT: I remind the House that it voted unanimously, if I remember correctly, for the Commission on Government Bill in its unamended form.

Hon Tom Helm: And the committee voted that way also.

Hon John Halden: Oops, one to Tom Helm. Liverpool 1, Australia nil.

Hon P.R. LIGHTFOOT: I thought I heard Hon Tom Helm say that the committee voted unanimously too. That is not quite right. I think there was broad consensus of opinion on the committee about the two sections that had caused so much chagrin on both sides of the House; that is, the recommendations to replace section 5(a), (b) and (c) and section 19 of the schedule.

It is a pity he is out on urgent parliamentary business at the moment, but Hon John Cowdell referred inter alia to the legal advice that we had. We did not ignore the legal advice. In fact, Parliamentary Counsel serving the committee asked the Solicitor General for advice, or at least put the matter to him, and because of the lead time that the Solicitor General needed to bring down that advice the whole committee decided that the Parliamentary Counsel should opt for advice from other appropriate counsel. We agreed to that. A name was promoted, and we agreed to that. There was no dissent. That ultimate advice came from the eminent Dr Stephen Churches who is held in some esteem -

Hon A.J.G. MacTiernan: You should have taken his advice on Mabo. It was different advice.

Hon P.R. LIGHTFOOT: It may be of interest to Hon Alannah MacTiernan that the subject before the House is to remove the chairman. We have not considered anything on Mabo today.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon P.R. LIGHTFOOT: The Commission on Government Bill was overthrown on the floor of this Chamber; it was not overthrown by the chairman. It mattered not one iota that he was properly paired for the night, and had been prior to the matter coming before this place. The Bill was overthrown on the floor of this House. That is the process with these Bills.

Hon John Halden: Thank you, boss. I am so pleased you have told me.

Hon P.R. LIGHTFOOT: I prefer Bills to go before the committee as Bills, not as Acts. Bills come before the committee at the direction of this House, and the committee considers the Bills/Acts and recommends to this House acceptance, rejection, or alteration etc. When the proposed alterations to the Commission on Government Bill came before this House, this House did not accept them. It was not the chairman of the committee, the Leader of the House, or anyone on this side of the House who did that unilaterally; it was done by a consensus of the House. At the vote, there was not one dissentient voice or hand raised. Now, after all members have given permission to agree to the Bill without alteration, the Opposition has the audacity to say that the chairman should be replaced!

Hon Tom Helm: You are getting very loud.

Hon P.R. LIGHTFOOT: This is absolutely and totally ridiculous. It is out of kilter with what I call normal. Members opposite cannot tell me they can vote for something on a consensus basis, with not one dissentient voice, not one pink hand raised, and then spit the dummy and say that the chairman should be sacked - when members voted for the very thing that they say he should be sacked for!

Hon T.G. Butler: Did we try to amend it?

Hon P.R. LIGHTFOOT: It is most unfair, inappropriate and un-Australian to do that sort of thing.

Hon John Halden: Like soccer, and blacks and women - if you think that is most un-Australian!

Hon P.R. LIGHTFOOT: The Leader of the Opposition should keep that sort of bigotry to himself. I do not know that that is the case.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon P.R. LIGHTFOOT: If the Leader of the Opposition thinks that women, blacks and soccer are un-Australian he should rightly and properly keep that to himself.

Hon E.J. Charlton: He should apologise.

Hon P.R. LIGHTFOOT: He should apologise. I give him the opportunity to apologise to those people he has insulted.

The DEPUTY PRESIDENT (Hon Barry House): Order! All comments should be restricted to the motion before the Chair.

Hon P.R. LIGHTFOOT: The committee does work. The Workers' Compensation and Rehabilitation Amendment Act, for which we travelled to Melbourne and collated so much material, demonstrated that the committee definitely works. The committee works because its members genuinely want it to work, because it has the guidance of a good, solid, unbiased chairman who acts in a most bipartisan manner.

Hon John Halden: And who votes with his mates. What a lot of rot!

Hon P.R. LIGHTFOOT: I totally reject the motion before the Chair.

Sitting suspended from 6.00 to 7.30 pm

HON TOM HELM (Mining and Pastoral) [7.30 pm]: I will not take much of the time of the House, but I want to share some of the difficulties I had as Chairman of the Standing Committee on Delegated Legislation when it came to talking to Ministers and my parliamentary Caucus colleagues. Members in this place should be aware of the time I went before Cabinet and approached various Ministers to talk about things they said were policy rather than things that were charged to the Standing Committee on Delegated Legislation. One of the matters I had a major problem with on behalf of the committee was the INREP proposal and a proposal by the courts to increase charges to pay for a computer system and to upgrade their equipment. Hon David Smith strongly argued with me that it was a policy matter. I did not just accept what the Minister said. The committee charged me with moving to disallow the regulations which provided for charges to be increased. We could not drop the argument because of a so-called policy matter. It probably was policy, but one cannot hide from one's job because someone says something is policy.

Hon John Halden: The committee did not think that.

Hon TOM HELM: No; it did not. That would have been breaking the charge the committee had to inform Cabinet that it would not ride roughshod over this Parliament or its committee. We would not allow Cabinet to tell us differently from what we thought was the right thing to do on behalf of the Parliament.

The Chairman of the Standing Committee on Delegated Legislation, Hon Bruce Donaldson, has had the same difficulty as I had when I was chairman. He did not run and hide; he moved on behalf of the committee to have a regulation disallowed about which the Minister for Health was not pleased. The committee gave him that responsibility. Both the present chairman, and I hope the previous chairman, took the job seriously. We pursued the matter completely because that was what the committee decided to do.

One cannot take on board the issues referred to by Hon Ross Lightfoot, who I notice is away from the Chamber on urgent business at present.

Hon John Halden: Whom is he talking to - *Playboy* magazine or the *Sunday Times*?

Hon TOM HELM: I do not think he will be talking to the ABC!

He referred to what action the committee took regarding, for example, specified matter 19. One cannot have a selective memory in these matters.

Hon Doug Wenn: Is that whom you call "second best Ross"?

Hon TOM HELM: Things we say are recorded by *Hansard*. It will be recorded that we on this side of the Chamber argued very strongly that the Commission on Government Bill should be amended. The reason we were happy with the amendment not taking place was that we thought the Standing Committee on Legislation would see the arguments we put forward and agree with us. And it did; it agreed that the Bill should be amended to reflect the arguments put forward on this side of the Chamber. Members cannot agree with us along those lines, and then say that the policy of the Executive was that those amendments should not take place. Irrespective of what excuses members trot out for that, they damage their integrity if they do not take heed of what a committee is trying to tell them.

The thrust of the Delegated Legislation Committee, as with the Legislation Committee, is to put some checks on the Executive. It should be aware that those committees are not there to cause difficulties, but to fulfil an educational role. The Delegated Legislation Committee, with some measure of success but not as much as we wanted, tried to explain to Ministers, their departments and the Executive that we are the Parliament. As Hon Derrick Tomlinson told us, the final determiner is the Parliament. If the Parliament decides to elect the committee to take the weight of some responsibilities off the shoulders of members of Parliament, we must deal with matters with integrity and pursue, as strongly as possible, the will and wishes of the committee.

In winding up, I remind the House of the newspaper article of the week before last regarding the proposal for the Standing Committee on Delegated Legislation to travel overseas. Members of committees of this Parliament must do their job to the best of their ability. We must give them our faith and trust. We must elect people to committees who will do the right thing and, by the same token, we are obliged to give them all the facilities they think they need to carry out the task. It will denigrate the committee system to have among members elected to them chairmen who cannot do their job. If they cannot do their job, they should resign.

On a number of occasions I put it to Caucus that if members thought the committee made a wrong decision and that I would change my mind because of any covert or overt threat, I would resign and it would have to replace me with someone else. It never came to that because both Cabinet and Caucus agreed with what I did. They gave me that responsibility and I did not let them down. The Chamber is well aware of the number of times - even when I tried to keep it a secret - that I was called before Cabinet to talk to Ministers at some length. That situation can often place one in a very difficult position and give one no choice but to resign.

With those few words I put it to the House that the motion is the proper thing to ask for. If any member, including the chairman, cannot carry out the tasks which he has been assigned, he should resign.

HON W.N. STRETCH (South West) [7.38 pm]: It is probably no surprise to the House that I oppose this motion totally and I very much regret it has been brought to the House. I express my total support for Hon Derrick Tomlinson as Chairman of the Standing Committee on Legislation. He has great integrity and is fair, intelligent, very competent, trustworthy and eloquent. That is verified by the fact he was elected to the position of chairman unopposed.

The report brought to this House was drawn up fairly and after much research and care and involved a great deal of time, effort and travel by the members of that committee. I

do not believe it is Holy Writ; I believe it is collected evidence and was put before the House to be judged by the House, as is proper.

Hon Tom Helm: And to make recommendations.

Hon W.N. STRETCH: Hon Tom Helm should not be too impatient; I agree with most of what he said. It was put before the House in good faith and, as I said, the House made its judgment without opposition. It was carried through this House. Much has been made of it and, quite frankly, it is a load of nonsense.

This is an absolute beat-up. The role of the Commission on Government has also been beaten up by the Opposition's bleating to the media. It is an advisory committee to the Government on what steps will be taken next in prosecutions. It is no Holy Writ either; nor is it a watchdog, toothless or toothed. We wonder why the institution of Parliament is falling into disrepute. I believe it is because of such blatant, crass stunts as this. Opposition members supported the election of that chairman. They supported the findings contained in the report. Their evidence was put before the House along with everyone else's. The House chose to ignore it. As I have often said in this place, one of the advantages, or possibly disadvantages, of old age is that one sees many of these things go past; one serves on many committees and sees much of what one believes to be good and sound advice discarded. Having it discarded is no excuse to spit the dummy or take the bat and ball and go home. I have never heard of anything so childish, immature and totally unworthy of parliamentarians as to boycott committees. Opposition members will find as they spend longer in this House that they will win a few and lose a few.

Hon John Halden: They may be your values, but they are not ours.

Hon W.N. STRETCH: They are my values.

Hon John Halden: I assure you that they have never been ours because we've never had the numbers in this place. The system in this place is forever.

Hon W.N. STRETCH: What an absurd statement. All Hon John Halden can do is laugh because he has no other defence.

Hon John Halden: You're a fool.

Withdrawal of Remark

Hon W.N. STRETCH: I ask that the member withdraw that comment.

The PRESIDENT: The honourable member cannot call another member a fool.

Hon JOHN HALDEN: I withdraw.

Debate Resumed

Hon W.N. STRETCH: We are always entitled to put our views in this place without the criticism of people who happen to disagree with us. That is what this debate is all about. Until we approach our responsibilities on committees and on the floor of the Chamber with balance and a mature attitude we will never earn the respect of the public or the Press. We have wasted far too much time on this debate already. It is unworthy of the work we have put in unilaterally on committees such as this. It is an insult to the whole process. I sincerely support Hon Derrick Tomlinson and I ask the House to reject this ridiculous motion.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [7.42 pm]: Today I have heard government members defend Hon Derrick Tomlinson. The last speech was the greatest lot of crocodile tears I have ever had the misfortune to sit through. I may have made an unfortunate unparliamentary comment, which I withdrew, but if I have ever had to listen to rubbish in my life, it was the previous speech. One can say no more than that. I will return to where I started in this debate.

Hon P.R. Lightfoot: You seem to be going around in circles.

Hon Tom Helm: He's back.

Hon JOHN HALDEN: Indeed, he is here. I started from the position that to be

chairperson of a committee of this House one required an ability to lead, provide guidance and uphold the duties and responsibilities of the role for which one was elected. I quoted from the words of the chairperson of the Standing Committee on Legislation in media statements. So that members are clear about this matter I remind them that the article in *The West Australian* states -

> But a Liberal MP who chaired the committee yesterday conceded he agreed with the Opposition's view that there was room for an investigation into the rule and that he had voted with his Liberal colleagues merely to maintain party solidarity.

Having voted for the Bill to include section 19 in the schedule, the chairperson then voted with his colleagues to, as he said, exclude section 19. He then said in another press statement that had he been in the Chamber he would have voted for the Government to include section 19. I am at a loss to see how that reflects leadership. I am at a loss if the chairperson -

Hon P.R. Lightfoot: If you're going to quote him, he's the chairman.

Hon Graham Edwards: He is still a person.

Hon P.R. Lightfoot: I'm not denying that. He is a good person, but he is the chairman.

Hon Graham Edwards: But he is a person.

The PRESIDENT: Order!

Hon JOHN HALDEN: In that continual changing of position it could never be said that Hon Derrick Tomlinson displayed those sorts of qualities. It is interesting that in debate in this place members opposite, including Hon Derrick Tomlinson, did not want to refer to this matter and paid glib regard to why the member had said that. A dissertation was given about parliamentary privilege and what was and was not policy; however, we never had any argument about this matter. By way of endeavouring to put down the press comment, Hon Derrick Tomlinson made the comment that *The West Australian* - I may be quoting him out of context - probably had as much reliability as "Modesty Blaise".

Hon Derrick Tomlinson: You are quoting me out of context.

Hon JOHN HALDEN: I am not sure of the member's exact words but I am sure that was the member's intention.

Hon P.R. Lightfoot: It is a contradiction to say "out of context" and "quoting".

The PRESIDENT: Order! The honourable member is not allowed to read newspapers or magazines in the Chamber.

Hon P.R. Lightfoot: It is a science magazine. I thought it may have assisted in the debate.

The PRESIDENT: For the benefit of members who have not heard my words of wisdom about this matter, the rule is that members cannot read newspapers, magazines or anything else that does not have something to do with the matter before the Chamber. Frequently the President does not know what is in the article a member is reading; therefore, many people are not called upon to stop reading. However, I clearly pointed out to the member that he was transgressing. If he said to me that the magazine contained something to do with what we are talking about now he would still be able to read it. He can read it when we get on to the science Bill.

Hon Graham Edwards: We would encourage him to!

Hon JOHN HALDEN: The point I was endeavouring to make before the inane interjection from Hon Ross Lightfoot was that we have not had a repudiation of those comments from Hon Derrick Tomlinson. No comment has been made about the accuracy of the reporting of those remarks. It is clear from what is on the record in *The West Australian* that the opportunity is being provided to Hon Derrick Tomlinson for us to believe now that exactly what I suggested earlier this evening did happen. Hon Derrick Tomlinson also proffered by way of defence the point that section 19 in the schedule was a policy matter and whether it stayed in was not within the ambit of the

committee's responsibilities. As the member said, the policy of the Bill had been discussed in this House and members had agreed with the overall concept that there should be a Commission on Government and it should be established as soon as possible. Within the Bill were the COG's terms of reference, not the policy of the Bill; the policy of the Bill was the establishment of the COG. To try to divert attention from the fact that the committee was discussing policy rather than a point within the schedule of the Bill, is to try to again deflect responsibility from where it really lies. I do not think that in a more enlightened moment the member, or anyone else, would honestly suggest that clause 19 of the schedule was the central policy of the Bill.

I clearly remember the contribution by Hon Ross Lightfoot when the Bill was being debated in this House because it was significant. I am sure the Leader of the House was particularly pleased he made it and it is one I will remember for some time. The words he used were , "This House is passing the second-best legislation." They were his words; no-one else's words.

Hon P.R. Lightfoot: I do not resile from that.

Hon JOHN HALDEN: The member should read *Hansard.* His having said that, any defence by Hon Ross Lightfoot must be questioned.

I could go through some of the remarks made by Hon Bill Stretch, but in all honesty I do not have very much to comment upon. However, it is interesting to note that he did say that a chairperson should have integrity and be fair, trustworthy, eloquent and competent. I ask the member to reflect upon his words especially "integrity, fair and competent" in conjunction with his comment that he agreed with the Opposition's view that there was room for investigation into the rule. In spite of his view he voted with his Liberal colleagues on the committee. I believe he did that to maintain party solidarity. It was a good try and on some occasions in this House members must defend the indefensible. However, a person who makes that kind of statement does not have too much integrity. It is not fair in terms of the committee or this House and it does not necessarily reflect the ability of someone who is competent in his job, particularly when that statement is compared with some of the statements made about the problems Hon Tom Helm had when he was chairperson of a committee of this House.

The criteria I laid down in this motion have not been challenged by members opposite as indefensible, inexcusable, outrageous or, in any way, outside normal expectations. It can only be said, when one refers to the words the member used - words which were unchallenged and reported - that this member has not led this committee with any great skill. He has provided no guidance and little or no leadership and has been derelict in his duties to the committee and to this House. Any objective assessment would come to that point of view.

Clearly, based on the comments by members opposite, the Government will use its numbers when voting on this motion. The Opposition is used to that situation and if Hon Bill Stretch thinks the Opposition will not, to use his words, spit the dummy again or revert to using this tactic, he is living in a fool's paradise. Every time members opposite, who are great advocates of the system, advance the rorting of the electoral boundaries in this system and sit there piously criticising the Opposition thinking they will get away with their behaviour to the nth degree, they are wrong. The Opposition will take every opportunity it has to point out to this House that a person has behaved in a manner which is not becoming of a chairperson of a committee of this House. I hope all members will support this motion.

Question put and a division taken with the following result -

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Ayes (12)

Hon T.G. Butler	Hon N.D. Griffiths	Hon Tom Stephens
Hon Kim Chance	Hon John Halden	Hon Bob Thomas
Hon J.A. Cowdell	Hon A.J.G. MacTiernan	Hon Doug Wenn
Hon Graham Edwards	Hon Sam Piantadosi	Hon Tom Helm *(Teller)*

Noes (18)

Hon George Cash	Hon Peter Foss	Hon N.F. Moore
Hon E.J. Charlton	Hon Barry House	Hon M.D. Nixon
Hon M.J. Criddle	Hon P.R. Lightfoot	Hon B.M. Scott
Hon Reg Davies	Hon P.H. Lockyer	Hon W.N. Stretch
Hon B.K. Donaldson	Hon I.D. MacLean	Hon Derrick Tomlinson
Hon Max Evans	Hon Murray Montgomery	Hon Muriel Patterson *(Teller)*

Question thus negatived.

IRON ORE PROCESSING (BHP MINERALS) AGREEMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon George Cash (Leader of the House), read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [8.01 pm]: I move -

That the Bill be now read a second time.

Towards the end of the 1993 election campaign, the previous government announced that it had agreed to discharge all of BHP's processing obligations under four separate agreements, in return for the construction of the Pilbara energy project. Upon attaining government, this decision was reviewed by us and we found that Cabinet had formally agreed only to discharge the Mt Newman obligations, and BHP had that decision conveyed to it in writing. It was considered that the announced extension of the discharge was not binding, and our review convinced us that the economic benefit to the state of the Pilbara energy project did not warrant the total discharge of BHP's processing obligations under the four agreement Acts. Accordingly, negotiations were opened with BHP to establish an agreed position on the issue and concluded in the third quarter of 1993. By agreement early in the process, BHP continued with its work on the Pilbara energy project so that its implementation would not be delayed. This remains the case.

Members will recall that during the second reading of the Pilbara Energy Project Agreement Bill 1993, the Minister for Resources Development referred to a ministerial statement he made to the House on 23 September 1993. This statement detailed the understandings reached with BHP, which provided for -

(1) The construction of the Pilbara energy project under a new state agreement, which would discharge the steel making obligation contained in the Iron Ore (Mount Newman) Agreement; and

(2) An obligation for BHP to enter into a new processing agreement in exchange for the deletion of processing obligations under the Iron Ore (Mount Goldsworthy) Agreement Act; Iron Ore (McCamey's Monster) Agreement Authorization Act; and the Iron Ore (Marillana Creek) Agreement Act.

The Minister for Resources Development indicated at that time that these arrangements were acceptable to BHP, and provided Western Australia with much greater economic benefits than were negotiated and proposed by the previous government. I am now pleased to be able to bring the second part of the rationalisation of BHP's iron ore processing obligations under the various state agreements to Parliament.

This Government has received criticism for not introducing the BHP processing agreement at the same time as the Pilbara Energy Project Agreement Bill. This point requires clarification. The decision to introduce the processing and consequential iron ore agreement amendments at a later date was not the Government's alone. BHP advised that its priority was to conclude the Pilbara energy project ahead of the goldfields gas pipeline and processing agreements. However, I point out that this Government has managed to introduce the Pilbara energy project, the goldfields gas pipeline project and the BHP processing agreement and associated variations all in the first session of the

thirty-fourth Parliament. This is a noteworthy achievement, given that the three have involved seven separate agreements and break new ground in many places. The negotiations have been complex and, at times, exhausting. It is appropriate that I should pay tribute to the negotiators on both sides who have worked hard and long to develop the various agreements now before Parliament.

Turning now to the Bill dealing with the processing agreement, the purpose of this Bill is to ratify an agreement dated 31 March 1994 between the State and BHP Minerals Pty Ltd for the establishment of processing facilities or alternative investments at a cost of $400m in 1993 dollars. Consistent with the earlier ministerial statement by the Minister for Resources Development, this Bill consolidates BHP's outstanding processing obligations under the Mt Goldsworthy, McCamey's Monster and Marillana Creek iron ore agreements, into a new separate state agreement. The processing agreement specifies a benchmark value for BHP to reach. The company has an obligation to spend $400m in 1993 dollars on the further processing of iron ore. Reference was made to the processing agreement in the second reading speech for the Pilbara energy project Bill, whereby it was indicated that the benchmark would be $400m worth of investment or a four million tonne per annum sinter plant, whichever was greater. The notion of a sinter plant was dropped because of the complexities of defining such a facility under the processing agreement. However, the $400m benchmark would be the greater of the two in any event, so nothing has been lost by the change. The agreement defines further processing to include the production of iron and steel, direct reduced iron, hot briquetted iron, iron carbide, sinter or pellets. Until BHP has fully discharged its obligation under the processing agreement, it will be restricted in its ability to expand the capacity of iron ore operations under the Mt Goldsworthy, McCamey's Monster, and Marillana Creek agreements beyond prescribed tonnage limitations. The processing agreement itself does not provide for tonnage limitations, as they are contained in the three consequential iron ore agreement amendments.

I do not intend to discuss the tonnage limitations any further, as these will be addressed by the three agreement amendments I will introduce next. I do, however, make the comment that the tonnage limitations provide BHP with a very strong incentive to quickly establish further processing facilities within Western Australia. The agreement contains a requirement for the company to conduct ongoing investigations into the feasibility of further processing of iron ore. The agreement also enables BHP to propose alternative investments in lieu of further processing. Such a provision has been inserted to cover future circumstances, whereby processing may not be technically or economically feasible and a Pilbara energy type project may be an alternative. I point out, however, that before the company substitutes any alternative investments, it must first obtain the approval of the Minister for Resources Development.

As with all state agreement Acts, the company is required to submit development proposals. However, unlike other agreements, the processing agreement does not contain a date by which further processing or alternative investment proposals are to be submitted or implemented. The rationale for not including a specific time frame is due to the tonnage limitations which exist under the three separate BHP iron ore agreements. If BHP does not meet the investment benchmark, then the capacity levels under the agreements can be frozen at approved levels. It is considered that the requirement to obtain state approval before any expansions can occur beyond approved tonnages is a much stronger requirement than an arbitrary date which can be continuously extended. The agreement has been structured to facilitate the construction phases of a project or projects, but provides flexibility to be used as an operating agreement if that is required. No construction activities can occur until the Minister for Resources Development has approved proposals, subject to the Environmental Protection Act and the laws relating to traditional usage. Matters to be addressed under proposals include -

> The construction of iron ore further processing facilities or alternative investments;
>
> an environmental management program as to measures taken in respect of the company's activities; and

the use of local labour, professional services, manufacturers, supply contractors and materials.

I now turn to the specific provisions of the agreement schedule to the Bill before the House. Under clause 5 the company must continue its ongoing investigations into the economic and technical feasibility of further processing. The clause also enables the state to undertake its own studies, with the assistance of BHP, if required. Clause 5 also enables BHP to propose alternative investments.

Clause 7 provides for the consideration of proposals submitted pursuant to clause 6. Upon receipt of proposals, the Minister, subject to the Environmental Protection Act and laws relating to traditional usage may -

approve the proposals wholly or in part; or

defer a decision until such time as the company submits further proposals; or

require a condition precedent prior to the giving of approval.

The company is to be notified by the state of a decision in respect of the proposals within two months of compliance with the requirements of the Environmental Protection Act and laws relating to traditional usage.

Clause 8 provides for the grant of leases, licences and other titles for the project, provided such grant is in accordance with the Environmental Protection Authority, laws relating to traditional usage and the approval proposals.

Under clause 9, BHP, at the request of the Minister for Resources Development, is required to submit reports on the rehabilitation, protection and management of the environment. The Minister may, within two months of receipt of such a report, request amendment to the report or environmental program. In addition, the Minister can require the submission of additional detailed proposals for the rehabilitation, protection and management of the environment.

Clause 27 provides for the determination by the state and BHP of the costs involved in an approved project. The purpose of this clause is to enable the state and the company to establish the amount of any outstanding remaining obligation and to determine when the obligation has been discharged in full.

Clause 28 states that the term of the processing agreement will be either the date on which the last dollar of the $400m has been spent, or 60 years after the first grant of any lease or licence, whichever is the later. Other provisions within the processing agreement are of a nature standard to those contained in other existing state agreements and do not require any additional comment.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

ACTS AMENDMENT (MOUNT GOLDSWORTHY, McCAMEY'S MONSTER AND MARILLANA CREEK IRON ORE AGREEMENTS) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon George Cash (Leader of the House), read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [8.11 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to ratify three separate agreement amendments dated 31 March 1994. The first is the Mt Goldsworthy agreement amendment. This agreement is between the State, BHP Iron Ore Pty Ltd, BHP Australia Coal Pty Ltd, CI Minerals Pty Ltd and Mitsui Iron Ore Corporation Pty Ltd. The second is the McCamey's Monster

agreement amendment, which is between the State and BHP Iron Ore (Jimblebar) Pty Ltd. The third agreement amendment contained in the Bill is the Marillana Creek agreement amendment. This agreement is between the State and BHP Minerals Pty Ltd.

In September 1993 the Government announced a complete rationalisation of BHP's processing obligations under various State agreements. This restructure has taken the form of -

the establishment of the Pilbara energy project under a new State agreement;

a consequential amendment to the Iron Ore (Mount Newman) Agreement which provides for the deletion of processing obligations under that agreement in exchange for the establishment of the Pilbara energy project; and

the removal of processing obligations from the Mt Goldsworthy, McCamey's Monster and Marillana Creek iron ore agreements in exchange for the imposition of a new processing obligation contained in a new State agreement.

The three agreement amendments before the House complete this restructure.

The key feature of all three agreement amendments is that each has a new provision which provides for limits upon mining. The tonnage limitation provision contained in each agreement is quite complex because of the interrelationships between each other and the iron ore processing agreement. To assist in explaining how the tonnage restrictions will apply, I table a flow diagram.

[See paper No 107.]

Hon GEORGE CASH: Members should note that the flow diagram does not form part of any of the three agreement amendments, but is used merely for explanatory purposes.

As the flow diagram shows, at point (1) BHP must inform the State of its intention to expand any of the iron ore mines. If the processing agreement is discharged at point (2), BHP may proceed directly to submit proposals, see point (3). If not, BHP must be in compliance with the processing agreement to proceed further, refer point (4). If BHP is in compliance then, depending on the capacity involved, it may be able to go directly to additional proposals, point (5), or may trigger point (6), a review by the Minister of its performance under the processing agreement, see point (7).

The tonnage limits are set at 15 million tonnes per annum for each individual agreement and 30 million tonnes per annum for the three agreements in aggregate. Approval to increase output beyond 15 and 30 million tonnes is at the sole discretion of the state. In considering any request by BHP for expansion, the State will take into account the company's performance under the Iron Ore Processing (BHP Minerals) Agreement. The state has been adamant, and BHP has accepted, that the Minister for Resources Development has the sole discretion in determining whether the company may expand output beyond approved levels. To remove any doubt, the agreement explicitly states that any decision by the Minister for Resources Development in relation to tonnage levels is not subject to arbitration.

The opportunity has been taken to undertake some minor changes to the agreements, including provisions to allow for the purchase of power from the Pilbara energy project. Agreements do not generally contemplate power purchase from third parties and reflect the SECWA monopoly on power generation and supply. With the movement to remove the SECWA monopoly in this area, there will need to be changes to most agreements over time. However, given the Pilbara energy project's expected role in supplying the BHP operations, an immediate change was required. Finally, I should note that the variations provide for the deletion of the existing provisions for processing.

I now turn to the specific provisions contained in each agreement amendment. Clause 4(1) of the Iron Ore (Mount Goldsworthy) Agreement amendment enables the Mt Goldsworthy joint venturers to purchase electricity from the Pilbara energy project. The Mt Goldsworthy agreement comprises three distinct iron ore deposits, mining areas A, B and C. Area C is the only deposit yet to be developed. Under the Goldsworthy agreement, the outstanding processing obligation is attached only to mining area C.

Consequently, clause 4(2) of the agreement amendment seeks to introduce the tonnage limitations only upon mining area C, in recognition that the processing obligation is directly linked to that deposit. Clause 4(2) also serves to update the proposals mechanism in the principal agreement, requiring the submission of development proposals for mining area C by 31 December 1999. Clause 4(2) also specifies the procedure if the joint venturers seek to expand iron ore production beyond the approved production limits. Clause 4(3) deletes the mining area C processing obligation from the principal agreement. Clause 4(4) of the Iron Ore (McCamey's Monster) Agreement amendment introduces the "limits upon mining" provision and also specifies the framework in which the State can approve new production levels. Clause 4(5) enables the McCamey's Monster participants to purchase electricity from facilities established under the Pilbara energy project agreement. Clause 4(6) deletes the processing obligation contained in the principal agreement.

Iron Ore (Marillana Creek) Agreement amendment: The Marillana Creek project is distinct from the Mt Goldsworthy and the McCamey's Monster agreements in that the principal agreement already contains a tonnage restriction provision. In addition, the existing agreement also contains an approved work force limit. Consistent with the principal agreement, the agreement amendment does not seek to link the approved work force limits to BHP's processing obligations under its new agreement. As with the other two agreement amendments, the Marillana Creek agreement will now enable the joint venturers to receive electricity from operations the subject of the Pilbara energy project agreement.

In summary, the three agreement amendments finalise arrangements in relation to the BHP processing agreement. I believe the whole package of these variations, the processing agreement and the associated Mt Newman variation represent the most wide-ranging changes that have ever been undertaken to any set of agreements. They contain many innovative provisions and show why agreements hold such an important role in the development of this State. As a package they represent a vastly improved set of arrangements over those announced by the previous Government in the heat of an election campaign. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

SECONDARY EDUCATION AUTHORITY AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

ACTS AMENDMENT (PUBLIC SECTOR MANAGEMENT) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon George Cash (Minister assisting the Minister for Public Sector Management), read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Minister assisting the Minister for Public Sector Management) [8.21 pm]: I move -

That the Bill be now read a second time.

The Acts Amendment (Public Sector Management) Bill 1994 is a straightforward piece of legislation which deals entirely with consequential amendments to Acts which are affected by the repeal of the Public Service Act and the enactment of the Public Sector Management Bill. These provisions are of a technical nature, some complex and others essentially amending references to the Public Service Act and the Public Service Commissioner in other Acts, and do not make any change in policy. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Stephens.

PUBLIC SECTOR MANAGEMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon George Cash (Minister assisting the Minister for Public Sector Management), read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Minister assisting the Minister for Public Sector Management) [8.23 pm]: I move -

That the Bill be now read a second time.

The Public Sector Management Bill is an important and reasonably complex piece of legislation affecting the way in which the public sector is managed and the relationship of Ministers to their agencies and also their personal officers. It seeks to make practical, forward looking changes to government, while retaining the best current practices. It seeks to address long standing deficiencies in the existing Public Service Act and other problems identified by the royal commission. This Bill is about good management, accountability, official conduct and integrity in government. It is also about laying the groundwork for standards of equity, merit and probity which will apply right across the public sector. The Government seeks to achieve these objectives by strengthening the workings of government within the context of Westminster principles. The legislation is based on the principle that Ministers are accountable to Parliament and responsible for the effectiveness of the public sector. The desirability of maintaining a public sector staffed by apolitical career officers is affirmed and special arrangements are proposed for the appointment of staff to Ministers' offices.

The approach adopted in the Bill is to identify the principles of good management of the public sector and clarify the roles of the key people involved. Both the Burt Commission on Accountability and the Royal Commission into Commercial Activities of Government and Other Matters revealed that there have been some problems in this state with regard to accountability, and misunderstandings on the part of some Ministers, advisers, board members and public servants as to their legal and constitutional responsibilities. Special care has been taken in drafting this legislation to ensure that lines of accountability from Parliament through to Ministers, boards of management and chief executive officers are not distorted by directions from third parties. The events of WA Inc demonstrate clearly that a number of actions need to be taken to ensure the constitutional integrity of the Public Service is secured. This Bill gives effect to the royal commissioners' recommendations with regard to public sector integrity in that -

> it creates an independent statutory office of Commissioner for Public Sector Standards responsible for establishing sector wide codes of ethics, setting out minimum standards of conduct and integrity, and establishing minimum standards of merit, equity and probity in human resource management activities such as recruitment and selection;
>
> merit and equity are given explicit recognition as governing principles of the legislation;
>
> it specifies appointment procedures for chief executive officers and the role of Ministers, boards of management of statutory authorities and the Commissioner for Public Sector Standards in the process;
>
> it establishes general principles of official conduct in legislation;
>
> the employment arrangements for ministerial staff are the subject of special provisions in the legislation;
>
> the manner in which ministerial staff are to deal with officers of Government agencies will be made the subject of clear and explicit procedures;
>
> members of Parliament and their staff are prohibited from communicating with the commissioner or employing authorities concerning the appointment of staff; and

the existing Public Service Act will be replaced by a wider ranging Public Sector Management Act.

The unacceptable behaviour of some people in Government in the 1980s and early 1990s underscores the need for these measures. While we cannot legislate for honesty in government, we can take measures to protect Public Service integrity, specify the roles and responsibilities of key players in the process, promote ethical conduct, develop standards and monitor compliance. However, individuals, including members of Parliament, must take primary responsibility for their behaviour and display good conduct. Besides improper and unacceptable behaviour of individuals in the past, a deficiency of the present system is that no single, independent agency is responsible for the general oversight and supervision of standards across the entire system. The current Public Service Commissioner is responsible only for staff employed under the Public Service Act, which constitutes about one-fifth of the government work force. The new legislation will give the proposed Commissioner for Public Sector Standards jurisdiction across the wider public sector with regard to standards and also provide a framework for management of the whole public sector. The Public Service Act will be repealed and the office of Public Service Commissioner abolished. The residual functions of the Public Service Commissioner that are not vested in the Standards Commissioner will be vested in chief executive officers or boards of management - where they exist - and the Minister for Public Sector Management. It will be necessary to amend various Acts as a consequence of the repeal of the Public Service Act and the enactment of the Public Sector Management Bill. This will be done through the Acts Amendment (Public Sector Management) Bill.

The authority of chief executive officers and boards of management to manage their organisations, balanced by appropriate accountability arrangements, are cornerstone principles of this legislation. This legislation provides for substantial devolution of management authority to chief executive officers, including authority to manage staff effectively. While the Government, through its Ministers, must lead, public sector managers will be authorised and empowered to manage within the guidelines and objectives established. The functions of chief executive officers will now have statutory backing. Besides having the statutory responsibility to provide policy advice, deploy resources, devise organisation structures and classify jobs, chief executive officers will have direct responsibility to manage and direct employees of their organisations and to resolve or redress grievances of staff. Ministers will, of course, still have the power to give directions where appropriate with regard to organisations for which they are responsible, and they will be expected to maintain a keen interest in the effectiveness of the organisations within their portfolios.

The Minister for Public Sector Management will be concerned with promoting the overall effectiveness and efficiency of the public sector. The Minister will also be responsible for advising other Ministers on structural changes, programs for management improvement, and policies, practices and procedures relating to aspects of management. The Minister will also be able to initiate special inquiries, arrange for reviews to be conducted, and ensure planning for the future operation of the public sector. Such functions within our Westminster traditions are rightly assigned to a Minister of the Crown as it is the Government which should be responsible for the overall management function. By contrast the Commissioner for Public Sector Standards should not be held accountable for public sector effectiveness and efficiency.

The commissioner's role will be that of establishing and monitoring standards. He or she will establish minimum standards of merit, equity and probity in regard to specific human resource activities and monitor these standards, consistent with general HR principles such as fair treatment and freedom from nepotism or patronage. Codes of ethics setting out minimum standards of conduct and integrity to be complied with by agencies and employees will also be established and monitored. Agencies will be assisted by the commissioner to comply with these standards. The commissioner will ensure that general principles of official conduct, such as scrupulous use of official information and exercise of proper courtesy by public sector employees, are maintained. The

Commissioner for Public Sector Standards will be required to act independently in relation to the performance of his or her functions. He or she will report on compliance or non-compliance of any particular public sector agency to the Minister responsible and to Parliament. The commissioner will also report annually to each House of Parliament on compliance across the public sector.

As mentioned earlier, it is the Government's intention to retain the best parts of the current system. Part 3 of the Bill provides the necessary arrangements for the continuation of the Public Service once the existing Public Service Act is repealed. Public Service departments will be retained, as will the senior executive service. The Public Service work force will remain at the core of government activity. It is likely that as we review government agencies (and statutory authorities in particular) a greater proportion of the work force will be brought within the Public Service. This will promote consistency of employment arrangements within the public sector and enable artificial distinctions between public servants and other government employees to be abolished.

However, we are making a number of reforms. In the future all people appointed to senior executive service positions (including chief executive officers) will be appointed on contracts. The contracts will be for a maximum of five years terminable by either party with at least four weeks' notice. Permanent officers promoted from within will have a right of return (which they may choose to forgo) to their previous level in the public sector if their contract is terminated or not renewed. Furthermore, performance agreements for chief executive officers will be required. These reforms are consistent with recommendations of the first report of the Independent Commission to Review Public Sector Finances, known as the McCarrey commission. They will standardise employment arrangements for senior executives which in the past have been characterised by a mixture of approaches. However, the Government will not be adopting the recommendation of the first report of the McCarrey commission that officers below senior executive level be placed on contracts. Emphasis will be given to retaining a career service.

There will be new arrangements for employment of staff in ministerial offices. There were problems under previous Labor administrations where it was perceived that many people originally hired by Ministers were later inappropriately appointed to positions elsewhere in the public sector. The royal commission was so concerned about ministerial staff and political appointments that it recommended that the employment of ministerial staff be the subject of special legislation. This legislation will ensure that staff recruited from outside the public sector in ministerial offices will be employed under contract; such staff will normally terminate on the relevant Minister ceasing to hold office or on expiry of the Government's term, whichever is sooner; external appointees to ministerial offices will be ineligible to apply for employment in State Government organisations; for appointees from within the public sector, assignment to a Minister's office will remain a "mainstream" career path option. The royal commission recommended that the manner in which ministerial staff are to deal with officers of departments and agencies be made the subject of clear and explicit procedures. To prevent a recurrence of problems associated with WA Inc whereby the position of agencies was compromised by directions from ministerial advisers purporting to convey the views of Ministers, Ministers will be required to specify in writing arrangements concerning dealings and communications between their offices and the agencies within their portfolios. No directions by ministerial staff on how agency staff should perform their duties will be able to be given without the agreement of the relevant CEO or board.

Provisions are made in this legislation for dealing with disciplinary matters. These provisions generally follow the principles utilised under the existing Public Service Act with appropriate amendments now that the employment agents of the Crown will be the chief executive officers and boards of management, instead of the Public Service Commissioner. These provisions, which will initially relate to public servants and ministerial staff only, have the capacity to be applied across the whole public sector. They therefore will allow the introduction of some consistency of approach, particularly with regard to application of standards and codes of ethics. At the moment there are

government agencies which do not have disciplinary powers, other than the power of dismissal, or mechanisms available to them for dealing with staff who commit minor misdemeanours or whose work is substandard. This is unfair to employers and staff. The provisions which currently apply only to public servants, will be capable of being extended in due course to other agencies to ensure consistency. Prior consultation will take place. This will achieve more equitable results for employers and staff.

Part 6 of the legislation provides a legislative base for redeployment and redundancy arrangements. Whereas the current industrial and administrative arrangements have generally been effective, this legislation will eliminate inconsistencies in their application. Specific powers are provided in the Bill to allow redeployment and redundancy arrangements to be set in place which will meet the Government's objectives where restructure of the public sector is necessary. This Government will deal with its employees in an equitable and fair manner in such circumstances.

Part 7 of the legislation provides the Commissioner for Public Sector Standards with powers to establish procedures for relief in respect of breaches of standards. These are associated provisions to make regulations. These provisions will enable the commissioner to perform his or her statutory responsibilities and should lead to more cost effective and efficient procedures. However, the Standards Commissioner will not be responsible for appeals with regard to substandard performance or discipline. These will continue to be handled under the provisions of the Industrial Relations Act. Under part 8 of the legislation, provision is made to ensure standards established by the commissioner cannot be overridden by workplace agreements. Other matters which cannot be the subject of workplace agreements may be specified by regulation. Matters which are properly issues for workplace agreements, such as remuneration, leave and hours of duty, are exempt from the exclusion provisions of this part.

Part 8 also contains provisions regarding the reappointment of public sector staff who are unsuccessful electoral candidates. These provisions will apply to a person who resigns from employment in the Western Australian public sector in order to contest a Commonwealth or State election and then applies for reappointment within two months after the declaration of the result of the election concerned. Uniform provisions are being adopted by other states to protect the careers of public sector staff who stand for election. The need for such provisions was identified by the Standing Committee of Attorneys General following the High Court decision in Sykes v Cleary. Within the miscellaneous provisions of part 8, there is a strengthening of the current Public Service Act prohibition on members of Parliament seeking to influence Public Service appointments. The restriction is now to apply sectorwide and there is specific provision for penalty where the prohibition is breached.

This Bill contains important initiatives for public sector management. It preserves the best parts of current Public Service practices and introduces much needed reforms to apply standards of conduct, integrity, equity, merit and probity across the wider public sector. It promotes ideals within a realistic framework. We have highlighted accountability by clarifying the roles of key players involved in Government. At the same time we have endeavoured to keep a balance by emphasising effectiveness and efficiency. The reforms to the administrative systems are designed to improve government and give tenor to the recommendations of the royal commission. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Stephens.

ADDRESS-IN-REPLY

Amendment to Motion

Resumed from 8 June.

HON GRAHAM EDWARDS (North Metropolitan) [8.40 pm]: In my speech on this amendment to the Address-in-Reply, I want to address law and order issues. The most appropriate place for me to start is with the recent appointment, announced yesterday, of

a new Commissioner of Police. It is unfortunate that the Government drew out the appointment for so long. In so doing it contributed to a drop in morale of the police in Western Australia. It should have replaced the retiring commissioner before it did.

I had the pleasure of working with Brian Bull for a couple of years when I was Minister for Police. Brian Bull served this state very well as commissioner. He was at the helm at a time when there was an increase in crime, as there was an increase in the size and complexity of the community. Brian Bull is a man of great integrity and honesty, tremendous attributes for a police commissioner to have. What we have seen happen with police commissioners in other states reflects well on the commissioner who has served us so well.

[Quorum formed.]

Hon GRAHAM EDWARDS: I wish Brian Bull and his wife Pat the best in their retirement. I think both Mr and Mrs Bull are deserving of some years of peace because being the Commissioner of Police in this state has not been a very easy position for him to fill. I know he has had tremendous support from his wife and I am sure that both of them will enjoy their retirement knowing they have contributed significantly to a large number of improvements in the police service in this state.

As a former Minister for Police, I have watched the current Minister for Police. I sympathise with him in the problems with which he has had to deal. He has done a fairly good job filling the breach as he is a fairly inexperienced person. There is no harder job in Cabinet than being the Minister for Police. The same applies in other states. As I said, he has done a fairly good job so far.

I would have preferred the position of Commissioner of Police to go to a Western Australian because there is a large number of Western Australian police officers who could have stepped into that position. Given the chance, they would have acquitted themselves as well as any person from the eastern states. I take this opportunity to congratulate Mr Falconer from Victoria on his appointment to the position of Commissioner of Police. I understand that he is held in fairly high esteem in the eastern states. I hope that when he comes to Western Australia he is given total support by the police service of Western Australia and the full support of people like Les Ayton so that he is able to get on top of the job and do the best job that he can for the police service and the community of Western Australia. Les Ayton is a man of character and integrity. Despite his having been an applicant for the job of commissioner, I am sure that he will go out of his way to do everything in his power to help the new commissioner settle in.

We have been well served by police officers in this state. Unfortunately, they have copped an immense amount of flak. They certainly attract the attention of the media and often deservedly so because police officers have a great deal of power in our society, which is something that should go hand in hand with responsibility. However, while we read a lot about what goes wrong with a few police officers, we rarely read about what goes right. Rarely do we have the opportunity to see the work that many of them do. It is the sort of work that does not attract media attention and it is the sort of work for which they get very little recognition. One thing that detracted from the job in the lead-up to the last election was the manner in which the now Government, the then opposition, sought to politicise the law and order issue in this state and to destabilise and demoralise the police service. The Government is now paying the penalty for ignoring the constant requests from me as Minister for Police and other leaders of the community who implored the then opposition to take a bipartisan approach to law and order. The most crucial and fundamental aspect of any country getting on top of its law and order problems is a bipartisan approach to the law and order issue. If we are eventually to get on top of that program, we must adopt a bipartisan approach.

I now refer to a pamphlet released before the last election by Mr George Strickland, MLA, featuring himself and Hon George Cash, the Leader of the House. It gives examples of what I am talking about and emphasises the great need for a bipartisan approach to law and order in Western Australia. George Strickland said that he would stop crime.

Hon John Halden: That was a brave move!

Hon GRAHAM EDWARDS: He said within the pamphlet that he would increase police security for the Doubleview and Innaloo areas under the headline "Stop Crime". It reads -

> . . . George Strickland will ensure that under a Coalition Government the Innaloo Police Station will be properly manned.

It was brave to claim that anyone can stop crime, particularly a member of Parliament who has not come anywhere close to demonstrating sincerity on this matter or any real support for the police since his re-election. The pamphlet makes claim about the Scarborough electorate that -

> George Strickland will insist on:
>
> Manning levels at Innaloo Police Station to be increased from 1 officer to at least 7 officers.
>
> A 7 day, 12 hours per day service.
>
> An after hours service available to the public until 9pm.
>
> A shop front police service at the Karrinyup Shopping Centre.
>
> Local patrols with local knowledge for more effective policing.
>
> A counselling service will be provided for local victims of crime.
>
> A police truancy patrol liaising with local schools.
>
> Existing manning levels at Scarborough will be supplemented to maintain necessary critical levels of officers on duty.

None of those things has come to pass. We are but a couple of years into the life of this Government, and maybe these things will eventuate, although I doubt it very much. It seems that George Strickland, along with some of his colleagues, went out of his way to politicise the law and order issue and endeavoured to scare the pants off some people, particularly the elderly. This was done in an attempt to make people turn away from the previous government. Any community which believes it can get on top of crime simply by increasing police numbers is on the wrong track. No single strategy will create a safer community and increasing the number of police officers alone, will not achieve the goals.

I was greatly concerned in the lead-up to the last election at the number of elderly people who were unnecessarily scared by the activities of some - not all - members opposite. I know some elderly people in areas of Karrinyup who would cross the road if they saw a group of young people coming their way when walking to the local shopping centre. This was to avoid passing close to the young people. That is a tragedy. If politicians have a contribution to make, they can put some effort and time into attempts to bridge the generation gap between elderly and young people. In that way people, particularly the elderly, can have more trust in young people. We are well served by the majority of young people in Western Australia. As with the Police Force, if a young person throws a rock through a window or steals a car, that attracts a great deal of media attention. Nevertheless, the majority of young Australians are decent and hardworking and deserve more encouragement than they are presently receiving.

George Strickland made a suggestion in Scarborough regarding support for community policing. I issued a press release at the time, which was referred to in an article quoted as part of George Strickland's pamphlet. This section was headed "Minister applauds police suggestion", and read that ". . . George Strickland's recent suggestion for improving the community policing in the City of Stirling has been applauded by Police Minister Graham Edwards." He used my press release, but did not use the full article; he took it out of context.

This is another example of how members of this Government, the then opposition, went out of their way to use the law and order issue to destabilise the community and the Police Force in pursuit of political goals. It appears to have backfired on them. Far from

stopping crime, as George Strickland wanted to do, we have seen crime continue to escalate at a great rate, particularly in the areas of burglary and car theft. Sooner or later members of Parliament must realise the role they have to play in addressing the law and order issue; they should not call for all sorts of things to happen in the Police Force, but they must show some leadership and become involved in a more mature and constructive way in the law and order issue. They should adopt a bipartisan approach.

Regardless of which country one visits, what is happening in Perth and Western Australia over recent years is mirrored in every other part of the world No country has not experienced some upturn in law and order problems. Interestingly, places like Canada and France have adopted a bipartisan approach to law and order problems and they have been able to develop long term responses to these issues, particularly that of juvenile justice. Those countries have been able to slow down the rate of increase in crime. Their success in areas such as recidivism has been quite good. These countries have not followed the United States. The Attorney General recently went to the United States to examine boot camps in that country, where over two million people are in gaols and the crime rate continues to escalate.

Hon John Halden: That is my speech.

Hon GRAHAM EDWARDS: I withdraw! The crime rate is escalating at an alarming rate and violent crimes particularly are on the increase. However, the United States rejects the Canadian and French approach, and that of a number of English counties, of bipartisanship and considering long term solutions. When members on this side of the House were in government we were guilty of some short term responses ourselves. However, I guess part of the reason for that was an endeavour to ensure that some of these hard core recidivists were put away for some time so that we could gain some respite and find some better way to protect the community. We have a far greater breathing space now and have had for some time, and we are in a much better position to look at the issue of juvenile crime, particularly away from the emotional and highly charged environment in which we were then dealing with it. I have been in the past a supporter of what I call isolation camps, because I believe that if we are cautious about the way in which we handle juvenile offenders, we can go a long way towards helping them, once they have spent some time in these places, to find employment, to gain some self-esteem, and to become worthwhile members of our community.

However, I am concerned at the emphasis which the Attorney General has put on what she calls boot camps. I have never been an advocate of boot camps. I do not believe they work. All they do is turn out harder core criminals, who have gained very little and learnt very little while they were in those camps. It is interesting that one of the states which the Attorney General visited while in the United States, and which had supported the concept of boot camps, has closed two of them because of problems that have become evident and because it has also become evident that they are in no way repatriating these young people but are just turning out harder core criminals. The fact is that there is no easy answer to juvenile crime, just as there is no easy answer to the general question of crime, except that we must be prepared to be pro-active, and to address long term strategies and not just pluck out of the air short term strategies, particularly just before an election or by-election because we think we may win some votes. The interests of creating as safe a community as we can must be paramount and we should all share those interests.

One of the things that Brian Bull did was commit himself to community policing. This is very much in line with every other thinking police force in the western world. It does not matter whether one goes to the United States, England, France, or the eastern states, those communities that are doing well are those that practise community policing; that is, which try to get the police into a situation where they are not just reactive, but involve themselves in the community, particularly with young people, in a pro-active way, and involve themselves in activities that lead to the prevention of crime, rather than just chase criminals once crimes have been committed. I hope that the new Commissioner of Police will have as strong a commitment to community policing as did the outgoing commissioner. I was somewhat heartened to hear an interview with Mr Falconer on ABC

Radio this morning, in which he indicated that he had a fairly strong commitment to community policing. I hope he will not be dissuaded by this Government. I hope he will be given the resources and encouragement necessary to continue down the path of community policing, because if we cannot create an environment where the police work closely with the community and where the community has total trust in the Police Force, and vice versa, then our fight against crime is doomed to be significantly harder than might otherwise be the case.

The material that was put out by George Strickland and others before the last state election will eventually come back to bite them on the backside politically, because people will be reminded that George Strickland said that he would stop crime and that he would increase manning levels at Innaloo Police Station by one to at least seven officers. It is interesting that Innaloo Police Station was built to cater for only two officers, at the very most. The sort of scaremongering, political propaganda with which people like George Strickland carried on will come back to bite them on the backside, and so it should, because they should have been mature and intelligent enough to realise that to capitalise in the short term on scaring the community would not work and that, sooner or later, they would be called to account for the statements that they made. I am sure that between now and the next election, George Strickland and others will be seen to have failed dismally in providing the things that they said they would provide for their communities.

I wish Brian Bull and his wife, Pat, all the best for a long and healthy retirement. They have made a great contribution and commitment to this state. I hope the Government will take steps to ensure that Commissioner Bull goes out of office on the note that he readily deserves. I take this opportunity to once again congratulate Mr Falconer. From the Opposition's point of view, one would have liked to see the job go to a Western Australian. However, I am sure that every one of us here will want to see Mr Falconer succeed in the great job that he has to do in this State.

Debate adjourned, on motion by Hon John Halden (Leader of the Opposition).

STOCK (BRANDS AND MOVEMENT) AMENDMENT BILL

Second Reading

Resumed from 2 June.

HON KIM CHANCE (Agricultural) [9.09 pm]: The Opposition is pleased to support this Bill, which is the result of a review of the Act approved in 1989 by the then Minister for Agriculture, Hon Ernie Bridge.

The Stock (Brands and Movement) Act dates back to only 1970, which in the context of some of the Acts in the Statutes is not a particularly old Act, but in the 24 years since the Act was assented to, significant changes have occurred in agriculture. In many ways this Bill seeks to amend the Act to account for those changes. In brief, the Bill deals with the need to address several different issues, including both animal and human health, theft and disputed ownership of animals, and animal welfare - which will be a welcome provision across the board - in the increased range of commercial animals now farmed in Western Australia. It is interesting that the Bill also addresses the needs created by export markets dictated to by Islamic culture, the need to upgrade penalties and the period for which proceedings can be initiated. In reference to animal welfare I note that the name of the Act will change. In some way, that signifies the changes in the animal welfare area. The Act is to become the Stock (Identification and Movement) Act. The word "brands" will disappear from the name of the Act. In part, that indicates that branding is seen as having less importance in the Act.

Firstly, the means of identifying an animal, or perhaps, more importantly, a carcase, is essential for both animal and human health. We need to be able to trace back the ownership and property of origin of an animal which is found to contain, for example, dangerous levels of pesticides, perhaps heavy metals or organophosphate-type pesticides. For animal health, it is necessary to be able to trace back an animal disease which has

been found subsequent to slaughter. Therefore, it is necessary for identification to be made and the problem discovered even after the point of slaughter because the head remains with the animal for a time while testing is undergone. For animal health, identification is an essential part of disease control. It has already played an important role in the eradication of pleuro-pneumonia and brucellosis, and very soon I believe we will be able to say that we have eradicated tuberculosis in cattle in Western Australia. That will not be possible without accurate and reliable identification of animals. It is also necessary to maintain a disease free status of our herds and flocks from exotic diseases. We have been through this in debate on earlier legislation. We have mentioned foot and mouth disease, swine fever and blue tongue.

As to theft and the dispute over ownership, there is an obvious need for a brand. I have no doubt that the first time animal branding was thought to be necessary it was to solve problems of theft and disputed ownership. Probably the oldest form of commercial dispute is a dispute over the ownership of livestock, and branding has a long history. The Bill recognises the need to retain the integrity of stock transactions, while recognising the need for changes dictated by market demands and animal welfare considerations. For animal welfare, it is a fact that most high integrity forms of marking animals involve a degree of pain and discomfort for animals, the most noticeable being fire branding. This fact is recognised in the Bill, and it contains changes which have been made to reduce the impact of that pain and discomfort on the marking of stock. The changes include the view that branding is no longer the only or even the principal means of livestock recognition. Clause 8(4) of the Bill seems to indicate that for cattle, buffalo and deer an owner is no longer compelled to use both a brand and an ear mark. The option is available to use one or the other. Branding of very young animals is minimised, and that allows the trade in young vealer cattle - principally a trade carried on as a by-product of the dairy industry, and those animals can be as young as a few days old or a couple of weeks - to continue with either branding or ear marking. Cheek branding on any animal has been discontinued. Feral horses no longer need to be branded if they are being consigned directly to an abattoir. In this respect I would have preferred the Bill to go further and allow the issue of a permit for unbranded feral animals to be transported to a bulking up place or indeed an assembly area prior to export. If we are able to issue a certificate which can allow the transport of unbranded animals for a specified purpose, and that certificate has sufficient integrity to be able to identify those animals in one way or another, perhaps we could have extended that provision further. At the moment the Bill allows the transport of horses, for example, only directly to an abattoir, whereas if a person wanted the horses to go to a finishing pasture or to another station on the river country some miles away, technically the animals would be required to be branded.

We must recognise the increased range of commercial animals; it has been 24 years since the principal Act was assented to and in that time we have had a number of new animals join the commercial herds in this state. They are animals which are either commercial now or have the potential to be commercial in the near future. These animals are either native or existing feral animals, or those which have been imported for a commercial purpose. This has created a need for the animals to be recognised in a legislative sense so that the benefits and safeguards already in place for sheep, cattle and goats can be extended to other commercial animals. Deer are included in the Bill. They are now farmed commercially. Three groups of the camelid family are new entrants to the Bill; the alpaca, llama and vicuna, all derived from the South American species called the guanaco. I am told that the guanaco was originally omitted from the second reading speech because the Minister for Primary Industry found the word difficult to pronounce. I do not know whether the Minister for Transport can confirm whether he had any difficulty.

Hon E.J. Charlton: I was about to say that you would not need to look as far as the Minister for Primary Industry. You need only look here.

Hon KIM CHANCE: The Minister for Transport had no trouble pronouncing the word. Guanaco are not included in the Bill presumably because they are not likely to have economic significance in Western Australia, but that is most certainly not the case with

their more commercial offspring which are already popular as a private zoo type animal but may in future have more commercial meaning. It is also proposed that buffalo be included in the Act. They are now common in Western Australia as commercially farmed animals and are from one of those feral groups to which I referred. Given the inclusion of these new animals, I am a little surprised at the exclusion of the camel, the emu, and the ostrich, which are all farmed commercially.

With reference to specific market needs, owing to our proximity to Asia and the Middle East, Islamic culture has had a fairly profound effect on our livestock industries. Islam has changed the way our abattoirs are built, the way they look and the way they operate. Halal rites are observed and regularly monitored to ensure their observance of the Muslim faith. One of the most significant events in the Islamic calendar is Ramadan, a period of fasting and denial, ending in a period of goodwill and feasting. It is not unlike our own festive season, except we are able to dispense with the fasting and denial, which seems a much more civilised way to celebrate. Animals slaughtered for Ramadan are required to be entire male sheep or goats which have, as far as possible, no blemish whatever. That includes no earmarks if that can be possibly arranged. This presented problems under the existing Act, which requires animals to be marked on the property prior to transport for export.

Section 36A of the principal Act is amended in clause 28 of the Bill by providing a protocol enabling an owner to be issued with an identification exemption certificate for stock which is to be exported within the next 12 months. This will mean that these animals can be exported without any form of marking whatever. The pay-off at the end is that an unmarked animal in a Muslim country is worth very much more than an animal which has even an earmark. It seems to me that clause 28 of the Bill should make reference to the clause which enables such animals to be transported without being marked; that is, clause 32, which amends section 48 of the principal Act. Although clause 32 refers to the identification exemption certificate issued under section 36A, there is no reference in proposed section 36A to indicate that transport is possible under section 49A. It is not absolutely necessary for that reference to be made - it is not a major problem - but it seems to me that it would clarify the issue. Effectively, in clause 28 are those marking practices which are exempted. The animals may be held for a period without marking. The clause does not go on, for example, to say that they can be transported without marking. One must look at section 49 of the principal Act to find that. It is not a major problem but it would have been tidier if the amendment had said so. Apart from that small complaint, this is a progressive move and signals our desire to provide the product for which our customers are most asking.

The Bill also provides for significantly increased penalties under the Act. Until recent times, theft of livestock was a capital offence. In many societies it remains a capital offence. Our own society tends not to discriminate between the various types of property stolen when assessing a penalty. It remains part of rural culture, however, that to steal another person's livestock is a massive breach of trust. Indeed, it is seen as one of the lowest forms of criminal behaviour. Sadly, we seem to have imported a romantic notion of cattle rustling, but there should be no sympathy for anyone who knowingly steals another person's means of livelihood. The Opposition strongly supports the new penalties proposed in the Bill. The Bill also proposes to extend to three years the period during which proceedings for offences under the Act can be initiated. That period is now limited to six months. The Opposition understands and appreciates the reason for this, because some offences can take a very long time, first, to detect, second, to investigate and, third, to reach prosecution. Our only concern is that in three years - a fairly long time in terms of the defendant's position - the location of evidence that the defendant may have to put together would be difficult in an industry of this type. As a former livestock owner, I would find it extremely difficult to be able to establish just where those animals came from three years back on the basis of my kill sheet or account sales, for example. Most livestock owners would have the same difficulty.

In order to facilitate the Committee stage of the Bill the Opposition indicates that the only clauses on which it will have questions are clauses 7, 8, 23, 25, 28, 29 and 32.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [9.26 pm]: I thank the Opposition for its support of the Bill and note the clauses on which it will seek some comment during Committee. I also appreciate the comments by Hon Kim Chance and take his points regarding the new title of the Bill. As he said, it is there for obvious reasons. The provisions covering branding are a significant step forward into the 1990s and are there for the benefit of the stock which must be identified. Obviously, technology in this day and age allows these new techniques to take place. Pigs are a good example of the tattooing that causes a few squeals here and there if it is not done properly.

Hon Kim Chance: I used to enjoy that.

Hon E.J. CHARLTON: It is a bit like some of these jobs in farm husbandry, where onlookers, who do not know what it is all about, ask whether it hurts, to which the reply is, "Not if you hold your hand out of the way when doing it"!

Regarding the unbranded animals, we must ensure when stock such as horses are being moved to an abattoir for slaughter that people are not able to take advantage of a situation. For the reasons Hon Kim Chance mentioned, if there is a dollar involved, there still seems to be an incentive to do something improper. The comments the member made will be responded to more specifically in Committee debate on the relevant clause. Hon Kim Chance referred also to emus, ostriches and camels. Proposed section 62(1a) of the Act provides that the regulations may prescribe any animal to be stocked for the purposes of this Act. I refer to the point made by Hon Kim Chance about the time frame in which legal action may be carried out. Although there is no such thing as a perfect situation, the Government wants to ensure that there is enough opportunity for legal action to be taken and to avoid people being denied taking legal action simply because of the restriction of six months.

Hon Kim Chance: Time will sort that out.

Hon E.J. CHARLTON: Exactly. As one looks through amending legislation such as this Bill it is clear that sometimes there may be other ways of approaching the matter which could be equally advantageous or better. As Hon Kim Chance said at the outset, this matter has been looked at for some time. The changes contained within this legislation need to be put in place. I thank Hon Kim Chance for his comments and the Opposition for its support.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon E.J. Charlton (Minister for Transport) in charge of the Bill.

Clause 1: Short title -

Hon P.R. LIGHTFOOT: Notwithstanding the Minister's second reading speech and the contribution I listened to quite intently from Hon Kim Chance, the Bill goes only some way to redressing the recurrent problem of unbranded stock in the bush. I do not mean the soft, inside country with which the Minister is familiar, but the bush. The bush has always had problems with stock brands. In the past one has had to resort to other methods of branding. Much more reliance must be placed on the end users of the product from farms and stations. The end users must bear more recourse for stolen goods. I was in the unfortunate position of having about 240 sheep duffed from my farm. They were superfine sheep from a Saxon stud in Tasmania. Their wool ranged from 11 microns, which is like silk, to 17.5 microns. There are very few, if any, sheep in Western Australia where the average of the wool would be 14 or 15 microns. The average micron of most of the wool in Western Australia comes out around 21 microns. That is what we have been taught over the decades to aim for. Most of the major studs, particularly the Collinsville stud, which is the most famous of all sheep studs in Australia, notwithstanding the other famous studs of North Bungaree and East Bungaree, the Peppins studs and the Saxon studs in Tasmania and Victoria -

Hon Kim Chance: Don't forget the Seven Oak.

Hon P.R. LIGHTFOOT: I am sorry I did not mention that. That is more of an indigenous stud.

Hon Kim Chance: It is a very famous stud in Western Australia.

Hon P.R. LIGHTFOOT: I meant the sheep rather than the stud.

The reliance on merely ear branding is insufficient. More recourse must be placed on the end users and the stock agents for determining whether wool, meat or livestock has been delivered to them from the legitimate owners and not the purported owners. I do not think that this Bill covers precisely what is needed. A much more scientific approach must exist than merely marking ears. It was a great innovation when we were able to put coloured tags on sheep in the 1970s. We bought the tags by the tens of thousands. Instead of putting the station brand on one ear and the age of the sheep on the other, one was able to clip on a colour designating the age of the sheep, and when one reached the seventh colour after seven years one returned to the original colour. That was a good system, except it was easy to take out the tag and one could then not identify the sheep or its owner. The name was on the ear tag, but that is good only for honest men. There is an old saying in the north west where I spent some years that it was a poor manager who had to kill his own sheep for tucker. That is true. If one's eyesight was not very good in picking out one's own sheep coming down one's draft one could certainly pick out a neighbour's sheep, and off it went into the killer paddock. Much more scientific reliance must be placed on the determination of sheep ownership.

A small handful of cattle do well in the arid zones. Among them are the Aberdeen Angus, Herefords, Simmentals, and the pure Brahmans. Some Santa Gertrudis do quite well also. In previous years at mustering time on some of the stations in the Kimberley where there were no fences a helicopter or fixed wing plane was put down the middle of a mob where it was thought the boundary roughly was. The cattle that ran on the right side of the aircraft belonged to the neighbour on the right, and the cattle that ran on the left side belonged to the neighbour on the left. In other areas less scientific methods were used with a mob of cattle when it could not be determined whether the young cattle had been earmarked. If they were still on their mothers they had a shiny coat and they went off to be earmarked with the mature mother. Those which had not been suckling and which had dull coats and no earmark stayed on the station on which they were mustered. It is these factors which the Bill does not address.

On my property in 1989 I mustered just over 25 000 feral goats in six months. They did not have an earmark and they were all mine. However, despite Hon Kim Chance's knowledge on the subject, I do not believe that feral goats should be taken anywhere other than to abattoirs or to be used for immediate export. Hon Kim Chance mentioned that they should be earmarked and taken somewhere adjacent to the property on which they were mustered; however, I do not believe that that is the case. Feral goats are the greatest scourge in the outback and are one of the animals that offer the greatest degradation to the environment that I have ever witnessed. Twenty-five thousand goats were mustered in six months from my station. That is a lot of goats which cause a lot of damage. Unlike station sheep which have one lamb a year and rarely have twins or multiple births, goats invariably have twins or multiple births, and they have two drops a year. Irrespective of whether goats are earmarked, the main thing is to get rid of them straightaway.

Hon W.N. Stretch: You mark them between the eyes!

Hon P.R. LIGHTFOOT: Yes, they have often head butted my rifle.

Emus and ostriches should not be part of the earmarking process at the moment, mainly because of their lack of ears. There are so few of them, but we could leg tag them.

Hon Kim Chance: That is very expensive.

Hon P.R. LIGHTFOOT: Yes, and one could be kicked in the face by an emu in the process. We should consider an amendment to the Bill with respect to a more scientific approach, but notwithstanding, it is a step in the right direction.

Clause put and passed.

Clauses 2 to 6 put and passed.

Clause 7: Section 7 repealed and a section substituted -

Hon KIM CHANCE: I refer members to proposed section 7(3) because it raises a fairly thorny problem. The problem is that it is fairly unusual, depending on the definition of "run", for a proprietor to own a single run. The outcome of that is that if a farmer owns three properties which may or may not be in the same local authority area, he is required to maintain three different earmarks and three different brands. That does not create a problem if the stock stay on each of those properties at any one time. In the wheatbelt area it is common for stock to be frequently rotated from property to property. The situation is that on one property there could be livestock which were marked and branded for another property. In that relatively intensive farming area people get used to their neighbours knowing their brand and earmark. If stock carrying a brand and an earmark from a property that is 25 miles away stray onto a nearby property it presents a problem. The reason a farmer cannot be issued with one brand and earmark to service all his properties is that it is illegal to transport the branding and earmarking implements from one property to another. When I owned properties about 65 miles apart I overcame that problem by breaking the law. I had one set of earmarks and brands and I transported them all over the place, but my neighbours knew my stock.

Hon Tom Stephens: Is there any provision in the legislation for you to be charged retrospectively?

Hon KIM CHANCE: There probably is, but not until this Bill is passed. It is more than six months ago that I did it. Three years down the track I could be in trouble; however, I think I will be safe. I appreciate the need for this provision, but the original legislation was worded in these terms principally because it was drawn up for pastoral properties. Its application to the way farms operate now - that is, generally in multiple units - does create a problem.

Hon E.J. CHARLTON: I acknowledge the reason Hon Kim Chance raised this problem. If members note proposed section 7(3) it reads -

> If a proprietor of stock owns stock on 2 or more runs, the proprietor may be allotted a registered brand or a registered earmark . . .

That is simply for the reason outlined by Hon Kim Chance. If there is an outbreak of disease on one of the farmer's properties and he wants to be sure that he can identify the stock on that property he can have a separate brand and earmark.

Hon Kim Chance: Are you saying that a farmer does not have to have different brands and earmarks?

Hon E.J. CHARLTON: He may.

Hon Kim Chance: Is that a change from the existing Act? I thought farmers had to have different brands.

Hon E.J. CHARLTON: I am not sure. I am in the same position as Hon Kim Chance because I have properties 50 miles apart, but I operate with the same brand and earmark. However, if a farmer has a number of properties he can have a separate brand and earmark to identify the stock from those properties. I repeat that I am not sure whether it is a change from the existing legislation, but it gives the farmer the opportunity to take advantage of that identification procedure.

Clause put and passed.

Clause 8: Section 8 amended -

Hon KIM CHANCE: I refer members to proposed section 8(4). Will the Minister assure me that what I said during the second reading debate is correct; that is, under this proposed section the proprietor has a choice between earmarking and branding of these animals?

Hon E.J. CHARLTON: The short answer is yes.

Clause put and passed.

Clauses 9 to 22 put and passed.

Clause 23: Section 25 amended -

Hon KIM CHANCE: I refer members to proposed section 25(3). My problem with this is the narrow definition of the attesting authority in that only a justice of the peace is specified. Sometimes justices can be very hard to find in spite of what the Attorney General tells members every time they write to her asking for someone to be appointed as a justice.

Hon E.J. Charlton: She has the same standard letter as the previous Attorney General.

Hon KIM CHANCE: The previous Attorney General was a lot worse. Whenever we write to an Attorney General we invariably get back an answer that there are too many justices and we do not need any more. I do not know the ratio on which justices are appointed but if they are to be kept in short supply, when we draft legislation we should take into account that they are hard to find. We should consider this very carefully and what it intends to do, and ask whether we need justices to witness the signature. It is merely attesting that the person is who he says he is. A justice may not know that, and I would be much happier if we broadened the scope of persons to include police, schoolteachers, public servants, shire clerks and so on who may know the person's identity better than a justice. That certainly applies in the part of this state from which the Minister for Transport comes, and in the part of this state referred to by Hon Ross Lightfoot justices can be very far apart.

Hon E.J. CHARLTON: I take the point raised by the member. The reason for changing this section of the Act is to provide that it is not necessary for a justice to witness the signature on each occasion. That gives extra flexibility. I will take up this matter with the Minister because I have been advised that it would probably be worthwhile including a commissioner of declarations to give greater flexibility. No doubt the Minister will check with his department, and it will be recorded when the Bill goes to the other place.

Clause put and passed.

Clause 24 put and passed.

Clause 25: Section 30 amended -

Hon KIM CHANCE: I refer to lines 31 to 34 on page 17 which deal with the means of establishing the identity of unbranded stock. It states that the prescribed details of identification of the calf or foal appear on an appropriate waybill. I am not sure how the prescribed details will be established. The seven-day old vealers are products of the dairy industry and are identical Friesian calves. They are all black and white and I do not know how a police officer, transport officer or anyone else who stops a truck could identify them on a waybill. How will the animals be described for legal purposes?

Hon E.J. CHARLTON: This part of the clause does not refer to dairy calves, which are dealt with in another clause. This clause refers to calves on the mother and they would be wearing a tail tag. Obviously, the mother will also have a tag. The waybill would record the sex of the calf and its registration number.

Hon KIM CHANCE: I refer also to proposed subsection 2(a)(i) dealing with dairy calves and a certificate of registration issued under the Dairy Industry Act. Proposed subparagraph (ii) refers to the prescribed details of identification of the calf on an appropriate waybill. The calf will not have an earmark or be branded and, even though the premises are registered under the Dairy Industry Act, the calves will be identical black and white Friesians. Delineating by gender is fine, but half will be male and half female which will not help in determining where they come from.

Hon E.J. CHARLTON: It is valid to make that comment but, as stated previously, although the animals will not be branded they will have tail tags. The numbers on the tail tags, their sex, and the registration of the dairy from which they come will be identified on the waybill. As far as possible the calves will be recorded.

Hon Kim Chance: If a farmer produces 40 000 calves and has only 100 acres, it is obvious that something is wrong?

Hon E.J. CHARLTON: Exactly.

Clause put and passed.

Clauses 26 and 27 put and passed.

Clause 28: Sections 36A and 36B inserted -

Hon KIM CHANCE: I refer to lines 2 to 6 on page 20. I mentioned in the second reading debate that clause 28 identified what a person is able to do with an identification exemption certificate. It goes through the exemptions applying under that certificate. Proposed section 36A(2)(a) exempts the stock from branding and earmarking while on that run, so one has the branding exemption while they are held and subparagraph (b) tells us how long they can be held before expiry of the permit. I would have thought that at that stage, even though a later clause deals with transportation, it should be specified that it is possible to transport them with a certificate. It does not do that and that might be misleading to the lay person.

Hon E.J. CHARLTON: The point raised by the member is a valid point in the interpretation of the Bill by a lay person. I am advised it is the Parliamentary Counsel's way of drafting the legislation. I will take that point on board and have it checked. It is important that we ensure as much as possible that these things are written in a way that is properly understood. There are too many examples in this life where every day people must deal with these types of requirements, and obviously not many parliamentary draftsmen are running livestock in Western Australia.

Clause put and passed.

Clause 29: Section 37 amended -

Hon E.J. CHARLTON: I omitted to mention to the Chamber when I was summing up the second reading debate that at page 22 proposed subsection (4) refers to recovering moneys, and that is not considered an appropriate procedure for the moneys to be recovered. To ensure there is no argument about what the procedure might be, I move -

Page 22, lines 4 to 8 - To delete the lines and substitute the following -

> (4) Any cost incurred by a person, other than the proprietor of the stock, in transporting the stock under subsection (3) (fb) is a debt due by the proprietor to the person and is recoverable in a court of competent jurisdiction.

Amendment put and passed.

Hon KIM CHANCE: Subparagraph (i) of paragraph (fb) of proposed subsection (3) prescribes one option for unbranded stock which are discovered at a saleyard, for example. Subparagraph (ii) defines the other option for unbranded stock; that is, to have the stock transported at this proprietor's expense to an abattoir for slaughter. They are the only two options which are provided in the Bill, or indeed the Act, as it stands. I will not move an amendment in this area, but it gets back to that problem I raised about transporting branding implements. There are few things more frustrating than, having loaded a road train and delivered all the way down to a point of sale, to have a stock agent telephone and say that out of that 850 wethers, two are unbranded. One is then posed with the situation of those two sheep, which were missed in the jumble that normally occurs at branding time and maybe were not even earmarked, of paying someone to transport them to an abattoir all the way back from Midland to Lindley - if one can get them in - or possibly even to Katanning, or to return the sheep all the way back to the point of origin by some means. The third option one should have is to be able to chuck the branding iron in the back of one's ute and drive down to Midland and brand them at Midland, if that is what needs to be done. This is not an uncommon occurrence.

Hon E.J. CHARLTON: I am advised that the review committee looked at this, and producers are represented on that committee. They considered a way to overcome this,

but they did not consider it appropriate to have the branding mechanisms on hand. As I understand it, the livestock do not have to remain in the yard, they can be shifted. An opportunity exists that gives extra flexibility to the situation that we did not have before.

Clause, as amended, put and passed.

Clauses 30 and 31 put and passed.

Clause 32: Sections 49A and 49B inserted -

Hon KIM CHANCE: The final point I raise relates to lines 18 to 21 on page 23, proposed paragraph (aa), the definition of where animals which are covered by an identification exemption certificate can be transported. It states -

> the stock are being transported from the proprietor's run direct to a feedlot or to a ship for the purpose of being exported from Australia to a prescribed country . . .

It does not say so here, but given the earlier debate - we can be assured by the Minister that this is correct - we are talking about feral animals which are travelling under an identification certificate. This is precisely the point that Hon Ross Lightfoot made in arguing that they should be assisted by means of that certificate to travel only if they are going direct to export, to a feedlot, as is stated in the Bill, or to a ship. My concern - I will not move this as an amendment, but it should be considered - is that feedlot is rather too restrictive a term. I would like to see wording such as "to a feedlot or assembly point or to a ship". Feedlot fits a fairly precise definition of an operation whereas an assembly point - I have left aside a finishing pasture; it is a different thing for the reasons that Hon Ross Lightfoot raised - may not be a feedlot. The legislation does not contain a definition of feedlot and that may well be a good thing. Many of the assembly points that are used, for example, in the live sheep trade could be described as feedlots but a great many may not be described in that way. A great many may be places where the trucks come in and the sheep are cleaned and inspected and maybe fed a bit of pasture or graze on a bit of hay, but they are not feedlots.

Hon P.R. Lightfoot: Sort of holding paddocks.

Hon KIM CHANCE: There are a couple on the Redhill Road, such as Century Park. Perhaps it is best left as it is. A feedlot is a high security feed area. If we were dealing with feral animals that is what we should have. We will not have horses, feral animals and goats jumping all over the place. I think we should have an adjustment to that clause to cover all possible situations.

Hon E.J. CHARLTON: It is intended that the word "feedlot" be used in its widest definition. It refers to a point where the animals will not be sold again. Hon Kim Chance is right; to most of us a feedlot is a very specific place where animals are hand fed before they go onto the boat. It could mean a holding paddock. The main thrust of this clause is to ensure that the stock will go a point where they will not be traded again before they go onto a ship for export. Perhaps the final comments of Hon Kim Chance answered his question. We will ensure that this is checked out with the Minister in the other place to see whether there needs to be some expanded definition. In the context of the widest definition, it is meant that stock going from point A to point B will not be sold at point B, nor will any other transaction take place before the animals are put onto a ship.

Clause put and passed.

Clauses 33 to 40 put and passed.

Title put and passed.

Bill reported, with an amendment.

SITTINGS OF THE HOUSE - EXTENDED AFTER 11.00 PM

Tuesday, 14 June

On motion by Hon George Cash (Leader of the House), resolved -

That the House continue to sit and transact business beyond 11.00 pm.

SOIL AND LAND CONSERVATION AMENDMENT BILL

Second Reading

Resumed from 2 June.

HON KIM CHANCE (Agricultural) [10.18 pm]: The Opposition has some difficulties with this Bill. It contains some changes which can be described as urgent. Indeed, that term is used in the second reading speech. The Opposition will be pleased to support those matters which relate to necessary administrative changes to facilitate the operation of land conservation district committees, of which 140 exist in Western Australia. Additionally, although less urgent, the Bill provides for more appropriate and acceptable means of protection for remnant vegetation, which the Opposition is also pleased to support.

In respect of the land conservation district committees, the Opposition is convinced of the urgency of this matter. The problem is with the constrictions that are applied by the Financial Administration and Audit Act to what are effectively quangos, although the people who operate the land conservation districts committees would hate me to call them that. It means that those committees cannot, and do not, almost to a single organisation, comply with the FAAA. This has created a situation which must be addressed, and the Opposition will be pleased to support any position which can set things in train to make the operation legal and proper. The Opposition's key concerns are in just three areas of the Bill: First, the provisions of clauses 18, 19, 21 and 22, which substitute the words "a person" for the existing words "an owner or occupier of land" in sections 32, 34(1), 38(2) and 39(1) of the principal Act. The effect of these amendments is to allow the commissioner to act against any person allegedly degrading land, even if they are not the owners. Clearly, the intention of the amendment is quite proper. I would like to express my appreciation of the briefing provided to the Opposition on this matter. We can quite see what the architect's intention is here. Examples are given in the second reading speech, citing offences described in the nature of persons who bulldoze access tracks through reserves. Particularly members for South West Region would be aware of an occasion at Wilson's Inlet where a land developer decided he would put in a road of his own and charge through the reserve with a bulldozer.

Hon W.N. Stretch: What about the Lake King-Cascades Road?

Hon KIM CHANCE: That is an entirely different situation. We will not talk about the Lake King-Cascades Road in those terms. That is quite clearly something we would want to discourage, and the Opposition would be pleased to support an amendment to facilitate prosecution in those cases. Another example given was the overgrazing of Crown land adjacent to pastoral leases. Another example, not mentioned in the second reading speech but which comes readily to mind, is that of persons who damage coastal dunes by the irresponsible use of off road vehicles or grazing animals.

Our concern with this, however, is that in its present form the amendment actually opens a Pandora's box with the opportunity for the commissioner to take action against persons who are degrading land - any land, regardless of where that land is and what actions those persons are taking in degrading land. It is literally that broad. Given the wording of the amendment Bill at the moment, the commissioner would have power to take action against a farmer on the up slope area of a catchment who is doing nothing more than carrying out normal farming practices. It is a sad fact that as much as we wish it would not happen, any normal farming practice causes to some extent land degradation down slope. It is literally impossible, given the types of soil we have in Western Australia, that there will not be some degradation occurring at some time down slope. If we look at the older developed areas of the wheatbelt, such as the Shire of Tammin, with which the Minister for Transport is thoroughly familiar, 5 per cent of the land or more in that shire is so degraded it is pretty much totally useless. All that degradation has come from normal farming methods up slope.

My concern is that the clause in the amendment Bill is now so worded that we are giving the commissioner power to act against those up slope farmers. We might like to say to

ourselves that it is highly unlikely the commissioner would take action if all those farmers were doing was practising normal farming practices. All of us have seen occasions of this where local government authorities have wanted to some extent to take control over what is happening in terms of clearing and the effect of land use on farms further down the catchment area. Sadly, we have seen the situation in local government authorities where the wealthy, older, established farmers tend to dominate the elected positions in local government authorities and have a direct vested interest in stopping people who have newer and developing properties further up the catchment area from damaging their farms. We saw the situation in the 1960s and 1970s where many of the shire councillors would stop at nothing to prevent their neighbours further up the catchment area from carrying out any clearing work. They did it with a clear conscience. They said they were encouraging the practice of conservation. I would hate to see that unfortunate attitude become conspicuous because we had a situation where the older, established farmers, who felt quite strongly about their ability to clear 100 per cent of their land, were quite prepared to deny that right to other people. It is undeniably true, and it could be proved beyond any reasonable doubt, that some level of soil and land degradation is caused further down the catchment by farming practices further up in the catchment area.

The present position is that all farmers are encouraged to improve land management systems. What we have to accept here as an alternative, and I might say I do not intend to move an amendment, is that there is a whole armoury of action that can be taken and is taken now. We have for example the land conservation district committees which perform a number of functions. Land users - and particularly farmers, because they are the land users we associate with mostly - are expressing concern. For example, if we look at the Shire of Tammin - and I would recommend to anyone who suggests that farmers are not concerned about conservation to have a look at the Shire of Tammin - we will see evidence of what is now a 20 year old program of very extensive reconstruction work. As I have said, 140 of those land conservation district committees are working in Western Australia now. They are generally based on an electorate, as it were, of a set catchment area and have a specific responsibility within that catchment area. Whenever any land user, including any further up the slope, is not doing the right thing, we have an armoury of options available to us. They include normal peer pressure, where somebody at a pub or football club says, "That paddock of yours is blowing too much and you must do something about it." People are very sensitive to that sort of criticism, whereas 20 years ago perhaps they were not. The options range from peer pressure to advice and assistance through land conservation district committees. It is their principal role to provide such advice and assistance. In extreme cases the commissioner has the power to issue a soil conservation notice on a farmer if the land user - it does not have to be a farmer - has grossly abused the land. A soil conservation notice has legal effect. In the most extreme cases it is also possible for civil action to be taken on behalf of a third party because of irresponsible use of land by one person which affects their rights and benefit of use of the land.

Given that extensive armoury of options already in place, I am uneasy about supporting legislative changes which permit the commissioner to take even further action in those circumstances. We do not support enhanced powers for the commissioner in cases such as those already cited as examples, where the commissioner's power may be overused. We will support this group of clauses dealing with this matter, principally because we think the benefits of the clauses outweigh the problems we can see. It should not be beyond the capacity of the departmental draftspersons to word an amendment in such a way as to exclude action against people whose actions were in line with normal farming or land management practices.

The second element of the Bill, which is one that the Opposition cannot support, relates to the evidentiary provisions contained in the amendment in clause 24 to section 44 of the principal Act. The Minister's second reading speech refers to this as an averment. I had to look up two words in this Bill - I did not know what averment meant. One of the words was quite difficult to find, but averment was easy to find. It means to state to be

true. In a legal context it means if a declaration is made, in this case by the commissioner, to a court it becomes effectively prima facie evidence. In the context of the amendment in clause 24, it means that in proceedings for offences under the Act or its regulations the occupier of the land is deemed to have taken the action causing or becoming likely to cause degradation, unless evidence to the contrary exists. That is, one is guilty until one is proven innocent. In the amendment to section 44(4)(b) of the principal Act the owner of the land is also deemed to have permitted the illegal action unless the contrary is proven. This amendment is not acceptable to the Opposition. Our support for the Bill while it remains in this form is conditional. I will move an amendment in Committee to delete clause 24. My colleague Hon Tom Helm has some further advice, and it may be possible we will be satisfied with a referral of the clause.

The third matter I want to raise relates more to an omission from the Bill than something we disagree with. In raising this issue, we acknowledge that in the second reading speech the Government has forecast an extensive review of the Act along the lines proposed by the Legislative Assembly's Select Committee on Land Conservation. The issues addressed in this Bill are only those which are seen as urgent matters which should not be left to await the outcome of the full review which, by the time it reaches a legislative conclusion, could be some years away. I think the Opposition supports that view.

Having said that, the Act contains a deficiency which is not addressed in the Bill and which is a matter of real urgency. The second reading speech devotes some time to explaining the advantages of the Bill in allowing landowners to voluntarily set aside areas under an agreement to reserve or a conservation covenant. These two forms of reservation are options to the compulsory soil conservation notice system, which, as the second reading speech correctly notes, contains some derogatory provisions. The Opposition has no problem with this even though the agreement to reserve and the conservation covenant do not currently exist in the Act. We are worried that in the event of a ban on clearing freehold land - a ban issued in the public interest and enabled by the principal Act - the Act has no provision for compensation to be given to landowners affected by the conservation notice.

This raises a serious question of equity. The Act can prevent a landowner from receiving the benefit of his property. This may be entirely justifiable at times because it is a power being exercised under the Act and by the Parliament in the public interest. I have no problem with that. However, it is not reasonable that in enforcing the power of the Act, the Act does not have the power to grant compensation to a landowner for the loss of use and benefit of that land. It does not allow for compensation to be paid to those people whose livelihood may well be put in jeopardy as a result of the Act itself. I could be wrong, but I cannot think of any other circumstance where fair compensation is not offered. Generally speaking - not exclusively, because I do not know - when we deny a person the use of his property we provide in the relevant Act provision for compensation to be paid for his loss of that benefit. If we should wish to resume property to widen an urban arterial road - I am sure the Minister for Transport would love to do that if only he had the funds - we would be acting in the public interest and be entirely within our rights as a Parliament. When we try to balance public interest with the rights of affected landowners, be they homeowners or commercial or industrial landowners, under the relevant Acts of Parliament, we have the capacity to provide compensation to the people concerned.

[Quorum formed.]

Hon KIM CHANCE: In other words, we provide compensation to those people the use of whose land we deny them because we need to provide the public benefit of a road under an established formula which we try to ensure is fair and reasonable. Perhaps we do not always achieve that aim. What I am trying to say is that there is a clearly established precedent that, where we compel people to surrender their property in the public interest, we should not ask those people to lose the benefit of that property in the public interest and then carry all of the costs of that on their shoulders. It is quite proper and a well established precedent that when we do that we also provide the means of

compensation. Why should we act any differently when we deny by law the right of a freehold landowner to clear and develop his or her land for use as farmland?

Currently the Soil and Land Conservation Act contains no capacity whatever to compensate as a result of the implications of the Act and, disturbingly, the amendment Bill does not even begin to address that deficiency. It is interesting that there is a current case. A farmer in Kukerin whose property is subject to a clearing ban under the Environmental Protection Act has been offered a purchase option under clause 38 of the Conservation and Land Management Act. Although this matter is yet to be resolved, an offer has been made nonetheless. However, a farmer in nearby Kalgarin has a farm which is also subject to a clearing ban, but under the Soil and Land Conservation Act he cannot be offered compensation or an offer of purchase because that Act does not provide for that - he is dealing with a different Act, even though both farmers are affected by a clearing ban. There is a tragic aspect to this situation because, in a few days, it is likely that the assets of the Kalgarin farmer will be seized by creditors and he is unlikely to ever be able to benefit from compensation that may have been paid had he been served with a different notice. Had he been served a clearing ban notice under the Conservation and Land Management Act as was the Kukerin farmer, he may well have been able to allay his creditors to the stage where he may have been able to prevent the loss of his assets. In his case, because of what I would describe as a deficiency in the Act, and only because of a deficiency in the Act, that will not be possible.

Hon E.J. Charlton: Do you want to comment on what is the cause of his financial position? I ask that question because you are implying that that is the reason he is in financial difficulties.

Hon KIM CHANCE: I will make it clear. The cause of this person's financial problems is not related to the clearing ban. There are a whole host of other causes which do not concern us because they are not relevant to this Bill. Nonetheless, if compensation were available, he would be able to retain his ownership of the farm.

Hon Tom Helm: Can he get a grace-and-favour payment?

Hon KIM CHANCE: I understand he could obtain a benefit from the public only if his circumstances were referred to the Minister for the Environment. The Minister for the Environment could make an order under section 38, I think, of the Conservation and Land Management Act which gives the CALM Minister, not the Minister for the Environment - in this case it is the same Minister - the capacity to offer to purchase that property, not to compensate, as part of a conservation estate. It is an extremely tortuous path for the Minister to tread, particularly a Minister who is in charge of the CALM Act and in charge of the Environmental Protection Act, because there is a certain amount of Caesar appealing to Caesar. I sympathise with the Minister for the Environment in that he is trying to tread a moderate path.

The point I am trying to make is that the Minister for the Environment should not have to make those decisions. Why do we provide for the Minister to make an offer to purchase in those circumstances under the CALM Act, and, to be even more relevant, why does the capacity exist for farmers to be compensated under the Country Areas Water Supply Act when, in exactly the same situation and in the interests of public good, a farmer who is within a prescribed catchment area in the south west land division and who has been served a notice which prevents him from clearing land, has instant access to compensation under the Country Areas Water Supply Act? Why do we make that judgment that we should compensate people who compulsorily surrender land in that part of Western Australia and yet we wander a few hundred yards over the prescribed catchment area and we make no offer of compensation? It does not matter to the farmer whether he is in a prescribed catchment area. The effect of the land clearing ban is exactly the same wherever he is; that is, he is denied the use of freehold land.

Hon Tom Helm: Could not those circumstances be related to this Bill?

Hon KIM CHANCE: Precisely. An amendment on the Supplementary Notice Paper effectively picks up the compensation provisions from the Country Areas Water Supply Act and transfers them into the Soil and Land Conservation Act.

I have mentioned equity in the treatment people receive resulting from the difference in the Acts. Sadly the matter gets worse the more we investigate it because, under the Country Areas Water Supply Act - I still have a number of questions on notice to which I am awaiting answers - we have been paying compensation for 20-odd years. The situation has been going on for that time. It has been tried and legislated and it works. However, we do not make the same judgments with people in the wheatbelt as we do with those in the south west of the state. I am not implying that we discriminate on a regional basis, but simply because of the deficiency of one Act when compared with another Act, that is the outcome. Under the Country Areas Water Supply Act we are able to compensate for loss of benefit by landowners whose land is within areas prescribed as catchment areas under the Act and which is subject to a clearing ban under the same Act.

If we do not take this opportunity to ensure fair compensation for land made subject to clearing bans, regardless of location of the land, we will be perpetuating a gross inequity. Consequently, I will be moving an amendment at the Committee stage which will apply similar compensation provisions to this Bill as are in the Country Areas Water Supply Act. I have used the word "requested" amendment carefully, because my advice is that as the Bill is one of appropriation, under the standing orders governing the Legislative Council it would be improper to move a direct amendment. I will therefore request that members in another place support my amendment.

I apologise if this matter seems like nitpicking, but I was offended a little by it: I refer to the use of the word "eutrophication" in clause 26 in the context of land degradation. I have used the word eutrophication in the past in the context of land degradation, but I never looked up its meaning. This proved to be rather difficult as I could not find it in either the Collins or the Oxford dictionary; I found it in an encyclopaedia. It has a reasonably accurate definition within the Bill of "deterioration of water quality resulting from the accumulation of nutrients". I presume that this refers to nitrogen and phosphate and that it can be caused by minerals. The encyclopaedia went a little further to indicate that as a result of contamination of the water by nutrients, algae growth is hastened, and because water is de-oxygenated animal life dies in the water. The problem is that eutrophication relates to a problem with water, not land. When considering the use of the word in the Bill, it is incorrect and inappropriate. Unfortunately, I cannot put my finger on my relevant notes, but our amendment will insert after the word "land" the words "or waterways", which will provide an opportunity to more correctly describe the kind of deterioration to which we refer. The clause as it stands seeks also to insert the word "eutrophication" in clause 26 after the word "erosion". I will explain this matter in more detail during the Committee stage.

This Bill, like others introduced at the same time, has had a somewhat unusual entry to the Parliament. It was introduced into the Legislative Council, which contains neither the Minister nor the shadow Minister. This has produced an unexpected workload for the Minister for Transport and me. Although neither of us will complain about that, the introduction of the Bill in the Legislative Council has produced some problems. For instance, I have been unable to move an amendment directly owing to the fiscal nature of the legislation. I must move it as a requested amendment, which, if successful, will be moved when the Bill reaches the Legislative Assembly. I presume that the Bill will be returned for the reconsideration of the Legislative Council. If we can discourage this procedure in the future, perhaps we should. I suppose that that is nitpicking as well, and I appreciate the different Chambers of the Parliament have varying workloads.

I appreciate that we have not been able to give much notice for this amendment, and that it involves a fairly considerable step. When considering the amendment I would like government members to remember that it will not be dealt with in another place until the next session. This will provide ample opportunity for consideration of the amendment. I urge members to support this amendment because they will not be committing themselves to something which they may regret later. Indeed, once it reaches another place, the Government will have the opportunity of using its numbers to correct whatever it considers should not have been done in this place. In other words, I would like government members to seriously consider the inherent justice involved in the

compensation amendment; this will involve exactly the same provision as that already provided, and which has been used by farmers in the south west for 20 years.

HON DOUG WENN (South West) [10.59 pm]: Like Hon Kim Chance, I have some reservations about parts of this Bill. I will not go into it in depth because Hon Kim Chance covered most concerns. As in the past, I will comment on the legislation by highlighting aspects of the second reading speech. The second reading speech states that the need for urgent action was highlighted in detail in the report of the Legislative Assembly Select Committee on Land Conservation. I do not want to detract from the work of that committee, but the Minister would be aware that in 1987-88, a Select Committee on Salinity was formed in this House by the then Minister, Hon David Wordsworth. Hon Tom Butler and I are the only members of that committee now in the House. That committee was very thorough in its research. It travelled extensively throughout the state, and even into the then Minister's home town of Esperance. It spoke to a large number of people from local councils and shires. I am disappointed that the report presented by that committee was not acted upon to the extent that we would have liked. I must admit that I have not read the report of the Assembly committee.

The second reading speech states that Western Australia is recognised nationally as a leader in its approach to land conservation. It was interesting to note as we went around the state that farmers in salinity affected areas were planting saltbush and bluebush, grazing their sheep on it, cutting it back to the bare roots, and giving it a chance to grow. We noticed when we went to Victoria that they believed that all they had to do was plant that bush, put fences around it to keep out the sheep, and all of their salinity problems would be solved. We pointed out to them that if they pulled out that bush, replanted it, and let the sheep graze on it, it would draw back the salinity that they had. We were welcomed with open arms in Victoria, because they have a huge salinity problem. That suggestion was also welcomed in South Australia, which was eager to learn how we are dealing with our salinity problem.

Hon Kim Chance referred to the south west. People think that because it is a nice big green area and runs good cattle, there is no salinity problem. However, irrigation was causing a salinity problem at Harvey Dam, and the farmers were not aware that it was happening until it was too late. When the committee went to Esperance, we visited a farmer who took us to a block of land, of which he had lost over one-third. He told us that 20 years ago, he had said to his father, "We have a problem; what shall we do?" His father had said, "Do not worry, son; it is only a little block and there is no problem." However, as the years went by, that farmer ended up losing one-third of his farm. That was a tragedy. Pursuant to that, the Department of Agriculture assisted that farmer in every way it could to ensure that he could resurrect that property. I admit that I have not followed up that matter to see how he fared, but at least he had someone to help him.

One of the problems which existed and which was highlighted by that committee was the number of bodies involved in land conservation - the Department of Agriculture, the Health Department and the Water Authority. For some reason, six years ago they did not seem to get together. I would like to think that those departments are now communicating more and working together. We now have a Commissioner of Soil and Land Conservation, a Soil and Land Conservation Council, land conservation districts and administering committees, and a Landcare Trust, so five different bodies are working on the same issue. That is of concern to everyone in the state. I wonder whether, through the regional development commissions, we may be able to form a group which can coordinate these bodies, because although I acknowledge the huge amount of work which they do, we have seen in the past in other situations that bodies tend to look after their own interests and do not get together to discuss the issues. The second reading speech states that the situation is critical in that as committees increasingly and naturally become more autonomous and take on more responsibilities in the community, they increasingly distance themselves from the protection of the commissioner and the Minister. Hopefully this Bill will resolve some of those problems.

We appreciate the amount of work that the land conservation district committees, particularly the volunteer workers, are doing. Those people will now be recouped for

their expenses. That remuneration is very late in coming forward. That should have been done a number of years ago. Although I am not a farmer, I have friends in that industry, and I know that farmers are very busy people. Their working schedule is from sunrise to sunset, and if they do take the time to tackle this problem, they should be remunerated.

Hon Kim Chance referred to people who do the wrong thing on their land. The second reading speech states that the owner or occupier of land will be made responsible for any action on that land which is liable to result in land degradation. The report of the committee highlighted that the problem is not always the fault of the farmer on whose land it occurs. It may have been caused by a farmer who has land two or three blocks up the hill. I will be keen to see how the Government plans to pursue those people who are responsible, because it is human nature to say "This is where I live, and this is what I want to do", and to not think about the consequences. The second reading speech also states that throughout the Act reference is made to an "owner or occupier of land", and there is a need to define explicitly the meaning of "occupier". Hon Kim Chance will deal with that matter at the Committee stage.

I refer again to the regional authorities and defined districts. That provision will give the Minister opportunity to ask the authorities to coordinate the groups within the districts. That would assist the Minister in regard to finance. The second reading speech also refers to the broad geographic locations of land conservation districts. I see no reason why these bodies cannot pick up the situation and become participants; that would go some way towards assisting the administration.

I am also concerned about the comment by the Minister that well informed deputies with full voting rights will be necessary to maintain the flow of council's business and perhaps, as understudies, replace retiring members. I am concerned that these deputies may be departmental people, those who are well briefed and well informed. I look to the Minister for assurance that that will not happen. Our experience with the salinity committee was that, although Hon David Wordsworth was a very good chairman, at times the department tried to lead us in a particular direction, but we realised we did not want to move in that way. I am always concerned that the department will control these sorts of bodies and councils.

Reference is made in the second reading speech to the remuneration and travel allowance for members. That is a necessity because otherwise we will not obtain appropriate people to serve on such bodies.

The second reading speech refers to land degradation and salinity problems. This is the crux of the whole matter. The Minister's speech states that it is appropriate that people who blatantly disregard the requirements of the Soil and Land Conservation Act must be held accountable for their actions. We will benefit if we can do that. It will be a big job to rectify these problems that have existed for many years. They were created by the farmers in the past who had the idea to fell everything, to put in wheat and to run sheep. I have no qualms about making that statement. However, currently some of the better environmentalists in this state are the farmers because they have become aware of the problems. They know that if they do not do something about the situation their livelihoods will be affected. They will lose their land to salinity and degradation not only on their properties but also in the surrounding areas. Therefore, in time, the farmers will be the losers. I cannot speak for the wheatbelt or the northern areas, but I can speak for the south west, where farmers have become some of the best environmentalists as a result of tree plantings and other actions.

As I said earlier, I agree with many of the provisions contained in the Bill but, as stated by Hon Kim Chance, we still have a few problems. I am sure that Hon Kim Chance will address these issues at the Committee stage.

HON J.A. SCOTT (South Metropolitan) [11.14 pm]: Although I have some reservations about the Bill, I admit that it contains some very good provisions. I was not aware that the Bill was to be brought on for consideration tonight. I have been working on other Bills, and as the Greens (WA) member it is a difficult situation for me. The Bill

relates more to punishment than to empowerment and facilitation generally. I make that statement because, as Hon Doug Wenn remarked, the farmers and other country people have become the best conservers of the environment in the country. Overregulation will reduce the grass roots empowerment that people have built up for themselves. I hope that much more can be done than is signified by the Bill to help to achieve positive actions rather than the provision of penalties for people. I do not mean that people who deliberately cause problems should not suffer some sort of penalty for or restriction on their actions.

I note the sixth amendment outlined in the Bill, referring to a provision for the Commissioner of Soil and Land Conservation to take action against any person degrading land, though such person may not be the owner or occupier of that land. I must emphasise that land degradation in this state results from direct decisions by people such as the Minister for Planning, the Minister for the Environment and the Minister for Mines. I wonder whether action may be taken against them. The Minister for Planning has allowed the degradation of our coastal environment by overriding local governments, which really have more knowledge of an area than does the Minister. The Minister for the Environment has allowed the overclearing of our forests in the south west to the point where the Environmental Protection Authority has stated that despite commercial assurances there is no doubt that a great deal of salinity could be caused by the clearing of jarrah. In the north of the state huge amounts of water have been pumped from valleys, such as the Fortescue. The level of the Fortescue River has dropped by two metres and this has caused a great loss of vegetation in the surrounding area.

Hon N.F. Moore: Whereabouts? It is a very big valley.

Hon J.A. SCOTT: I was told the name of the area but unfortunately I have forgotten it.

Hon N.F. Moore: Have you been talking to a gentleman from Roy Hill?

Hon J.A. SCOTT: I was talking to a very reliable person. He said that a company had to add two metres to the pipe which had been placed vertically into the ground. The pipe kept breaking because of the drop in the water level in the valley. This has taken a considerable amount of water away from the vegetation of the area. I have in fact spoken to the gentleman from Roy Hill. He has also suffered problems as a result of damming and water being pumped out of the area. It too has caused a loss of vegetation.

Hon Tom Helm. Do you mean the Ophthalmia Dam?

Hon N.F. Moore interjected.

Hon J.A. SCOTT: I believe one of the road treatments also causes problems there. If we are to be serious about land degradation we should examine not only what farmers are doing to land but also what governments are doing. In the past, the Department of Agriculture gave some very bad advice to farmers, which they carried out. As a result they overcleared and overstocked at various times. Governments must be very much more responsible towards environmental concerns than they have been in the past and are continuing to be now.

Despite the very good work the land care groups are doing I do not think that in itself will solve the problem of land degradation. We must look at changing the style of agriculture we are presently using. The European style of farming is not necessarily the most suitable for the Australian environment. In fact, it is time to look much more seriously at the local vegetation and the values that holds. For instance, species of acacia are being planted in other countries and are becoming staple food in parts of North Africa. We could be examining the potential of these for our own use. I understand that of all the investments we might make, investigating the potential of our plant species would be the most profitable.

Some other detrimental farming techniques are still widely used today. When I was recently at a forum in Wyalkatchem, I noticed there was still an incredible amount of stubble left in the ground. The succeeding winds which arrived immediately after I had left swept away huge amounts of top soil as a result of that incorrect method of treating the land. There are many better ways of farming than those in use. Present techniques

are dragging the nutrients out of the soil. We should make sure those stubbles are ploughed back into the soil. They help hold in the moisture and build up the topsoil. The burning of them is a real problem. As I said, farming techniques must change if we are to make any real change away from land degradation in Australia. It is a very serious problem.

I was recently reading a book called *Australia's Population Carrying Capacity* which analyses eight of our principal natural resources. It refers to the loss of land and says that in 1975 Commonwealth Scientific and Industrial Research Organisation scientists published a report estimating Australia's carrying capacity with reference to agriculture. The book continues -

> They predicted that Australia could support 60 million people, based on the assumption that "the area of 70 million hectares which Nix estimated to be potentially suitable for dry land agriculture would all be brought under the plough." ... An increase of this magnitude, combined with the 500.7 million hectares being farmed at the time ... would have resulted in the total possible area of agricultural land being approximately 570 million hectares. However, agricultural land area reached a maximum of 500.2 million hectares in 1975. This is the year when the CSIRO prediction was made. The total area of land has declined since then ... to its current amount of 459.2 million hectares ...

Hon Ross Lightfoot: Yields have increased dramatically.

Hon J.A. SCOTT: It says that farming in some areas, especially on marginal lands, has become uneconomical. Although yields have increased in some places, in others the land has been degraded to the point where yields are decreasing rather than increasing.

Hon M.J. Criddle interjected.

Hon J.A. SCOTT: We should be making sure these are widespread, rather than continuing with the practices that degrade the land. The book points out that most of the arable land is located in the coastal regions of Australia, as is most of the development. As Australia's population grows, conflicts of interest are arising over land uses. We are actually clearing much good arable land in order to accommodate developments. That is a type of degradation that is very much underestimated and one we must look at more closely. When we are planning future urban expansion we should not establish developments in places such as the Swan Valley where there is good arable land.

Hon Ross Lightfoot: Hear, hear! I would like to see that preserved in the way it is currently funded. There are many places like that.

Hon J.A. SCOTT: I used that area as an example; not to be critical. We must be much more careful in the way we use what land we have. We must also examine some of the other quasi legal methods people use to get away with land clearing at different times. I will include in that extremely wide fire breaks of which I have had examples given to me, such as in the Shire of Toodyay, where people have allowed three times the width of the fire break to be cleared through an area which was not supposed to have been cleared at all. It has devastated that area. I refer also to "accidental" deliberate fires. I understand there is some doubt about how some fires were lit down south which burnt through a very large area of forest. Unless the Government is very serious about dealing with the people involved, it will be difficult to pin down this type of behaviour because it is not really covered. An "accidental" deliberate fire is not mentioned in any Act and it is very hard to prove. Punishment is not the way. We must look at greater education and greater encouragement. That includes helping those farmers who have large tracts of bush on their land to gain the maximum potential from that land. I understand some programs are under way to encourage the use of some of the natural bush on farming properties in the Merredin district, such as in eucalyptus oil production.

Hon Kim Chance pointed out that many farmers lose a great deal by retaining bush on their land, when they are in fact helping out all the farmers that surround their farm. When they come to sell that land they get an unimproved value and suffer a loss, especially in the wheatbelt areas. We need to look at ways of encouraging those farmers

to keep the bush on their land, whether by a much heavier lobbying of the Federal Government for tax breaks or by the State Government making up the difference when that land is sold. I understand that it could be quite expensive, but farmers do not sell their properties every day.

I reiterate that unfortunately the Bill is more about punishment than encouragement. I would like to see a great deal more finance given to assist farmers to do things such as fencing off tracts of land and retaining the bushland on their farms. I would also like to see a great deal more research done on alternative farming methods. According to the United States Department of Agriculture there is no discernible difference between the profits from organic farming and general farming that is carried out today. The major difference is that as time goes on the inorganic farming degrades the land, whereas the organic farming builds it up. We must look further than just planting trees along valleys. We need to have a wider appreciation of the problems involved in land care.

HON TOM HELM (Mining and Pastoral) [11.32 pm]: The Government must be congratulated on this Bill. Its general thrust picks up on what is taking place in the bush and what responsibility the farmers are taking for soil degradation and conservation. It is good legislation in many respects because it addresses matters that are being faced by the people of this state. I am concerned about the provisions within the Bill to take away the authority of the Minister and give it to the chairperson, to the chief executive officer, and to people other than the Minister himself or herself. That is a worry because this Administration has tended to follow that line. To me it flies in the face of the responsibilities we as members of Parliament have to question the Minister when he is acting on behalf of the Parliament and carrying out matters with which for the most part we fully and completely agree. I hope the Minister is able to respond to my concern on this matter.

I am also concerned about the provision in the Bill to amend section 44 of the principal Act, which follows the principle of a person being considered guilty until proved innocent. On the one hand the Minister is ducking away from the responsibility of the actions of the Bill; on the other hand he is allowing his deputy, who can be questioned only through the Minister, to be responsible for his actions. The Bill will take the responsibility from the Minister and give it to a public servant, who is not answerable to this Parliament. Slowly but surely the authority of the Parliament is being undermined. It will be pointless our being here soon. It may have a short term attraction, but it is a dangerous trend. The possibility exists of a Minister ducking responsibility for the actions of his authorised person, whomever that may be. There is a possibility of that authorised person being able to charge somebody with an offence and that person having to prove his innocence, not to the Parliament through the Minister but, more likely than not, to a deputised public servant.

The Bill contains no provision for compensation. Although the Government should be congratulated for putting a Bill such as this before us which recognises the responsibility that farmers have and are showing for soil conservation, it flies in the face of that logic and talks about there being no ability for people to gain compensation when they do the right thing. Their earning capability may be reduced, yet the Government, acting on our behalf, has not chosen to compensate them. The adage "No pain, no gain" is quite appropriate in this case because if those farmers are prepared to reduce their earning capacity and take care of the land, which is to the benefit of all, surely all of us are obliged to give some compensation. It has been said in the Labor Party Caucus room and in this Chamber times without number that farmers and people who make their money from the land are for the most part the best conservationists one will find because they understand the value of the dollar, whereas people such as Hon Jim Scott and his comrades in the Greens (WA) party are interested in the aesthetic value of the bush and the countryside.

The farmers and pastoralists are more concerned about maintaining their earning capacity. By increasing or maintaining the value of their property somewhere in a catchment area they may have to reduce their own earning capacity on their land. Because of that, there is no responsibility on us as a society and on the Government on

our behalf to compensate them for that. But, by God, if they were to do something that a public servant thought might degrade the land, or if it were thought that they were not acting in the best interests of the Bill, they would be considered guilty and would have to prove themselves innocent.

It would be moving the wrong way to change our system of natural justice because the farmers who work on the land were causing a problem. However, when we talk about the compensation of fish stocks, for instance, there is an ability within the appropriate Act to compensate fishermen for giving away a licence. There are penalties for breaches, but by the same token an amount of money is available for compensation. I entertain that argument. Natural justice cast to one side, my distaste would be somewhat tempered by the fact that at the end of the day there would be something by which we could show in a tangible way our appreciation to that farmer for looking after the soil. However, there is not and that is the reason I am concerned about the three issues I raised, not the least of which is the proposed amendment which indicates that a person is guilty until proven innocent.

Hon Kim Chance alluded to an amendment on the supplementary notice paper to delete clause 26. I wonder whether the House would entertain that clause being referred to the Legislation Committee, although the behaviour of the chairman of that committee over the last couple of weeks does cause me some concern.

Hon Kim Chance: We had a motion on that.

Hon TOM HELM: That is right.

Perhaps it would not be appropriate to send it to that committee, but I suggest that the work undertaken by the Delegated Legislation Committee demonstrates that it might be appropriate to send that clause to that committee for consideration because it has within its terms of reference the ability to look at civil liberties and the erosion of natural justice. That committee has a proud record of standing by the things it believes in and for discharging its responsibilities on behalf of this House in the appropriate way. I know that the members of the Legislation Committee do work hard and I should not take that away from them, but there is a problem within that committee.

Unless members opposite do not mind being elected and then not doing anything - the Minister handling this Bill just made a gesture as if to say, "Who, me?"

Hon E.J. Charlton: You usually criticise me for doing too much.

Hon TOM HELM: The reason I believe the Minister is doing too much is that more Bills which take responsibility away from the Minister and pass it to someone else are being presented to this House. Members opposite wanted to be in charge of this place and having done that they now want to pass what should be their responsibility to somebody else. If members opposite do not want their job they should leave now. Perhaps the civil servants should be sitting in this place.

Hon E.J. Charlton: Your colleague criticised me the other night because I was giving too much power to myself.

Hon TOM HELM: This Bill flies in the face of that. The Bill does reflect more power. The fact that one is guilty until he is proven innocent is only one aspect of this Bill. The Government wants the Opposition to agree not only to that, but also to the Minister moving an amendment which will provide for someone else to have the power. Do members opposite want to be in Government or not? Do they want to give their responsibilities to the bureaucrats? Why did not they say that during the election campaign?

Hon E.J. Charlton: People might have believed us.

Hon TOM HELM: They will not believe members opposite next time - do not worry about that!

The three issues I raised amount to a serious degradation of the job of members of Parliament. If opposition members cannot have the person who has the power sitting

opposite them they cannot ask the relevant questions relating to this Bill. It is not fair to the farmer who is putting the most into soil conservation, and who is in danger of being guilty until proven innocent, not to have access to some form of compensation.

HON M.J. CRIDDLE (Agricultural) [11.44 pm]: I will take up the point of funds allocated to land conservation district committees and how they are used. This Bill recognises that funds are being used locally and it gives the local committees the opportunity to operate those funds as they see fit and with a greater benefit to the conservation of their area. They certainly will not be used to pay the people on those committees, which was alluded to by Hon Doug Wenn. I hope I have made that point clear.

Another point raised by members opposite was that of compensation and how far the Government can go in spending money on compensation. It is a matter of whether the money is put into compensation or into assisting farmers to actually conserve the trees on their land, fencing, etc. It will shift the emphasis from farmers being given the opportunity to spend money conserving their properties to compensating those people who want to save some trees. From that point of view compensation would be better spent on giving the farmers the opportunity to conserve their land.

Hon Jim Scott referred to the way in which farmers are farming. I can assure him that farmers have already instituted a lot of the mechanisms to which he referred to create conservation farming in their districts - for example, by rotating crops and ensuring that stubble remains on the soil and is then put back into the soil. All the tillage equipment leads to reconstituting the stubble into the soil; it has certainly made a great difference in my area and I am sure that the same thing is happening throughout the wheatbelt.

Hon J.A. Scott: There is still a lot of burning.

Hon M.J. CRIDDLE: That is right, but the issue has been taken up by the farmers and I do not want members to leave this House with the view that farmers are using only the methods referred to by Hon Jim Scott.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [11.47 pm]: I thank members for their comments, which were confined to a few specific areas. While Hon Kim Chance referred to the broader aspects of conservation, soil and land degradation and the associated factors, the main thrust of his comments centred on what is currently constituted by the meaning of owner-occupier and for the appropriate action to be taken where problems are created by somebody else. The main reason the Bill is before the Parliament is that there have been examples of severe damage around the state. Under the existing Act no action can be taken because the problem has not been created by the owner or occupier of the land in question. Irrespective of whether the problem is on reserve or Crown land, the fact is that when an owner-occupier is not causing that problem the Act is restricted in its capacity to deal with the situation.

The reason the Bill was introduced into this House first is simply due to the mechanics of the running of Parliament. Members are aware that the Parliament is sitting for only a short period and, as Hon Kim Chance said, the Bill will not be passed through this Parliament before the recess. During the recess some of the comments which have been made tonight will be taken on board by the Minister and the department. Members will have an opportunity to reconsider the Bill and to take advantage of the research and reviews which have been undertaken to date. This procedure will assist a Bill like this where there is general support in principle, but specific problems have been brought forward. I will refer to those problems later. That is the reason for its being introduced in this House. I will not dwell on the specific matters raised by Hon Kim Chance, which can be dealt with at the Committee stage.

One factor that needs to be acknowledged before the Committee stage is the difference between compensation in the case of land reserved for water purposes, which is in the public interest, and land required to be left in its natural state as part of a farming operation. Hon Kim Chance said that was also in the public interest, but there is a significant difference between the two and that is why compensation is not pursued in

both cases. When land is reserved for water purposes, compensation is paid because it is in the public interest in the full meaning of those words; it is for the benefit of the whole of the public. When land is required to be kept because it would be degraded if it were cleared, that does not involve the total public interest. It could be said to be in the nation's interest or the state's interest but it is primarily in the farmer's interest that it be reserved in that way. Of course, it could also be in the interests of a neighbour to avoid degradation of the adjoining farm or catchment area, but it cannot be said to be in the interests of people across the state. With regard to compensation being automatically allocated, as the member quite correctly pointed out that is not right and proper for two reasons. Firstly, because it should be in the form of a request and, secondly, we would be implementing a system of compensation that could encourage people to take action to have their land attacked.

Hon Kim Chance: With regard to applications to clear it?

Hon E.J. CHARLTON: Yes. We obviously do not want to encourage that. The Government's objective in amending this Bill is to deal with isolated incidents of people who are taking certain actions that harm and do not safeguard the land. As was said earlier, the second reading speech, detailing the intent of the Government in introducing this Bill, is taken into account in the interpretation of the legislation. The Bill is to deal with extreme cases, and it is not to deal with adjoining landowners and the like. It is not to deal with a specific action taken to the detriment of land, whether it be adjoining or otherwise. It is not meant for that reason at all.

Hon Doug Wenn commented on the work of the Select Committee on Salinity. I acknowledge that work and so does everybody else. Those types of select committees have always been beneficial because they receive bipartisan support and add to the information on hand. His comments on groups and the involvement of regional development commissions is probably wide of the mark because these five groups are to facilitate the best possible action and one will complement the other, particularly the land conservation district committees. The amendments in this Bill provide a greater opportunity for them to carry out their work in their best interest without being bogged down by bureaucracy. The requirements in the Act do not cater for the implementation of these land conservation district committees. Everyone acknowledges what a great bonus they are. The other changes are to give greater opportunity for these district committees to work and operate, to have maps identifying the areas, to raise funds and to keep them for their own use. They will be great benefits to these organisations. I would like to see in every country town in which these district committees operate - which is most country towns in this state - a public display showing the areas under review and any action being taken on the land, such as earthworks, reforestation and drainage. This work is backed up by lots of photographs, and infrared photography is used to identify land on which action needs to be taken.

Hon Tom Helm: Is that going to happen?

Hon E.J. CHARLTON: It already happens in many places. In each country town there should be a display area in which material is kept that schoolchildren and others can view to see what is going on in their area. There is a lot of interaction at present between the education field and this activity, and much information is available on land care.

Hon Jim Scott mentioned the weekend event at Wyalkatchem. I attended that for a short period on opening night. Through that type of event the city children can understand what is happening with our waterways. They start in the pastoral areas inland and finish up on the coast. It would be great if these land conservation district activities could be identified in local towns. There are plenty of empty shops in country areas that could be used for this purpose.

Hon Doug Wenn referred to regional development commissions and, of course, they can assist in any way that is attracting funds but they are basically about regional development. The changes proposed are to ensure there is continuity and that ongoing decisions can be made. The make-up of council membership is obviously involved in this.

Hon Jim Scott said we should do more to encourage action rather than punish people. The punishment is for the extreme cases of people who do the wrong thing. I am sure we would all like to encourage people to do the right thing but, no matter what one does, some people will always do the wrong thing. That is why these penalties are provided, and it is the reason for changing the definition from owner-occupier to identifying the person who creates the problem.

Hon Tom Helm commented on the Minister, and compensation. It is not a matter of taking control or responsibility from the Minister; it is to assist the Minister. The emphasis in this Bill is on assisting people to make positive changes to preserve the land, improve the degradation that is taking place, and regain and improve areas of land that have suffered as a consequence of man's involvement. We are substituting the commissioner for the Minister not to take the responsibility away from the Minister but to provide a mechanism so that the commissioner can agree to the composition of the committee and not go through the bureaucratic system of having to get the Minister to approve all these sorts of things. When it comes to questioning where the money is going, the Minister is still responsible and members can ask questions of the Minister, who is required to respond on behalf of the department. It is not being done to run away from responsibility but so that those committees can make the decisions without having to get the approval of the Minister. The bottom line for the commissioner is that he is responsible to the Minister, and that is where the system ensures accountability and responsibility.

Hon Tom Helm: It puts an obstacle between the decision making process and the Minister. It is a way for the Minister to agree to someone deputising for him. I am concerned there is another question and answer session before one can get to the Minister; there is more bureaucracy.

Hon E.J. CHARLTON: The emphasis is on getting action and not on having people frustrated and time lost in those changes. It is not like appointing the board of a port authority which can be there for a number of years. People are in and out of this system because of the flexibility involved in this whole procedure of land care. Compensation is not automatic, and we will deal with that in more detail during the Committee stage.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon E.J. Charlton (Minister for Transport) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 9 amended -

Hon J.A. SCOTT: Is eutrophication included as well as salinity?

The CHAIRMAN: We have progressed past clause 3, but if the Minister wishes he may clarify that point.

Hon E.J. CHARLTON: The clause deals specifically with salinity.

Clause put and passed.

Clauses 5 to 10 put and passed.

Clause 11: Section 23 amended -

Hon TOM HELM: By amending section 23 immediate responsibility is taken from the Minister and given to the commissioner. Can the commissioner then deputise in the same way as the Minister could?

Hon E.J. CHARLTON: We have 140 district committees, each with membership of between 5 and 25 members, and the Minister is required to authorise the make-up of those committees, so it is cumbersome. As I said in the second reading speech, we are trying to encourage people to get on and do what they need to do. If the commissioner

deputises for the Minister, we enable the appointment of people who are locally driven. It is not about appointing people who take that responsibility on behalf of other people. The area is defined by the catchment plan; it could be a shire, but there might be half a dozen groups within the one shire. It comprises local groups of people who are throughout the state in the more highly populated areas. The coastal strip is the main area where we do not have the committees to the extent the community would like to see them.

Hon TOM HELM: I accept the arguments the Minister made in his response to the second reading debate. Before this amendment is passed whereby the Minister could possibly deputise by way of regulation, I ask whether it is the intention that the commissioner, having been delegated the responsibility by the Minister, can have somebody deputise for him.

Hon E.J. CHARLTON: No; as I understand it we are taking the responsibility away from the Minister and giving it to the commissioner. It is not intended the commissioner then deputise someone else.

Clause put and passed.

Clauses 12 to 23 put and passed.

Clause 24: Section 44 amended -

Hon TOM HELM: This clause causes me great concern. The Chamber should be made aware that it will amend the principal Act where it provides that any person who contravenes or fails to comply with any provision of this Act, where no other penalty is expressly provided, will be liable to a penalty not exceeding $500; and that proceedings for offences against this Act or the regulations may be taken or disposed of summarily before judges in petty sessions. One can see the intention. I do not doubt the validity of this amendment. However, a provision is needed to allow a person to be considered innocent until proved guilty in the true sense of the word. I know it is not unusual to put clauses like this into Bills; we do it with environmental protection legislation and other Bills. However, it would not be difficult to examine this issue.

I do not think the intention of the Bill would be undermined or lost if another look at that clause were undertaken to ensure that we maintain the rights and civil liberties that the people of Western Australia enjoy in every way. I quote from an article titled "How to Understand an Act of Parliament". It is a guide for people who want to understand how Parliament works. Under the heading "Acts affecting a fundamental principle of the common law" it says, in part, that it is a principle of interpretation that most Statutes will be construed as abrogating a fundamental principle of the common law unless intention to do so is clearly expressed. It fulfils that and says quite clearly that one will be guilty until proved innocent. The Government feels that is the way to go in this matter. It also says that the court will construe a Statute with conformity in the common law and will not attribute to it intention to alter common law principles unless such intention is manifested according to the true intention of the Statute.

It complies with that. However, the Chamber must recognise the intention of this in view of bipartisan support for the Bill. I have not had time to examine an appropriate amendment to what is being proposed so that the Government and the Minister will have what is required. I think the Minister did it very well when he explained how people are made aware of what is going on, why it is happening and the dangers if it does not happen. That is fair enough. I cannot emphasise strongly enough the importance of the land to our future, not just as a state but also as a nation, especially to the people living off the land. It is incumbent on us as legislators to try to avoid changing how we behave and how we represent the people who elected us. Where there is a suggestion that we should lose our common law rights, there must be a strong demonstration of that need, such as during an act of war or other emergency. In this case we want to stop the land being degraded. We want to encourage people to conserve the soil and to do all the things that are necessary to ensure that we do not lose any more land to degradation. To do that we are saying that anybody who does the wrong thing, to use the Minister's

words, will be subject to these penalties which are prescribed. That is all right. However, to say, "We feel strongly enough about this that if we think you are guilty of that offence as prescribed, then by God you are guilty until you show us you are not" is going one step further. I am sure that by increased penalties or other means there are ways of demonstrating our sincerity in this matter as members of Parliament without necessarily changing the onus of proof that we are all very proud to defend and support. The amendment might not be appropriate, and the Minister might entertain allowing this to go to the Joint Standing Committee on Delegated Legislation for a fall back position, for it to be looked at and for the committee to see whether it could come up with an appropriate amendment to reflect the intentions but not impede all the common law rights that we have.

Hon KIM CHANCE: I never thought the occasion would arise when I would have to remind our own Whip of our being bound by a Caucus decision. I hope that the position put by the Opposition has not confused members. Let me make our position on this matter quite clear. The Caucus position and the Opposition's resolved position on this matter is that it will seek to strike out the clause as our preferred option. However, we wanted to offer members the second option of referral to the Joint Standing Committee on Delegated Legislation. It was my view that voting against the clause was the better option because, frankly, I am not convinced it would be possible, notwithstanding the skills of the Delegated Legislation Committee, to make this clause less objectionable even though the committee might work on it diligently. The reason I say that is that the clause is essentially a denial of the principle of natural justice.

Hon Tom Helm has explained very clearly that it is within the power of the Parliament to override the concept of common law rights, in this case the common law right to be treated as innocent until proved guilty, and that is quite proper in a parliamentary sense. He said that when we make that decision, however correct it may be in parliamentary terms, it is a decision we should not take lightly. There are occasions of course when we will roll over the right granted by common law, but when we do that we must acknowledge the responsibility we have and the knowledge of precisely what it is we are doing and why we are doing it. In that sense the responsible action on our part is to make a judgment between the reason why we are willing to roll over the common law right of natural justice and the reason for which we are doing it and to balance those two. I am not at all sure in this instance that the justification for legislating against the common law right is established. That is why I would much prefer that we vote against this clause. If that is not acceptable to the Chamber, I guess there is not very much we can do about it. If we do not vote against it, we must vote for it and the clause will remain as it is. However, it is still within the power of the Chamber to refer the clause, even though it has been approved, so the Chamber does have a second bite at the cherry.

One of the reasons the Opposition finds the clause objectionable, apart from the ethereal concept that it overlaps common law rights, is that there are some very clear examples it could give where this clause could place a person in considerable jeopardy through no fault of his own. Subparagraph (b) reads that "the owner of the land is, unless the contrary is proved, deemed to have permitted action to be taken"; that is, action causing land degradation. If we have, for example, a pastoral station which has been closed up because of its participation in a tuberculosis-brucellosis eradication campaign, there is no need to have persons at that station at that time except for the occasional check to ensure that fixed assets are in good order. It is quite possible on a station of considerable area that another person grazing on Crown land outside the station's boundary could in fact graze river country, which is in theory closed up for regeneration, to the extent it was severely degraded. That action would be taken without the consent or permission of the person responsible for the land, the pastoral lessee. That overgrazing could occur literally in a matter of a couple of weeks if it were at the wrong time of year, and certainly in a couple of months. In those circumstances, it is not likely the pastoral lessee would have checked out that part of the pastoral station during those two months, because he knows there are no cattle there as he has destocked it for health reasons. In those circumstances, we may have severe degradation of that property, and yet because

of this clause the owner of the land would be deemed to have permitted the action to be taken. I do not think it is a necessarily unusual possibility I have outlined. The owner of the station is deemed to have permitted it, unless he can provide evidence that he did not cause the degradation. Once the degradation has occurred it is very hard to prove when it happened because it may not be discovered until some time later or the commissioner may not take action until some time later. The owner of the land could not say in his defence, "That land degradation took place 12 months previously at a time when I was completely destocked." That would not be a defence. I do not think it is difficult in those circumstances for people to imagine other examples of how that might happen. I cite some of the activities of the less reliable mining exploration companies that operate in Western Australia. If mining exploration work which can be quite damaging has taken place and the owner of the land or person responsible for the land is not aware of that because he has not been advised according to the state protocol, he might also have a bulldozer which might be capable of doing damage, and unless he can prove it was not his bulldozer that caused the damage he is deemed to have permitted the action to be taken. I do not think I need say a lot more as the message is fairly clear. I understand why the clause was inserted, but I am very much concerned that whenever we compromise the common law principles of natural justice we need to be very sure that the costs are worth the benefits that we think we are getting from it.

Hon E.J. CHARLTON: On face value, I understand the concerns expressed by Hon Kim Chance and Hon Tom Helm. We would all say that it would be a bit rich if the occupier of the land had to prove his innocence. The situation is that this provision does not take away any of the basic rights and opportunities for those people to prove they did not do it.

Hon Kim Chance: Yes, it does.

Hon E.J. CHARLTON: No, it does not take that away from them. The problem is that action cannot be taken against someone unless it can be proved he actually did it. Therefore, if the damage were done, but nobody saw it being done, no action could be taken. We are about land care. There are 140 land conservation district committees working to improve the soil and to care for land and yet this impediment allowing no action to be taken appears in legislation. It is not just a perception that this may or may not have happened; there are examples of it happening and no action has been taken. Obviously, the action has to result from major damage. If action is taken because of some petty damage or because of bureaucracy or policing out of control, farmers will complain in droves about their rights being taken from them. The land conservation district committees support this provision.

We have taken on board all of the points raised by members opposite; they are valid. The land conservation district committees have been consulted and have agreed to the provision. Time will tell when it needs to be updated.

Hon TOM HELM: Commonsense will prevail. If some dill tries to prosecute everybody in sight, there will be a revolution. The Minister said that the land conservation district committees have been consulted and have agreed to the provision. I suppose that practical application will prove that the commissioner will be a real clown if he does not talk to the committees and accept their advice. The provision in the principal Act allowing the commissioner to do these things seems to be adequate. However, clause 48 allows for regulations to be published. Therefore, the commissioner's role could be changed or expanded. I wonder whether the matter should be referred to the Joint Standing Committee on Delegated Legislation. Does the Minister believe that provision should be made for formal recognition being given to the LCDCs being the trigger? In other words, that the commissioner is responsible for taking people to court but the prime argument that will be used by him will be presented to him by the LCDCs which are responsible not only for conservation but for correcting the damage that has been done to the soil.

Hon E.J. CHARLTON: I guess it depends on where it is and whether a piece of isolated land somewhere is affected. Again I emphasise that no action can be taken which is why

the commissioner will take action. At this time, no legal action is taken because nothing can be proved. As the member said, time will tell. The problem is that, in isolated areas, no-one knows who does the damage.

Clause put and passed.

Clause 25 put and passed.

Clause 26: Section 48 amended -

Hon KIM CHANCE: I shall try to be a little clearer on this amendment than I was during the second reading debate. If my amendment is carried the section to be amended will read -

> The procedure for obtaining assistance by persons whose land or waterways has been affected by erosion, eutrophication, salinity or flooding . . .

Unless we insert the words "or waterways" within the amendment the section of the principal Act will refer to "the procedure for obtaining assistance by persons whose land has been affected by erosion, eutrophication". That means nothing because one cannot eutrophy land. We thought we would help out the Government in this way so the amendment and principal Act will make sense.

Hon E.J. CHARLTON: When we were in opposition and were not the authors of legislation which came before this Chamber, on most occasions we produced good advice for the government of the day. If the principal Act contained the flaw to which the member referred, he would be right in ensuring that "waterways" was added. However, I understand that the legislation is referring to land to be interpreted as including anything which is part of the land, including the waterways. Therefore, it is not necessary to specifically spell out waterways in the legislation. In referring to salinity in land, we are referring to the waterway as part of the land.

Clause put and passed.

New clauses -

Hon KIM CHANCE: I move -

> Page 12, after line 18 - To insert the following new clauses -
>
> **19. Section 33A inserted**
>
> **33A.** Where under this Part of the Act, a soil conservation notice has been served upon a person, then, unless the person wishes to proceed initially by way of appeal, a claim for compensation shall arise under this Part of the Act.
>
> **20. Section 33B inserted**
>
> **33B.** (1) In assessing any claim for compensation under this Part of the Act regard shall be had to the requirement that not less than one-tenth part of the land should, in the interests of good agricultural and conservation practice, be left under tree cover and insofar as any land has been, or is proposed to be, cleared of trees to any greater extent no claim for compensation arises in respect of that excess.
>
> (2) A claim for compensation under this Part of this Act may extend not only to the land the subject of the soil conservation notice but also to any other land in the same occupation or ownership which is shown to have been rendered unproductive, or uneconomic, or to have been otherwise injuriously affected, by the operation of the provisions of this Part of the Act.
>
> (3) A claim for compensation shall be made in the prescribed manner, to the Commissioner, but in relation to any land, or any interest of a particular nature, may only be claimed once and no further claim shall lie notwithstanding any subsequent applications or decisions affecting that land made under this Part of the Act unless it is shown that the claim paid did not take into account the nature of any subsequent injurious affection.

(4) Any question as to whether any land, or any estate or interest in land, is injuriously affected or as to the amount or manner or payment of the sum which is to be paid as compensation for such injurious affection shall be determined by arbitration under and in accordance with the Arbitration Act 1895 unless the parties agree on some other method of determination.

These clauses deal with the matter of compensation following the issue of soil conservation notices. The wording of these clauses is essentially drawn from the compensation clauses which exist in the Country Areas Water Supply Act. As I said during the second reading debate the compensation clause in that legislation has been around for some 20 years, and it has been tried and proven in a legislative and practical sense.

During the second reading speech the Minister argued that this amendment should not be considered for at least two reasons: First, that it is improper to draw parallels between the soil and land conservation legislation and the public interest which is involved in the setting aside of clearing bans in respect of that Act. To draw that inference regarding the compensation provided within the Country Areas Water Supply Act is not correct. The Minister said that we need to protect water resources; that is why the Country Areas Water Supply Act contains those provisions. I have no real argument with the Minister. He is saying, in effect, that the outcome of the clearing bans is different. Certainly, the outcome of the clearing bans in the Country Areas Water Supply Act is to provide water for our use. The outcome of the clearing bans in the Soil and Land Conservation Act is to provide for the preservation of a rare resource - bushland in the wheatbelt. The outcomes may be different and that may justify our handling the matter in a different way in the legislative sense. However, their effect on farmers is precisely the same: Farmers cannot use land which they either have been granted or have bought, land which they believe they are entitled to use, and land on which they expect the future development of their farm to hinge in one way or another.

It is not enough to say that because the outcomes are different, we can treat those people differently, because that is making a value judgment about which is the more important. If we used that argument, we would be saying that it is more important to guarantee our resource of fresh water than it is to preserve the resource of bushland that we have in the wheatbelt. I do not think we can say that. At the very best, it is a value judgment. For example, there may be plant species in the wheatbelt - I am certain there are - which exist nowhere else in the world. Those plant species may be preserved on tiny islands of bushland. Very little bushland, particularly privately owned bushland, is of a substantial area. Environmentally, once an area of bush shrinks below a certain size, it does not have the biological diversity which is required to keep that area going. We stand to lose the last bit of bushland in what is now the biggest man made savannah outside the Sahara Desert. I do not make that claim lightly. That massive savannah was created from what was scrubland or forest land. Hundreds of thousands of acres of forest land are now savannah. That is precisely the stage that the Sahara went through before it became the Sahara that we know now. If people think that is being over dramatic, perhaps they should look at what is happening daily in the sub-Sahara. The sub-Sahara is going though exactly the same process of clearing, not so much for agriculture, although there is an agriculture component, but for firewood, which is going on daily, and every day the Sahara is growing a little further.

That underlines the risk that we are taking. I am not saying that we can convert all of the Western Australian wheatbelt back to its natural state. In fact, that would be a waste of a wonderful piece of agricultural country. However, it means that the value of what is left cannot be underestimated. I will not say, and I do not think the Parliament should say, that the resource value of that bit of bushland that is left is any greater or lesser than the bushland in the south west which provides our water supply. One could argue that we have ample underground water supplies. In fact, a lot of people say that Western Australia is in a dry part of the continent, and all kinds of schemes are devised, some sensible and some not so sensible, to provide water for the south west of Western Australia. In fact, per head of population, the south west of Western Australia is one of

the most beneficially treated areas in the world. We have ample resources of fresh water. I am not so sure that it is easy to make a value judgment in the way that the Minister did by saying that we can compensate under one Act, because there is a higher prize at the end of it than there is if we compensate under the other Act; even if we could, it would be irrelevant, because the effects of a clearing ban would be the same whether farmers were affected by one Act or the other.

If the Minister wanted to say that Cabinet was frightened of the consequences of this requested amendment, then I would be inclined to agree with him, because when I first saw the Environmental Protection Authority's report in respect of Matthew King's property at Kukerin, I thought if I were a member of Cabinet, particularly if I were the Treasurer, I would want to run away, at 100 miles an hour, from the implications that are contained in it. We can consider that the outcomes could be far reaching. The fact is that we have lived for 20 years with the concept of compensation for land in the south west. The concept of asking people to give something for nothing is too easy for us to do. It is very easy to say that farmers should retain that bit of bushland that is out there because it is in the public interest. I would agree with that. However, to ask them to bear the cost of it is asking too much. The suggested amendment to insert a new section 33B states that any claim for compensation will not apply for any part of that bushland which represents less than one-tenth of all of the land. In other words, the first 10 per cent of all of the land which is covered by a clearing ban will not be compensated. Therefore, it is not relevant for the Minister to say that the bushland should be kept on the property in the interests of that property, because it has been deemed that the first 10 per cent is of value to that property, but beyond that point we are getting into the realm of public interest.

I would like government members to seriously consider supporting these requested amendments. If they are wrong, it will not be the end of the world because procedures can be undertaken between here and the Bill's passage to the Legislative Assembly. If they are right - I am confident that they are - on either an equity ground or the basis of the tested nature of the wording of the amendments, and if the Government votes against them, it will not get that same opportunity again to fix it. There is a question of whether we are prepared in this instance to take something from people and not compensate them for it. If we do that in this instance, how much further will we take that principle? Indeed, how will we live with the balance between what we have done in this case and what we are continuing to do in a number of other Acts, not just those two that I have mentioned in the context of land clearing bans, where we do precisely the opposite? Will we be consistent and guarantee some equity, or at least give ourselves a chance to guarantee equity, or will we simply say, "No, this is too hard, we are too frightened of the implications, and we will not do it"?

Hon E.J. CHARLTON: The point raised by Hon Kim Chance in the broader context, and without looking at the specific ramifications of it, could be regarded as the fair, appropriate and meaningful thing to do. However, members must understand that we are talking about specific properties where it has been determined that areas of land should be set aside because of the critical nature of the damage that would occur now and in the future if that land were cleared. Those areas will not be set aside because of the public interest. That is a different situation from the other, broader aspect. Hon Kim Chance referred to 10 per cent. In the case of one property, that could be only 2 per cent, 3 per cent or 4 per cent. In another case it could be 50 per cent of the property. Hon Kim Chance referred to amounts of more than 10 per cent, but that is not relevant in this situation. Someone could lose 10 per cent and receive nothing, and another person could lose 12 per cent and get 10 per cent. The Bill is all about land. Complaints and appeals have been made in relation to assessments and decisions to restrict these areas, but it has been acknowledged generally that this is a good thing for land care.

Another problem is the compensation factor. We all acknowledge that it is in the wider interests for people to be compensated, but this aspect will not benefit the land. The Bill is all about present and future benefits to the land, and that is why we should not go down the compensation path. The member also mentioned nature conservation. That is a separate issue; it has nothing to do with this Bill. I agree with the concerns about

conserving trees and other areas. That is the province of the land conservation district committees. They are concerned with planting the understorey and fencing them off. Without becoming involved in the compensation issue, our aim is to provide incentives to people to put aside new or current uncleared areas. The LCDCs are involved. But the best way would be for the Federal Government to give greater income tax relief. Hon Kim Chance stated that not everyone pays taxes, and that is correct, but conservation comes back to the individual. That is the better starting point to protect the land rather than doing so on a government or regional basis. That is a debate for another day.

As the member would be aware, a decision was made in 1986 to require people to receive authority to clear land, and no-one would want to do away with that provision. We have problems with compensation in those areas. I am advised that the insertion of section 33A and complementary section 33B will provide an opportunity for a person to claim compensation where that person chooses not to appeal against the service of a soil conservation notice. Thus, the person can accept the notice and, if this amendment is carried, he would immediately claim compensation for loss of what might be called the right to degrade land. So, he could take no action against the notice, nor try to get agreement to clear the land; he could decide not to abide by the notice.

Hon Kim Chance: The right to degrade is a right to farm.

Hon E.J. CHARLTON: That is right, but it is that area that would become degraded.

Hon Kim Chance: As most of the wheatbelt would have been if it were cleared under those circumstances.

Hon E.J. CHARLTON: The member and I know that if we had our time over again we would set aside specific areas. We would like to do that tomorrow.

Hon Graham Edwards: Why don't you?

Hon E.J. CHARLTON: For the reasons I have mentioned. The best way is to provide incentives. This implication flies in the face of the now widely accepted view that a person who occupies land has a responsibility to ensure that the use of the land does not result in land degradation. We took up a property in 1966 along the Brand Highway, where the roadhouse is on the Green Head-Coorow Road. People have made mistakes over the years. We never went near a waterway, nor worked at the top of a hill. People would drive by the area now and say that the place is only half cleared, and that more should be done. Fortunately we learnt by our mistakes and by those of previous generations. We must protect other areas where the natural vegetation remains, because we do not want to see that cleared.

This amendment amounts to a payment to a person for not degrading the land, and is totally unacceptable. Furthermore, the amendment would encourage some people to accept the notice, claim compensation, and proceed to clear the land and suffer the maximum penalty of $2 000.

Hon Kim Chance: But there is also an appeal provision.

Hon E.J. CHARLTON: I have referred to the extreme situation, but it could be the case. I am not suggesting that would happen. Historically, people will play the game according to the rules if it benefits them. If not, they will play against the rules. We do not support the amendment. No-one wants to see people being subjected to a loss of income or the ability to develop land if they are not given the opportunity to clear it. That is, they have been denied the opportunity because of the soil type or the presence of a waterway, and anything that could lead to the degradation of a piece of land. It is a fair and equitable argument that these people are left in an impossible situation. Another point is that these days it is cheaper to buy land that is already available rather than to clear land. That is, these days we buy land next door rather than in Tammin. That goes for most people because the cost of getting a property up and running is prohibitive. The compensation aspect has gone out the window, compared to the situation 20 years ago.

Hon J.A. SCOTT: The Minister made some valid points. He also made a gross error when he said that the Bill is all about land, and not about nature. The vegetation on the

land is an intrinsic part of the conservation of land. If we do not conserve the species that are held within these land areas -

Hon E.J. Charlton: That aspect is dealt with in other legislation. I do not say that we should not be conscious of that issue, but it is not part of this legislation.

Hon J.A. SCOTT: The blocks of land referred to by Hon Kim Chance have not been cleared, and they contain species that as yet have not been properly catalogued. These species may be very valuable to that surrounding area. To lose those areas of bush will be very damaging. That area holds great potential for land care. On that basis alone, let alone that the more trees there are the more the overall salinity will be reduced, the Government should have a close look at what Hon Kim Chance has suggested. Those people should be compensated for their land.

The CHAIRMAN: As the amendments require appropriation they can only be made in the other House and can only go as a request from this House.

Hon KIM CHANCE: Everything the Minister said about this being a land Act and concerned with the conservation of land and how the function of the Act is a reason that compensation should not be paid, is a logical enough argument except for one thing: A precedent has now been established in that the Government has made an offer to purchase in similar circumstances, not because of the land but because of the value that bush has. I know it is a tenuous enough deal, because there are differences. Matthew King's case was significantly different. He was given a licence under the Soil and Land Conservation Act to clear and subsequently there was reference to the Environmental Protection Authority. In the end the bush is the same and the farmer's situation is the same.

With the bush in the Kalgarin case, by contrast, there is every reason to believe it has even more conservation value. It was decided by the Department of Agriculture that it should not be cleared because of the erosion potential it posed to people downstream. If that is not making a conservation contribution, what is? In Matthew King's case and the Kukerin case it was deemed by the Department of Agriculture that it would not cause a problem if the land was cleared. One could argue that the conservation consideration of the Kalgarin case, which is not to be compensated, is greater than the Kukerin case, which is to be compensated. An offer was made by a Minister of this Government to buy Matthew King's Kukerin land for the conservation estate. I applaud that offer and I think the Minister has conducted himself properly in that regard and I strongly support his stand. However, we did not need that precedent, because it was established years ago in the south west.

The Minister criticised the wording of the amendment. It might be imperfect, as can be any legislation. However, the fact is that the wording is taken straight from the existing Country Areas Water Supply Act, which has worked well for years. The only change we made was to substitute the word "commissioner" where the term "under secretary" was used. It has been working well. All the criticism levelled at it by the Minister quoting from the written advice he has can equally apply to legislation we have now and which we know works well. We have the precedent. I believe we should give this amendment a go.

Hon E.J. CHARLTON: Hon Kin Chance summed it up himself at the end when he said his amendment is taken from the Country Areas Water Supply Act terminology. That is the significant difference. As Hon Kim Chance and other members know, with many farming properties there is an area which has conservation value because of wildflowers, rock outcrops, different soil types and growth structure. Another type of land may be ordinary and the sort of land that can be cleared. Although one area has a conservation value there is a difference in conservation value between what the benefit will be to the community and what it can be in its natural state as bush or trees or whatever.

Hon Kim Chance: This will not read well in the morning!

Hon E.J. CHARLTON: In this case the point the member has raised is that if the area is not degradable, it can be cleared. The point Hon Kim Chance made was that King's

property could be cleared. It could not be cleared - not because of degradation, but because it had a benefit to the community.

Hon J.A. Scott interjected.

Hon E.J. CHARLTON: I know the point Hon Jim Scott is making. If he drove down a road and saw a patch of industries and said how magnificent it was that it had been left -

Hon J.A. Scott: That is not my point.

Hon E.J. CHARLTON: It is what Hon Jim Scott is saying.

Hon J.A. Scott: If in the Kalgarin area he cleared that land, all the surrounding farmland would suffer degradation of soil.

Hon E.J. CHARLTON: All the land Hon Jim Scott has come from has not suffered because it was cleared.

Hon Kim Chance: Jim Scott is right; that is what the Department of Agriculture said.

Hon E.J. CHARLTON: Members are drawing a long bow to deal with a Bill that is about land. They are introducing nature and conservation and other issues into this Bill, but it deals specifically with land. Some people in the community own land and believe they should be able to clear it. However, the bottom line is that the only reason the decision has not been made to clear the land is that, although it is subject to appeal, it could become degraded and then in 20 years we would be fighting the local district committee to develop measures to save it from getting worse. We all know that when the human element is involved and decisions are made, in some cases land which may not have got into a degraded state could have been cleared and, therefore, in the interim period or even in a generation or two, people will suffer accordingly. However, that is life. Nothing is perfect in this life. Decisions are made from time to time which are detrimental. We must try to draft legislation in the best possible way so that the people with the responsibility can carry out the decisions knowing that we will look after the future of the land that is controlled by this legislation. Other Acts are in place to deal with all the other aspects. It is on that basis that the Government reluctantly does not support this amendment.

Hon SAM PIANTADOSI: I am disappointed at the Minister's attitude in saying that some things are not perfect. Over recent years the points which Hon Jim Scott outlined have been made about some inherent dangers and some of the malpractices of the past. Surely we have learnt from those mistakes. The Minister obviously does not know about the agricultural regions of this state if he can say that things have not happened.

Hon E.J. Charlton: We are talking about compensation.

Hon SAM PIANTADOSI: We must consider what has occurred west of Albany Highway and what has occurred in the river systems of our south west. The progress that has been made with the planting of trees to try to rectify the situation has been common talk around this place on many occasions.

Hon E.J. Charlton: We are talking about compensation; we are not talking about that.

Hon SAM PIANTADOSI: We are talking about certain areas. We need to look at safeguarding those areas. The Minister is saying that because the land is used for other interests it does not really matter. At the end of the day the net cost to the community generally and to the farming community particularly from some of these practices is significant. As a result of that one would need to adhere to what Hon Jim Scott is saying, and also look at what has occurred in the past. Although I agree that in the past many actions were taken that were not perfect, and much legislation was not perfect, we should learn from past mistakes and ensure that we put together a piece of legislation which is perfect and which will protect all sides in the future.

Hon J.A. SCOTT: The Minister should be aware of the present problems with the Swan-Avon catchment. He should realise that the degradation of those waterways is occurring as far afield as Wyalkatchem. Nutrients are coming from that far away. The clearing that has occurred in that area has allowed a lot more water to run all the way to Perth. By

leaving trees in a certain area we will be adding to the common good within that catchment. There is no way that I am looking at it just from the point of view that they are nice trees; the Minister has it quite wrong. I am looking at it from the point of view that there are many generic species which may not be found in any other place. The Government jumped up and down about finding one smoke bush. It could be making $500m out of it on one of those properties. The Government is saying that in one case it can compensate somebody for retaining bush, but in another it cannot. That is a total nonsense. An ecological system does not work only within one property; it works over the whole state. Hon Kim Chance is right because it is much cheaper to retain present bushland than to plant more. The Minister has it the wrong way around. He is not protecting the land by not putting in place systems that encourage the retention of the bushland which already exists.

Hon E.J. CHARLTON: The present argument is unfortunately right off the track from the amendment moved by Hon Kim Chance. He moved an amendment with a valid point about compensation for people to have land kept in its natural state. The argument now being put forward is that the Government is not conscious of the great benefit of this land; however, the truth is quite the contrary. The Government is interested in ensuring that the land is kept. The point has been made by Hon Kim Chance that people should be compensated for large areas of land currently in a natural state. We agree that the areas to which Hon Jim Scott refers are being affected by degradation. However, this part of the legislation is not dealing with that situation.

Hon J.A. Scott: Are you saying that they should not be compensated for that because they are not part of the greater good?

Hon E.J. CHARLTON: No. Hon Jim Scott is drawing a long bow about something which is not part of this Bill. That matter should be dealt with as part of land conservation legislation, not in a soil and land Act. All the issues are related, but those sorts of actions must be taken by us all as a community to determine the conservation value of the land. This Bill covers land which can be assessed to be cleared or not from an agricultural point of view. I am not disagreeing with Hon Jim Scott; I am just saying that that is a debate for another time. We are talking specifically about whether the land should be used for production. If it should not be, that is because it needs to be cared for in the future. Whether the land has some greater conservation value is a different argument.

Hon Kim Chance is saying that if this piece of land is going to devalue, break down and become degraded, the owner or someone else should be compensated for that. That is a fair point of view to put, but it is not the argument covered under this Bill. When people are in their prime and are involved in farming and production, and then years go by and they die, the land still goes on generation after generation. It is not always of good quality. Sometimes it improves because people are good managers, good farmers and good operators and they care. The next person who comes along may not be so good and may allow the land to become degraded. That is why legislation such as this exists. We are talking about caring for the land and ensuring that the land we are concentrating on will be cared for on an ongoing basis so that it is not permitted to become degraded.

New clauses put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows -

Ayes (13)

Hon T.G. Butler	Hon John Halden	Hon Bob Thomas
Hon Kim Chance	Hon A.J.G. MacTiernan	Hon Doug Wenn
Hon J.A. Cowdell	Hon Sam Piantadosi	Hon Tom Helm *(Teller)*
Hon Graham Edwards	Hon J.A. Scott	
Hon N.D. Griffiths	Hon Tom Stephens	

Noes (17)

Hon George Cash	Hon Barry House	Hon M.D. Nixon
Hon E.J. Charlton	Hon P.R. Lightfoot	Hon B.M. Scott
Hon M.J. Criddle	Hon P.H. Lockyer	Hon W.N. Stretch
Hon B.K. Donaldson	Hon I.D. MacLean	Hon Derrick Tomlinson
Hon Max Evans	Hon Murray Montgomery	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon N.F. Moore	

New clauses thus negatived.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon E.J. Charlton (Minister for Transport), and transmitted to the Assembly.

FISHERIES AMENDMENT BILL
PEARLING AMENDMENT BILL

Cognate Debate

On motion by Hon George Cash (Leader of the House), resolved -

That leave be granted for the Bills to be taken together in a cognate debate.

Second Readings

Resumed from 8 June and 9 June.

HON DOUG WENN (South West) [1.36 am]: The Opposition agrees with this legislation. I understand from talking to Hon Gordon Hill that Western Australia is the last state to come into line with the overall agreement between the Commonwealth and the states. I believe we are moving into a scenario within the industry that should have happened some time ago.

I take this opportunity to congratulate the officers in the Fisheries Department. Most members in this place have contact with professional fishermen and we also know, as amateur fishermen, of the actions of the Fisheries Department, for which it should be congratulated. There has been a need in this state for the fishing industry to take control of and act in situations in which our stocks, although not depreciating, need to be researched. Previous Ministers, particularly Gordon Hill, should be congratulated on their past actions. All members in this House will know that a number of changes have occurred to the industry in recent years. We need to give consideration to the professional side of the industry, and the crayfishing industry in particular which has been heavily impacted upon.

Many of us have travelled along the coastline and visited coastal towns where the crayfishing industry is part of their lifeline. From Geraldton to Augusta and Albany there has been an impact on the industry and a reduction in the number of pots. People in the industry have been able to change, whether or not they liked it, and have got on with the job at hand. The crayfishing industry must change a great deal more, although not necessarily by reducing the number of pots. The Fisheries Department must review the industry and speak to the people in it about their future. I recently met with a group in Geraldton who said that the Fisheries Department was counting the catch being brought on board, but not the catch being thrown away because it was undersized. The Fisheries Department must do further research on that matter.

In the past tuna fishing, mainly from Esperance across to the South Australian border, has created some problems and the proposed Australian fishing zone will ensure the cooperation that is sometimes not evident now. The Delegated Legislation Committee

recently considered problems with the Kimberley and the north west prawn fishing industry. The Fisheries Department was able to explain what was happening between the Commonwealth and the state. This Bill is heading towards a resolution of those problems. The Opposition believes that the difficulties between the states will be resolved through this Bill.

When I was in Canada with a committee two years ago - we may not want to refer to that committee too closely - the Canadian government closed down the red cod industry. There was no negotiation with the fishing industry. It put 20 000 people out of work overnight. In contrast, the Western Australian Fisheries Department negotiates with the fishing industry, and I hope that will continue.

The fishing industry in Western Australia is a great boost to the Western Australian economy. We need to encourage it. The Bill provides for a new status of "amateur fishing". There are 90 000 amateur fishermen in Western Australia who will be bound by the Fisheries Act. In particular, new laws will be introduced to increase the permitted size of tailor that may be caught, and the amateur fishing body in Western Australia has accepted that, in many cases.

On a recent tour to Japan I was told that we have a major problem in the transportation of fish to other countries and it was made clear that we need to look at getting our catches across to places such as Japan.

I will not go into the pearl industry because members on this side are happy with the Bill as it is. We encourage the House to accept this Bill. It is a good Bill. The Government had to get one right eventually. The Opposition supports the Bill.

HON SAM PIANTADOSI (North Metropolitan) [1.44 am]: Hon Doug Wenn referred to the rock lobster industry, which is a major industry in Western Australia, and some of difficulties involved in policing that industry. Opportunities exist in other areas, besides the established industries, but because of the current structures that bind that industry it is very difficult to develop those opportunities. Interim licences were issued by the Commonwealth Government for the deep sea crab, but it took nearly three years for a decision to be made on applications for exploratory licences. The previous Minister for Fisheries negotiated extensively with the Commonwealth Government, but it took some time before they overcame some of those difficulties. There are probably other lines of deep sea seafood that we are not aware of that will be marketable. Lobster fishermen get $35 a kilo for their catch. Deep sea crab are bountiful along our coast and should become attractive to the Japanese market. If there had been one authority in control of the industry, it would not have taken three years to issue 12 experimental licences. We are told that we must be quick if we are to catch export markets, but when bureaucracy takes three years before someone can get an activity off the ground, we could miss the boat. That situation was brought about because of the current system. A friend of mine applied for such a licence and we had several coffees together to discuss how he could try to hurry the system. I tried to hurry the Minister, but he said it was difficult to get a response from Canberra.

When one body is in control, it will be much easier to handle the local resource. The people in Canberra would not be aware of what is occurring on our coastline. Hon Jim Scott had a book which discussed future growth, population and also the depletion of our resources and it was interesting to read what needed to be done to stock up resources. It pointed out clearly that most of our coastline is suitable for aquaculture projects. With our clean waters, aquaculture is a possible mechanism to supplement the natural crayfish stock and to release them into the wild.

We want to ensure that the industry continues to be viable, and when stocks decrease certain conditions are applied. Hon Phil Lockyer is not present at the moment, but about two years ago he moved to establish a select committee on aquaculture to look at the true position in relation to both the salt and fresh water industries. At that stage, many ventures looked like taking off but that did not eventuate. We have a great potential to expand the industries along our coastline in suitable areas. Ocean stock has been increasingly depleted on an annual basis. The establishment of a select committee could

be a step in the right direction. Perhaps the Minister for Transport could mention to the Minister in the other place the possibility of setting up a select committee to look at the industry because this is an area in which the state could earn revenue. The potential is there, and a lot of interest and goodwill exists to set in place the infrastructure that would be necessary to cater for such an industry. I support the Bill because it is a move in the right direction. However, we could go one step further.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [1.52 am]: I thank members for their support of this legislation. The Minister for Fisheries is looking at a revamp of the Fisheries Act in an attempt to meet both present and future challenges in this area.

Hon Graham Edwards: He gave a commitment to introduce legislation this week, I thought.

Hon E.J. CHARLTON: Soon anyway. Much discussion and negotiation has taken place with the industry, as a consequence. On the aquaculture issue, a number of initiatives have been taken, with the support of the Government. The marine division of the Department of Transport is trying to assist in encouraging the expansion of the fishing industry. The member is correct. We want to assist in every way possible. Once again, I thank members for their support of the two Bills, which will allow the Commonwealth and State Governments to fast track some of the initiatives.

Questions put and passed.

Bills read a second time.

Committee and Report

Bills passed through Committees without debate, reported without amendment, and the reports adopted.

Third Reading

Bills read a third time, on motions by Hon E.J. Charlton (Minister for Transport), and passed.

House adjourned at 1.58 am (Wednesday)

QUESTIONS ON NOTICE

ABORIGINAL SERVICES - $387m EXPENDITURE

15. Hon TOM STEPHENS to the Minister for Finance representing the Treasurer:

(1) What proportion of the $387m spent by the State Government on delivering Aboriginal services within WA last year was provided by the Federal Government specifically for Aboriginal or other targeted programs?

(2) How much of the $387m came from non-Commonwealth Government contributions to the state consolidated revenue fund?

(3) On what programs were the State Government sourced funds spent?

Hon MAX EVANS replied:

The Treasurer has provided the following reply -

(1) The report of the task force on Aboriginal social justice provides information on state funded programs and expenditures on the basis of information provided by all state government agencies. The report estimates that approximately 20 per cent of the funds administered by the State Government on provision of specifically targeted and mainstream services to Aboriginal people comes from several government sources.

(2) Approximately 80 per cent.

(3) Information on state funded programs and expenditures is provided in chapter 9 of the report of the task force on Aboriginal social justice.

SMITH, WAYDE - DECLARATION OF PECUNIARY INTERESTS, CORRECTLY COMPLETED

106. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Premier:

Is the Premier satisfied that the member for Wanneroo has correctly completed his declaration of pecuniary interests?

Hon GEORGE CASH replied:

The Premier has provided the following reply -

Yes.

LEEUWIN-NATURALISTE NATIONAL PARK - FIRE
Kilkarnup Dune System, Protection

109. Hon GRAHAM EDWARDS to the Minister for Education representing the Minister for the Environment:

Following the recent fire devastation to the Leeuwin-Naturaliste national park, what steps will the Minister take to ensure that the Kilkarnup dune system now exposed is not further degenerated by imminent winter winds and rain?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

Ground inspection has revealed that the fire damage is not likely to cause wind erosion to the Kilkarnup dune system in the Leeuwin-Naturaliste national park. This situation will continue to be monitored and rehabilitation will be undertaken if the situation deteriorates.

PETER KEILLOR SES MEMORIAL AWARD - INSTIGATION

124. Hon GRAHAM EDWARDS to the Leader of the House representing the Minister for Emergency Services:

(1) Has the Peter Keillor SES Memorial Award yet been instigated?

(2) If so, who was the inaugural winner?

(3) If not, why not?

Hon GEORGE CASH replied:

The Minister for Emergency Services has provided the following reply -

(1) Yes.

(2) An article on the Peter Keillor Award appeared in the autumn volume of "Western Alert". The Ministerial State Emergency Service Volunteer Advisory Committee is in the process of seeking nominations for this award.

(3) Not applicable.

PORT KENNEDY DEVELOPMENT - LAND GRANTED FREEHOLD AND LEASEHOLD, VALUES

Poole, Max, Dismissal; Lot 605 Peel Estate, Ownership

141. Hon J.A. SCOTT to the Minister for Health representing the Minister for Planning:

With respect to the Port Kennedy development -

(1) What is the value of the 25 hectares to be granted freehold to the proponents -

(a) at current land values; and

(b) with the added value from approvals and licences?

(2) What is the value of the 210 ha to be granted leasehold to the proponents for 75 years -

(a) at current land values; and

(b) with the added value from approvals and licences?

(3) If these values are not known, will the Minister undertake assessments?

(4) Has the senior adviser to the Minister, Mr Max Poole, responsible for the Port Kennedy proposal for the past seven years, been dismissed from his office and from the Port Kennedy Management Board?

(5) If so, why?

(6) Did Fleuris Pty Ltd, as joint venture partner with the Western Australian Development Corporation, buy lot 605 of the Peel Estate?

(7) When was the land bought?

(8) What did Fleuris Pty Ltd actually pay for when the land was bought?

(9) Did the title show Fleuris Pty Ltd as equal partner with the Western Australian Development Corporation in lot 605?

(10) How much did Fleuris Pty Ltd pay for its share of the land?

(11) How much did the Western Australian Development Corporation pay for its share of the land?

(12) When the joint venture sold the land, why did the Western Australian Development Corporation buy the Fleuris Pty Ltd share?

(13) What was the selling price?

(14) Who was the land valued by?

(15) Who owns lot 605 of the Peel Estate now?

(16) Did the Government or the joint venturers purchase nearby land for a school to pay out the Catholic Church, the previous owners of lot 605 of the Peel Estate?

Hon PETER FOSS replied:

(1)-(3) Assessments of value will be carried out as and when required under the provisions of the Port Kennedy Development Agreement Act.

(4)-(5) An adviser with wider experience in project management is now assisting with Port Kennedy and Mr Poole has taken on a new role in the Department of Planning and Urban Development. Mr Poole was never a member of the Port Kennedy Management Board.

(6) Yes.

(7) 17 November 1988.

(8) Fleuris Pty Ltd and Fleuris Pty Ltd as Trustee for Sandbourne Holdings Pty Ltd, in conjunction with the Western Australian Development Corporation purchased 48 hectares of the 60 ha parcel of land. The balance of 12 ha was for a Catholic school. This was reflected in Caveat E244076 that was lodged on the title at the time.

(9) The title shows the Fleuris partnership and WADC as "tenants in common in equal shares".

(10) $400 500 plus $14 750 stamp duty; a total of $415 250.

(11) $415 250.

(12) The Western Australian Development Corporation acquired the Fleuris partnership's share of lot 605 to increase its broad hectare holdings in the south west corridor.

(13) $2.3m.

(14) Jones Lang Wootton $2.4m; the Valuer General $2.2m.

(15) LandCorp.

(16) Yes.

SCHOOLS - SCIENCE SCHOOL OF THE FUTURE, GOVERNMENT FUNDING

148. Hon JOHN HALDEN to the Minister for Education:

(1) Does the Government intend to provide funding for a science school of the future?

(2) If yes, when?

(3) If not, why not?

Hon N.F. MOORE replied:

(1)-(3) There is no proposal to fund a science school of the future.

SCHOOLS - TRUANTS

New Computer Software for Quick Identification

149. Hon JOHN HALDEN to the Minister for Education:

Has the Government provided new computer software to all secondary schools so truants can be identified quicker?

Hon N.F. MOORE replied:

During 1992 and 1993 the Education Department developed software to assist secondary schools with the electronic recording of school attendance. One of the features of this software is that it enables schools to more quickly identify those students who are absent without appropriate written explanation.

Since the software was first introduced as a trial in 1992 the department has provided a number of improved modifications and updates and continues to do so. All secondary schools now have the software and hardware capacity to record their attendance electronically.

ROADS - PERTH-DARWIN HIGHWAY ROUTE PROPOSAL

No Public Consultation; Ellenbrook Area, Register of National Estate Listing

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

With regard to the Perth-Darwin Highway proposed route -

(1) Has the Main Roads Department been given a directive that there will be no public consultation on the present route?

(2) Is it correct that a decision has been made by the Australian Heritage Committee to place a significant area of Ellenbrook and the surrounding bushland on the Register of the National Estate?

(3) Will this bring about a re-examination of the proposed Perth-Darwin route?

Hon E.J. CHARLTON replied:

(1) Quite to the contrary, the current environmental and planning processes are specifically designed to achieve public consultation.

(2) I have been advised that an area of Ellenbrook has been placed on the interim list of the National Estate.

(3) At this stage there are no plans to re-examine the route of the Perth-Darwin national highway.

TRAINING, DEPARTMENT OF - PREVIOUS FUNCTIONS CONTRACTED OUT TO PRIVATE INDUSTRY

186. Hon JOHN HALDEN to the Minister for Employment and Training:

(1) What functions previously carried out by the Department of Training have been contracted out to private industry since 1 January 1994?

(2) What was the value of these contracts and what were they for?

(3) Was the department allowed to tender for this work?

(4) If yes, on how many occasions was the department successful?

Hon N.F. MOORE replied:

(1) Those functions previously carried out by the Department of Training which have now been contracted out to private industry include maintenance of the computerised apprentice and trainee records training system and a range of vocational education and training courses.

(2) $45 000 for software maintenance and support, and $1.84m for seven full year equivalent courses and 33 prevocational courses to be conducted in Semester 1, 1994.

(3) Yes - TAFE colleges did tender for the courses.

(4) Twenty-three of the 40 contracts were awarded to TAFE colleges.

UNIVERSITIES - COLLEGE IN MIDLAND, BUILDING PROPOSAL

192. Hon JOHN HALDEN to the Minister for Education:

Is the Government proposing to build a university college in Midland, or is it considering this option?

Hon N.F. MOORE replied:

The Government is not proposing to build a university college in Midland at this time. However, I am aware that there has been some community discussion with Curtin University regarding the establishment of a university presence in the eastern metropolitan region.

SCHOOLS - RATIONALISATION
Personnel and Finance Assistance

330. Hon JOHN HALDEN to the Minister for Education:

What specific assistance both in personnel and finance will be provided to schools to assist them in the consultation period of the school rationalisation process?

Hon N.F. MOORE replied:

Each school will be considered on its merits. Relief time for teaching principals and additional clerical assistance will be negotiated by principals in review and host schools with a project officer from the School Rationalisation Unit. Meeting costs will be met by the School Rationalisation Unit. In recognition of additional duties and responsibilities, the principal of the review school will be paid a special responsibility allowance - Band 4 - for the duration of the consultation period.

SCHOOLS - POPULATION DECREASE, MORE THAN 20 PER CENT
Education Costs per Student

331. Hon JOHN HALDEN to the Minister for Education:

(1) Which schools in the State have had their population decline by more than 20 per cent over the past five years?

(2) In which schools in the State does it cost more than $3 200 per primary school student to educate those students?

(3) In which schools in the State does it cost more than $4 100 per secondary school student to educate those students?

Hon N.F. MOORE replied:

(1)-(3)

The information required to respond has not yet been finalised and further action is required to audit and validate accuracy of data.

EDUCATION DEPARTMENT OF WESTERN AUSTRALIA - GARDENERS AND CLEANERS
Positions Lost; Nollamara Training Centre, Budget

333. Hon JOHN HALDEN to the Minister for Education:

(1) How many full-time equivalents have been lost in gardening and cleaning positions from the Education Department since 1 January 1994?

(2) How many part-time positions have been lost from the same two branches in the same time frame?

(3) What is the budget of the Nollamara Training Centre for cleaners and gardeners?

(4) How many advisers are employed there?

(5) When were those advisers first employed and when were they made permanent in those positions?

(6) How many cars are provided to staff at the centre?

(7) Were all positions at the centre advertised and on what date?

(8) Were any staff appointed to those positions prior to the advertisement?

Hon N.F. MOORE replied:

(1) Up to 16 June 1994, 102 full-time positions will have been made redundant since the end of 1993.

(2) Up to 16 June 1994, 359 part-time positions will have been made redundant since the end of 1993.

(3) $114 000 for contingencies.

(4) 21 advisers - six permanent and 15 temporary.

(5) Temporary advisers first employed 16 August 1993. These positions were advertised in October 1993 and appointments confirmed in December 1993.

(6) 20 vehicles, 13 of which are temporarily assigned to the cleaning and gardening project.

(7) Only the temporary positions for the cleaning and gardening project were advertised. Advisers' positions advertised 6 October 1993 and senior advisers' positions advertised March 1994.

(8) Yes, but only on temporary secondment pending advertising the temporary positions for the project.

EDUCATION DEPARTMENT OF WESTERN AUSTRALIA - "A POLICY DOCUMENT ON RATIONALISATION OF SCHOOLS", COST

334. Hon JOHN HALDEN to the Minister for Education:

What was the cost of -

(a) writing;

(b) printing; and

(c) distribution

of the Department of Education's policy document "A Policy Document on Rationalisation of Schools"?

Hon N.F. MOORE replied:

(a) Due to the wide range of people involved through normal line management, it is not possible to identify or estimate the cost as no record of specific time spent on writing by each officer was maintained.

(b) Total cost - $10 350.

(c) $4 498.

EUTROPHICATION - OF WATERWAYS, CAMPAIGN AGAINST, COALITION PROMISE

Soil and Land Conservation Act, Amendment; Phosphorus Action Plan

353. Hon J.A. SCOTT to the Minister for Education representing the Minister for the Environment:

(1) Did the coalition parties promise to mount a campaign against eutrophication of waterways in their policies for the 1993 State election?

(2) Has the Government taken any steps to implement this promise?

(3) Has the Soil and Land Conservation Act been amended to extend the definition of land degradation to include eutrophication?

(4) If not, why not?

(5) Has the Government taken steps to require the labelling of household products to indicate their phosphorus content?

(6) If not, why not?

(7) Has the Government taken action to have the sale of detergents containing phosphorus banned at a national level?

(8) If not, why not?

(9) Is the Minister for the Environment aware of the steps which the New South Wales Government has taken, via its phosphorus action plan, to achieve similar objectives?

(10) If yes, will the Minister for the Environment liaise with the New South Wales Government to introduce similar measures in Western Australia?

(11) If not, why not?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

(1) The coalition parties promised to take a stronger approach to the management of waterways than the previous government.

(2) Yes. Additional funding has been provided to establish a WA estuarine research foundation and to tackle the eutrophication problems in the Swan River. The massive backlog sewerage program will reduce nutrient loads to a number of waterways. New waterways management authorities have been created for the Avon River and Wilson Inlet. Additional funding has been provided to monitor the performance and impact of the Dawesville Channel. The Minister for the Environment is undertaking a comprehensive review to see how cost effective waterways management can be provided on a statewide basis. All of this contrasts with continuing years of reduced funding by the previous government.

(3) Amendments to the Soil and Land Conservation Act to extend the definition of land degradation to include eutrophication are currently before Parliament, as the member should be aware. Eutrophication issues are currently covered under the definition of salinity which includes soluble salts.

(4) Answered by (3).

(5)-(11)

No. Through the joint efforts of the Australian and New Zealand Environment and Conservation Council and the Agriculture and Resource Management Council of Australia and New Zealand, a task force has been established to consider the issue of phosphorus products affecting waterways including the issue of labelling of products containing phosphorus. I understand that the task force will consider the NSW "Phosphorus Action Plan". Phosphorus in household products may not be a major issue in our waterways because there are very few discharges from sewage treatment plants to rivers. Even these few are being eliminated by the Water Authority. The impact of phosphorus in household products on the Swan and Canning Rivers will be studied as part of the Government's recently announced program to clean up these

waterways. Together with the recommendations of the national task force this will give us a firm basis to make the best decisions about these products.

SCHOOLS - OCEAN REEF SENIOR HIGH
Enrolments; Optimum Number; Transportables

356. Hon P.R. LIGHTFOOT to the Minister for Education:

With respect to the Ocean Reef Senior High School -

(1) What number of students was considered the optimum number when the school was built?

(2) What were the enrolment numbers for the years -

(a) 1990;

(b) 1991;

(c) 1992;

(d) 1993; and

(e) 1994?

(3) What transportables were on-site in the same years?

(4) What is the number of students being bused from -

(a) Ballajura to Morley; and

(b) Clarkson/Quinns Rock/Merriwa/Kinross

to Ocean Reef Senior High School?

Hon N.F. MOORE replied:

(1) Ocean Reef Senior High School can accommodate approximately 1 100 students in permanent facilities.

(2) The semester 1 student enrolments are as follows -

(a) 1990 - 1 228

(b) 1991 - 1 159

(c) 1992 - 1 138

(d) 1993 - 1 213

(e) 1994 - 1 324

(3) Transportables on site for the years 1990 to 1994 inclusive were, respectively, eight, eight, eight, eight and 10.

(4) (a) Approximately 550 students;

(b) Approximately 200 students.

SMITH, HON DAVID - SPOUSE EMPLOYED BY MINISTRY OF FAIR TRADING

367. Hon I.D. MacLEAN to the Minister for Fair Trading:

(1) Can the Minister advise if the spouse of Hon David Smith, MLA is in the employment of the Minister's department?

(2) If so, what is her position and classification?

Hon PETER FOSS replied:

(1) I understand that Mrs Tresslyn Smith is the spouse of Hon David Smith, MLA. Mrs Smith is employed in the Ministry of Fair Trading.

(2) Fair trading officer, level 4.

ABORIGINES - AND ALCOHOL
"Australia's Curse" by Dennis Schultz; Legislation Change

369. Hon TOM STEPHENS to the Minister for Racing and Gaming:

(1) Did the Minister read the 17 May 1994 *Bulletin* cover article on Aborigines and alcohol entitled "Australia's Curse" by Dennis Schulz?

(2) Does the Minister intend to introduce any legislative change in regard to licensing laws within Western Australia that would enable Aboriginal communities to restrict the flow of excess alcohol into population centres where alcohol abuse is a significant problem?

(3) If not, why not?

Hon MAX EVANS replied:

(1) Yes.

(2) No.

(3) Legislative prohibition is not the answer. It is a matter for the respective communities in association with relevant government agencies to resolve.

TAXES AND CHARGES - LIQUOR AND HOTEL INDUSTRY, REVENUE

370. Hon TOM STEPHENS to the Minister for Finance :

What is the estimated return for 1993-94 to the State Government from taxes and charges on the liquor and hotel industry within Western Australia?

Hon MAX EVANS replied:

Estimated liquor licence fees for 1993-94	$62 725 500
Estimated departmental charges for 1993-94	$413 400

AIR SERVICES - REGULAR PASSENGER TRANSPORT SERVICE, BROOME, FOR BEAGLE BAY, LOMBADINA, CAPE LEVEQUE PROPOSAL

377. Hon TOM STEPHENS to the Minister for Transport:

(1) Is the State Government proposing to provide for a regular air passenger transport service (RPT) operating out of Broome for the Dampier land peninsula communities of Beagle Bay, Lombadina and Cape Leveque?

(2) If yes, when is it proposed that such an RPT service would be operational?

(3) Will prospective operators have the opportunity to compete by way of open competition in gaining access to a licence to operate such an RPT service to this area?

Hon E.J. CHARLTON replied:

(1) The Department of Transport has approved the issue of a licence to a Broome based operator to conduct RPT flights from Broome to One Arm Point and servicing communities in between.

(2) To be determined by the operator.

(3) Any proposal to operate an RPT service over the same route will be considered in relation to section 45 of the Transport Co-ordination Act.

AIR SERVICES - REGULAR PASSENGER TRANSPORT SERVICE, BROOME, FOR FITZROY CROSSING, HALLS CREEK PROPOSAL

378. Hon TOM STEPHENS to the Minister for Transport:

(1) Is the State Government proposing to provide for a new regular passenger transport air service to operate out of Broome to the inland Kimberley communities of Fitzroy Crossing and Halls Creek?

(2) What impact would such a service have on the existing operation out of Derby?

Hon E.J. CHARLTON replied:

(1) The Department of Transport has called for expressions of interest from operators in order to explore service initiatives for the Kimberley region and specifically Fitzroy Crossing and Halls Creek. Several proposals have been submitted, which include connections to Broome, Derby and Kununurra. A final determination on these proposals has yet to be made, and is being considered in relation to such things as service benefits to the communities and cost to government.

(2) Pending a final determination, Ord Air Charter will continue to provide the air service from Derby to Fitzroy Crossing and Halls Creek under current arrangements, with connections to Kununurra recently introduced on a trial basis.

WESTRAIL - TENDERS FOR CONTRACT No 9232 (596) ADVERTISEMENT

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

(1) With respect to an advertisement in *The West Australian* on 28 May 1994 calling for tenders for Westrail contract No 9232 (596) to do with the repair of seven XWB-class narrow gauge grain hopper wagons specification No ME 27 15-5/94, where were the wagons manufactured?

(2) Prior to 30 June 1993, if in need of repair where were they repaired?

(3) Why does the advertisement state inter alia "Tenderers will be required to sign a Confidential Information Agreement prior to viewing/collection of the tender documents"?

Hon E.J. CHARLTON replied:

(1) Westrail's Midland Workshops.

(2) Westrail's Midland Workshops and regional repair depots.

(3) Design of wagons incorporates intellectual property owned by Westrail and other companies. Confidentiality agreements protect Westrail's interests by forbidding release of this intellectual property to a third party.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

388. Hon N.D. GRIFFITHS to the Minister for Health:

With respect to question on notice 70 of 1994 -

(1) Are the financial records of the Health Department of Western Australia computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 70?

Hon PETER FOSS replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

389. Hon N.D. GRIFFITHS to the Minister for Fair Trading:

With respect to question on notice 71 of 1994 -

(1) Are the financial records of the Ministry of Fair Trading computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 71?

Hon PETER FOSS replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

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

With respect to question on notice 50 of 1994 -

(1) Are the financial records of the Department of Transport computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 50?

Hon E.J. CHARLTON replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

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

With respect to question on notice 51 of 1994 -

(1) Are the financial records of the Metropolitan (Perth) Passenger Transport Trust computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 51?

Hon E.J. CHARLTON replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

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

With respect to question on notice 52 of 1994 -

(1) Are the financial records of the Western Australian Government Railways Commission computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 52?

Hon E.J. CHARLTON replied:

(1)-(3)

Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

402. Hon N.D. GRIFFITHS to the Minister for Employment and Training:

With respect to question on notice 53 of 1994 -

(1) Are the financial records of the Western Australian Department of Training computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 53?

Hon N.F. MOORE replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

403. Hon N.D. GRIFFITHS to the Minister for Employment and Training:

With respect to question on notice 54 of 1994 -

(1) Are the financial records of the Office of Education and Training computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 54?

Hon N.F. MOORE replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

404. Hon N.D. GRIFFITHS to the Minister for Employment and Training:

With respect to question on notice 55 of 1994 -

(1) Are the financial records of the State Employment and Skills Development Authority computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 55?

Hon N.F. MOORE replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

405. Hon N.D. GRIFFITHS to the Minister for Employment and Training:

With respect to question on notice 56 of 1994 -

(1) Are the financial records of the Ministry of Sport and Recreation computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 56?

Hon N.F. MOORE replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

GOVERNMENT DEPARTMENTS AND AGENCIES - FINANCIAL RECORDS, COMPUTERISED

406. Hon N.D. GRIFFITHS to the Minister for Employment and Training:

With respect to question on notice 58 of 1994 -

(1) Are the financial records of the Western Australian Institute of Sport computerised?

(2) If not, why not?

(3) If so, why does it require considerable research to answer question 58?

Hon N.F. MOORE replied:

(1)-(3) Details are unable to be supplied on payments to individual media organisations. This information is managed by Media Decisions WA, which won the Government's media contract through public tender.

QUESTIONS WITHOUT NOTICE

SCHOOLS - RATIONALISATION
Impact Document not Seen by Minister

159. Hon JOHN HALDEN to the Minister for Education:

On Wednesday, 8 June, I asked the Minister a series of questions about the likely impact of the school rationalisation process on the employment of teaching and non-teaching staff within the system. The Minister replied that I was making some assumptions that I was not entitled to make about school closures and that he did not expect for one minute that the rationalisation process would have any effect on employment levels. The Minister also denied any knowledge of a significant document which had been circulated one week earlier by the Director General of Education detailing the processes to be used to handle that dislocation of staff. The Minister asked me to provide him with a copy of the document. It is a 12 page, very detailed policy statement entitled "Staffing, Personnel and Industrial Issues Arising from the School Rationalisation Process". It was produced on 27 May 1994 and distributed to school principals and others.

The PRESIDENT: Order! The member is supposed to be asking a question.

Hon John Halden: Mr President, I am about to. I am one sentence away from doing so. I just want to make sure that the Minister can answer my question as he seems to have a bit of a problem in that area.

The document was distributed by the director general on 1 June 1994, one week prior to the Minister's denying knowledge of it. I now provide the Minister with a copy of the document and ask whether he misled the House over the likely impact of the school rationalisation process or whether he is being kept in the dark by his department on this matter.

Hon N.F. MOORE replied:

I take strong exception to any suggestion that I misled the House when I said that I had not seen the document. The exact situation is that I saw it

the next day, having sought a copy from the Education Department. Hon John Halden did not provide me with a copy when he said he would. However, that is beside the point; he does not have to. It is a manual which has been prepared by the department in draft form and provided to teacher organisations, including the State School Teachers Union of Western Australia and the various professional associations of teachers, and to people within the department, to look at all of the likely consequences of any school closures under the rationalisation process. The manual sought to look at every possible scenario. Bearing in mind that parents will be making the final decisions, there is no knowledge in anybody's mind how many schools might be affected. The document was distributed as a draft document. It is not the final version. It talks about a number of scenarios.

Hon John Halden: It does not say that. It is embargoed until 15 June.

Hon N.F. MOORE: Does the member notice the word draft - D-R-A-F-T? It is like the word L-A-W!

Hon John Halden: It seems very strange to me.

Hon N.F. MOORE: It contains reference to a situation where if a school closes and there is not a job for a teacher, the teacher would have to go somewhere else. This morning *The West Australian* chose to call it forced transfer.

Hon John Halden: That is what the document says.

Hon N.F. MOORE: The word "forced" has a connotation which is not correctly used in that article.

Hon John Halden: Can I refer you to page 3?

Hon N.F. MOORE: I have read the document.

The PRESIDENT: Order! Let us get the answer to the question.

Hon N.F. MOORE: Some of the words in the draft document would not be in the final document, if I had anything to do with it.

Hon John Halden: Obviously!

Hon N.F. MOORE: As I said, it has been put together by the department. In a sense, those teachers will be forced because the school will not exist and, therefore, those teachers will have to go somewhere else. Is Hon John Halden suggesting that if parents choose to close a school, we should keep teachers employed at that school? I do not think that fits in even with "School Renewal" which Hon John Halden wrote. One of the most extraordinary things about this whole debate is that Hon John Halden has written a very glossy document which talks about this very subject. He seems to have a different view of the world now that he has changed sides in the House. The document talked about voluntary severance if some people decided that, for example, they did not want to go somewhere else. If the school in which they were teaching or working was no longer there because of a vote of the parents and they chose not to remain in the system, voluntary severance would be available. Voluntary severance has been happening since Adam was a boy. This draft document does not talk about compulsory redundancies. It refers to jobs becoming redundant. That is within the context of the schools not existing. If there were no school, there would be no job. Surely Hon John Halden understands that.

Hon John Halden: I would not be too sure.

Hon N.F. MOORE: In that situation, the document talks about making provision for those people to be employed at other schools.

Hon John Halden: Your document does not.

Hon N.F. MOORE: Which document?

Hon John Halden: This document that I am holding up.

Hon N.F. MOORE: Which one? I cannot see it. Is it the manual?

Hon John Halden: Yes.

Hon N.F. MOORE: That is a draft departmental document that I am describing. It was prepared by the Education Department. It talks about voluntary severance, redundant jobs and providing people with an opportunity to be employed elsewhere in the system.

I do not know what the big deal is. I cannot understand what Hon John Halden is getting himself into such a lather about. It is only saying that if a school closes down, the jobs that teachers, clerical assistants and gardeners have at that school will no longer be available in that school. That is logical. Within the document we say that we will find a job for them somewhere else. There is a proviso that says that it will not be exactly the same in all cases. Of course it will not be exactly the same in all cases. A different school and a different scenario will be involved. However, I did say in this House that it is my strong belief that, because of the growth in the system, there will always be a need for more and more teachers. I will explain to Hon John Halden - he will probably get the same story if he talks to Professor Stanley - that within two or three years in Western Australia, with the growth in our system, we are likely to have a shortage of teachers, not an excess capacity. Last week my answer to the question of Hon John Halden was based on my belief that that will happen in our system. I still believe that.

This manual was prepared by the department to look at every contingency that might arise in the event that a school closes so that people understand exactly what their circumstances are if a closure occurs. Perhaps Hon John Halden would rather that we simply did not tell anybody, nor have in place any contingencies, but simply proceeded and allowed the whole system to collapse. There is no suggestion that I misled the House, because I had not seen the document. I saw it only on the following day. It is exceptionally irritating when people like the Leader of the Opposition make the sort of noises that come from people who have a mentality such as his that reflect on somebody's honesty and credibility. I am telling him, and I have told the House, that the document came to my notice on the day after he asked his question. I am just sorry that he did not give me a copy at the time because I would have found out more about the matter earlier than I did.

Hon John Halden: I did not have one; I told you that.

Hon N.F. MOORE: The bottom line is that the manual was prepared by the department to look at the situation that might arise in the event that some schools are to be closed. We cannot draw any conclusions from it because as yet we do not know whether any schools will close, given that we have decided that the parents will make the final decision.

SCHOOLS - RATIONALISATION
Employees, Employment or Redundancy Package

160. Hon JOHN HALDEN to the Minister for Education:

I apologise for my lack of intellect in this matter. As a result of the Minister's answer and as a result of the school rationalisation process, can he advise whether all teaching and non-teaching employees of the Education Department will be employed with the department or offered a redundancy package?

Hon N.F. MOORE replied:

No Minister can stand and say that forever and ever a certain set of circumstances will prevail. To ask me to give a guarantee that every teacher from now on into the future will never be made redundant is a crazy, improper question to ask of anybody.

Hon John Halden: You are ducking and diving.

Hon N.F. MOORE: The situation is simply that there may be some people who do not want to go somewhere else if the school closes.

Hon John Halden: There is redundancy.

Hon N.F. MOORE: No. Those people may take voluntary severance, as is stated in the document. The member should read the document. It does not talk about redundancy. It talks about some jobs being made redundant, but not the individuals. It talks about those people being provided with alternative employment.

Hon John Halden: This is not a guarantee, is it?

Hon N.F. MOORE: The people who work in schools are employed, firstly, under the Education Act as teachers. There is no way that I can make a teacher redundant, except for one who happens to have misbehaved under a number of regulations that are in place to ensure that teachers who misbehave in certain ways no longer retain their job.

Secondly, persons in schools are employed under the Public Service Act and cannot be made compulsorily redundant. That is not an opportunity available to the Government. There is no way I can make somebody compulsorily redundant, even if I wanted to.

HOSPITALS - BROOME DISTRICT
Consultant Employment, 38 Hour Working Week Project

161. Hon KIM CHANCE to the Minister for Health:

Some notice has been given of the question.

(1) Has the Broome District Hospital been funded to employ a consultant to report on how accrued days off can be minimised?

(2) If yes, do the terms of reference of the consultancy contract include matters which are beyond the scope of, or contrary to the provisions of, the present award structure?

(3) Is this an indication that the Health Department of Western Australia will support the Broome District Hospital management if it seeks to act in a matter contrary to any award it is respondent to?

(4) Is the consultant, Mr Nigel Marthins, a former Department of Productivity and Labour Relations employee?

(5) Is the consultant resident in Broome during the course of his inquiries?

(6) How often has the consultant flown from Perth to Broome and returned between the period since he was awarded the consultancy and the present time?

(7) Who has borne the cost of his travel arrangements?

(8) What has been the cost of these travel arrangements?

(9) What is the cost of the consultancy?

(10) Why was this review not performed by Department of Productivity and Labour Relations or Health Department industrial relations staff?

(11) Is it correct that a similar review was completed some years ago?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Funding has been provided under the 1993-94 health reform program for a project which undertakes the necessary consultation with the staff and unions for the introduction of a 38 hour working week at Broome District Hospital.

(2) No. The terms of reference specify that the consultants should consult with the staff over all the available options for minimising the number of accrued days off which require relief, as per the awards. The primary outcome is to minimise expenditure in relation to relief costs associated with accrued days' accumulation. Each award provides processes for such negotiation with the staff and the unions.

(3) Neither the Broome hospital nor the Health Department of Western Australia seeks to act in a manner contrary to any award it is respondent to.

(4) Yes.

(5) No. Mr Marthins has travelled to Broome to interview both staff and management in relation to this project. Once the consultants recommend a consulting/implementation program, Mr Marthins will become resident in Broome for the duration of that program. It is not economically viable for him to be resident until his whole working week is taken up with the processes for this project.

(6) Three times.

(7) See answer to (1). Provision was made in the tender agreement for $4 700 in air fares.

(8) Unknown at this stage as an interim account from the consultants is not due until 15 June 1994.

(9) $20 870.

(10) Several approaches have been tried in order to progress this project. Initially, the region attempted to obtain the services of a senior consultant within the Health Department or within DOPLAR. DOPLAR indicated that it did not have consultants available for that type of project and the senior consultants within the Health Department were already engaged on varying projects. The region then attempted to appoint a project officer to undertake the work. An expression of interest was circulated throughout the department on 17 March 1994. No applications were received for the two month secondment. Finally, it was decided to conduct a selective tender. It was determined that the tender would be between $15 000 and $20 000 in value.

(11) There has been no similar review of Broome District Hospital.

SCHOOLS - HIT LIST, RELEASE DELAY

162. Hon JOHN HALDEN to the Minister for Education:

Has the Minister delayed the release of the commonly known school hit list?

Hon N.F. MOORE replied:

Is it not a real tragedy that Hon John Halden has not read the comments of the previous Minister for Education who in this House said -

Hon E.J. Charlton: He did the review. He travelled around the country areas.

Hon N.F. MOORE: I know, and it cost $60 000 to do it. The former Minister stood in this House and said that school closures represent a political football that can be kicked around by anybody. She said, "I hope no-one in this House will do that." I say the same to the member. I hope he will not be so hypocritical as to bring down a report called "School Renewal" himself on behalf of the last government; spend $60 000 in preparing the report and travelling all over the state in a Kingair, asking people about school closures; and then deliver a lovely, glossy report that talks about a process of rationalising the assets of the education system - Mr Halden was the author of that - and yet now talk about hit lists, as if it were some sort of process that was improper and out of which he should make political mileage, even though his previous Minister implored this House not to do that.

I ask the member to show a bit of commonsense and realise that the findings of his inquiry are the same findings I have come up with - that there are schools in Western Australia that are underutilised. There are lots of them. He knows that and I know that. I am trying to put in place a process to identify those schools and work out a way in which they can be rationalised or used in some other way. I am trying to do that in a proper way, because I am interested in looking after and managing the assets of Western Australia's education system in a proper way. That is what I thought Mr Halden was doing.

If anybody were to sit back and read "School Renewal", they would probably have a warm inner glow and say, "Mr Halden is trying to look after Western Australia's assets in a proper, responsible way. He has worked out a process for deciding which schools should close." At the end of the day he left it to the Minister to make the decision. Maybe he thought that was more responsible than leaving it to the parents to decide, except that he now agrees that the parents should make the final decision. One of his colleagues has said that is not the way it should be, but he said that and so he has agreed with the process.

He is now seeking to make some political mileage and have a political football to kick around to frighten people by talking about hit lists. The process has been gone through, and in due course the Government will advise those schools which will be looked at further and identified as those which are underutilised, cost more than a fair or reasonable amount per child or have a declining population. The Government is taking as long as necessary to make the proper identification, so that there is not a scenario of hit lists being published in *The West Australian* or spoken of on television, and frightening the hell out of people on the basis that Mr Halden and his mates want to kick up political trouble over a situation that they created and for which they had determined a solution. They did nothing about it because there was an election coming on. The simple answer is, I am not delaying it, and it is taking as much time as it needs for us to get through this process.

EMERGENCY SERVICES - DARLING ESCARPMENT FIRE HAZARD REPORT

163. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Minister for Emergency Services:

(1) When does the working party established by the Minister to study fire risk in the Darling escarpment and originally scheduled to report in March 1994 propose to produce its findings?

(2) Will the Minister make those findings public?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The Minister for Emergency Services has provided me with the following reply -

(1) The final report of the ministerial working group investigating the Darling escarpment fire hazard has been presented to me.

(2) The Minister for Emergency Services will be releasing the report for comment on Thursday, 16 June.

LAND - JOONDALUP, REID PROMENADE-BOAS AVENUE, DEVELOPMENT COVENANTS EXTENSION REQUESTS

164. Hon GRAHAM EDWARDS to the Minister for Lands:

I have provided the Minister with a copy of the question -

(1) (a) Can the Minister confirm that he and LandCorp have been approached by individual landowners seeking extension to the development covenants in the area bounded by Reid Promenade and Boas Avenue in Joondalup?

(b) If yes, can the Minister advise whether he will grant the extensions?

(c) If not, why not?

(d) If no to either (a) or (c), will the Minister meet a deputation of landowners?

(e) If not, why not?

(2) (a) What blocks in Joondalup have had extensions to building covenants already granted?

(b) What are the block numbers and who are the owners of those blocks?

Hon GEORGE CASH replied:

(1)-(2) I thank the member for some notice of the question. I intend to meet with the Chairman of LandCorp to discuss this matter and seek the board's position on the various extensions that have been requested. My understanding is that some extensions may have already been made. I want to discuss the matter further with the chairman to ensure that consistency is applied across the board on those various issues. I hope to meet with the chairman some time this week or, if that is not possible, certainly next week. I have a feeling that the landowners who have approached Hon Graham Edwards have probably also approached me in my capacity as a member for North Metropolitan Region.

Hon Graham Edwards: I do not want to politicise these matters. There are some real problems out there.

Hon GEORGE CASH: That is the very reason I am giving the answer, because I want to ensure that what is happening is consistent. Representations from a number of landowners have been made to me. Each has presented me with a different story. Possibly the same has occurred with Hon Graham Edwards. I want to take up the matter at board level so that I can determine exactly what statements have been made to date and, more importantly, ensure that we have a proper and consistent policy in place.

HOSPITALS - BUNBURY

Public and Private Sharing Medical Records Proposal; Freedom of Information

165. Hon SAM PIANTADOSI to the Minister for Health:

Following the announcement in this morning's *The West Australian*

regarding the combining of resources and records of the new public hospital and the St John of God Hospital in Bunbury -

(1) Will the Minister assure this House that medical records will still be available to the public under the Freedom of Information Act?

(2) If not, what instruction will the Minister give to the public facility to make its records available?

Hon PETER FOSS replied:

(1)-(2)

I am not sure what the member is referring to. Is he referring to a proposal for a uniform process for keeping public records? If it is something that has already been agreed to, I am not aware of it.

HOSPITALS - BUNBURY

Public and Private Sharing Medical Records Proposal; Freedom of Information

166. Hon SAM PIANTADOSI to the Minister for Health:

In clarification for the Minister's benefit, the statement appeared in this morning's *The West Australian* under the heading "Health boost for South-West". The article stated -

> The committee's report said a combined site would allow public and private hospitals to share information, technology, medical records . . .

My question related to medical records and freedom of information.

Hon PETER FOSS replied:

I thought perhaps the member was referring to the report of the Medical Technical Advisory Committee. There is no agreement at present to do that. There is a suggestion from the committee that the public hospitals should be able to combine their information throughout the south west region. That would make it easier for people who are being treated -

Hon Sam Piantadosi: And private hospitals.

Hon PETER FOSS: Hang on! The main recommendation was for people in the region to have a shared database so that referrals to the Bunbury Regional Hospital of people from other areas of the region could be enhanced. The big problem has been that large numbers of people in the south west region go to Perth instead of to Bunbury. It was felt that it would enhance the transfers to Bunbury if there were a shared system between the public hospitals in the south west region. There has been no recommendation about sharing records on the site. There is not even a private person on the site and the basis on which records will be shared is still something that will have to be agreed.

Hon Sam Piantadosi: That is not what is reported.

Hon PETER FOSS: I do not care what is reported. The fact is that the recommendation in that report, if that is what the member is referring to -

Hon Sam Piantadosi: It talks about public and private sharing.

Hon PETER FOSS: I am not saying it may not happen. The member referred to an agreement. There is no agreement as far as I am aware. There is a recommendation from a committee that that happen. If it does happen, I am sure that many things will have to be looked at in terms of the agreement. If and when it happens, I am sure we will look at those matters. However, the principal benefit that comes from the recommendation in that report is the enhancing of referrals from district hospitals to the regional hospital by having a shared database. We can implement that immediately.

Hon Sam Piantadosi: That is not the point of my question.

Hon PETER FOSS: I know it is not. The point is that there is no agreement yet. At this stage there are no private operators on the site and there is no agreement. If and when we do get that agreement, I am sure the matters raised will be looked at. I cannot tell the member what is the situation. All we have at the moment is a recommendation from the committee. There is no private operator.

SCHOOLS - OPTIMUM SIZE STUDIES

167. Hon J.A. SCOTT to the Minister for Education:

(1) Has the Education Department undertaken any studies into the optimum size of schools?

(2) If so, do larger schools have greater or lesser levels of antisocial behaviour?

(3) Is there a measurable difference in education levels attained as a result of school size?

Hon N.F. MOORE replied:

(1)-(3)

I cannot be specific about any studies that have been done into that subject. However, I have heard a significant amount of anecdotal evidence which suggests that very big schools are less acceptable than middle size schools and that tiny schools in some way can be detrimental to the education of students. Rather than giving the member my views about what I have read, I will ask the department to provide him with information of any definitive studies that might answer the question.

RACING INDUSTRY - RACING CODES, INDEPENDENT AUDIT
Financial Management Comparison; Oncourse Betting Rebates Legislation

168. Hon GRAHAM EDWARDS to the Minister for Racing and Gaming:

(1) Will the Minister commission an independent eastern states consulting firm to conduct an audit into the three racing codes as per the call from the action group Racing Equity? If not, why not?

(2) In making comparisons in the areas of financial management between the three racing codes, what best practice benchmarks has the Minister applied in making decisions on fund distribution?

(3) When will the Minister introduce legislation to put into effect oncourse betting rebates as promised by the coalition?

Hon MAX EVANS replied:

(1) No. The previous government had reports done for in-depth financial reports on racing, trotting and the dogs and action was taken on those reports. Mr Ray Warren announced the change on the split of the money. He said he would be recommending that an inquiry be put in place and a few weeks later the independent racing inquiry group used exactly the same words as Ray Warren. The only persons I know in Racing Equity are Ken Williamson and Paul Jordan. Last year, I called for a meeting of the total racing industry; it was the first time it had ever been called together. The only person who would go along with me that day was Ken Williamson. He may have something against me, as does Paul Jordan, who does not want to race his horses at York because the course goes downhill whereas in England all the racecourses are uphill and downhill. I am not sure what Paul Jordan's case is. They were the only two people in Racing Equity who would identify themselves. To me, anything that group says has no real credibility at this stage. The financial positions of

all the codes have improved because of the big increase in revenue they are getting each year from the Totalisator Agency Board. We will wait to have a look at the balance sheets at the end of the financial year.

(2) The Government has not made a comparison in the financial management between the racing codes. Based on the Liberal Party's January 1992 racing industry policy, the previous government reduced the TAB turnover tax from 6 per cent to 5 per cent by rebating the 1 per cent to the racing codes. All that the Government has done is to amend the proportion of TAB profits distributed between the WA Turf Club and the WA Trotting Association by adjusting the 1 per cent rebate to the racing industry. The previous government did not enshrine that in legislation. It made it a rebate during the year and we have followed that position. This Government takes only 5 per cent in tax from racing. The Hong Kong government takes 20 per cent, the French government 18 per cent and the Swedish government 9.5 per cent. The racing codes do very well in this state. I am not sure about the percentages in other states.

(3) The Government's January 1992 racing industry policy committed the Government to redirecting oncourse betting tax and bookmakers' tax to the respective clubs as sought by the racing industry. The Government will continue to honour this commitment. The money from the 2 per cent tax on the bookmakers came to the Government before; that now goes to the racing codes, as does the tax on the oncourse totalisator. That was done to get more people on course to bet with the oncourse tote and with the bookmakers. They have done very well because of that. Subsequent to that, on 24 December last year we agreed to telephone betting. That will probably raise an extra net $500 000 for the Turf Club from oncourse bookmakers being able to take telephone bets.

OFFENDERS COMMUNITY CORRECTIONS AMENDMENT BILL - ATTORNEY GENERAL'S RESPONSIBILITY

169. Hon N.D. GRIFFITHS to the Minister for Health:

(1) Is Order of the Day No 3, the Offenders Community Corrections Amendment Bill 1994, within the ministerial responsibility of the Attorney General?

(2) If yes, why has the Bill been introduced into the Legislative Council and not the other place?

(3) Is this Bill the first of several Bills pertaining to the Attorney General's area of responsibility which the Minister for Health will introduce into the Legislative Council?

(4) Does the Minister still have confidence in the Attorney General's administration of her portfolio?

Several members interjected.

Hon John Halden: Here is the heir apparent!

Hon E.J. Charlton: We introduced some fisheries Bills too.

The PRESIDENT: Order!

Hon PETER FOSS replied:

I will refrain from taking advantage of the question.

(1) Yes.

(2) Because it has been mutually agreed between the Attorney General and the Leader of the Government in the Legislative Council.

(3) No.

(4) Of course.

TEACHERS - MERIT-BASED PROMOTION SYSTEM, CONCERN

170. Hon JOHN HALDEN to the Minister for Education:

Is he aware that the level of disenchantment and feelings of betrayal among teachers rivals the well documented level of concern held by police officers regarding the merit-based promotion system?

Hon N.F. MOORE replied:

If there is concern among the teaching fraternity about the merit-based promotion system - I am not aware of it - it is as a result of policies implemented by the previous government.

Hon John Halden: Of course.

Hon N.F. MOORE: I have not changed anything significantly with the merit-based promotion system during my time as Minister. Such a system is important. However, the problem experienced with the police and education areas is that the method of determining merit is so bureaucratic that nobody knows at the end of the day who has merit. Usually, the quality of the application rather than the applicant is taken into account.

SCHOOLS - CLARKSON
Population Figures, Rechecking

171. Hon GRAHAM EDWARDS to the Minister for Education:

(1) Can he confirm that he advised parents that if they could show that departmental demographic figures on population growth for the proposed Clarkson school have blown out he would approach the Treasurer for additional funds to enable the school to be completed, on site, by the start of the 1996 school year for years 8 and 9?

(2) Can he confirm that he has asked his department to recheck projected school population figures for Clarkson?

(3) On what date did he request that rechecking of figures?

Hon N.F. MOORE replied:

(1)-(3)

I met with some parents from the northern suburbs - from the Quinns Rocks Parents and Citizens Association, and a lady representing another northern body - and they put to me a proposition that the figures used by the Education Department regarding the Clarkson area were well short of what they believed to be the case. I said that if the figures were as they suggested, it would be a very compelling argument for the school to be built more quickly than the proposed date of 1997. Those figures provided by the parents were provided to the Education Department for its advice after I met with the parents on Tuesday or Wednesday evening of last week. I have yet to receive a response from the department, although it may have been prepared. I shall determine the real figures, bearing in mind that the figures varied significantly between the parties and from one time to another. I will be quite happy to try to find additional funds for a high school in the Clarkson area in advance of our current plans if the sort of demand exists for the school as indicated by the figures provided to me by the parents. On the other hand, if the parents' figures are not correct, the program in place will continue.