Legislative Council

Tuesday, 25 November 1986

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

ACTS AMENDMENT (PENALTIES FOR CONTEMPT OF COURT) BILL

Introduction and First Reading

Bill introduced, on motion without notice by Hon. J. M. Berinson (Attorney General), and read a first time.

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [3.35 p.m.]: I move—

That the Bill be now read a second time.

Two decisions of the Full Court of the Supreme Court, R. *v.* Pismiris, 18 November 1986, and Cullen *v.* R., 25 September 1986, have revealed serious deficiencies in the law dealing with contempt of Western Australian courts and tribunals other than the Supreme Court.

A number of the State's inferior courts and tribunals have, by Statute, limited powers to punish contempts committed in the face of the court or tribunal. It had previously been understood that, in addition, the Supreme Court had an unlimited power to punish all contempts of inferior courts or tribunals, so that any serious case could be dealt with by the Supreme Court. For this reason, the power to punish contempt conferred on many of our inferior courts had been kept at a nominal level to deal with very minor cases in the expectation that any serious case could be dealt with by the Supreme Court.

In R. *v.* Pismiris the Supreme Court held in a majority decision that the Supreme Court may not have any power to punish a contempt of the District Court which the District Court can itself punish. The majority in the Supreme Court further held that even if the Supreme Court had the power, it should never exercise it.

The reasoning which led to this decision about the District Court applied equally to all other contempts of courts and tribunals which can be punished by the court or tribunal concerned.

The Supreme Court decisions require a complete revision of the legislative provisions dealing with contempt of inferior courts and tribunals. This is not possible in the short time left in this parliamentary session. A comprehensive review is being undertaken with a view to legislation being introduced next year. In the meantime, however, the Supreme Court decisions have given rise to a serious problem. In recent weeks witnesses have refused to be sworn to give evidence or to answer critical questions in three quite serious criminal trials in the District Court. These witnesses have preferred to incur the punishment which the District Court can impose—one month's imprisonment or $100 fine—rather than give evidence. Two of the three trials were for drug offences. Two of the prosecutions failed as a direct consequence.

This Bill is intended, therefore, as an urgent and interim measure to give to the main inferior courts adequate powers to punish contempts in order to check the sort of consequences that have already been experienced in the District Court.

The penalties proposed have been fixed having regard to the seriousness of the cases dealt with in the respective courts. A major purpose of having a substantial penalty for contempt is to provide an inducement to a witness to face up to the responsibility to give evidence. That inducement needs to be much greater in the case of the serious criminal trials dealt with in the District Court than in the cases dealt with in Courts of Petty Sessions and Local Courts.

It is proposed that the District Court have power to punish a contempt by imprisonment not exceeding five years or a fine not exceeding $50 000, or both, and Courts of Petty Sessions and Local Courts by imprisonment not exceeding one year or a fine not exceeding $5 000, or both.

Of the main inferior courts and tribunals in the State, only the District Court, Courts of Petty Sessions, and Local Courts have seriously deficient powers of punishment. The other main courts and tribunals have sufficient powers for the present.

I commend the Bill to the House.

Because of the urgency of this Bill, I seek the cooperation of the House in passing it through all stages today. I understand that the Opposition, in order to allow consideration of that proposal, will move for its deferment to a later stage of the sitting.

Debate adjourned to a later stage of the sitting, on motion by Hon. John Williams.

(Continued on page 4675.)

LAND TAX AMENDMENT BILL

Second Reading

Debate resumed from 20 November.

HON. MAX EVANS (Metropolitan) [3.40 p.m.]: I apologise if I repeat myself, but I feel very strongly about the Land Tax Amendment Bill, which is a money Bill for raising revenue. It does not go nearly far enough towards assisting landowners, property owners and tenants who pay land tax. We have been told that restructuring of the tax scale will provide long-term relief. However, the maximum term for such relief will be three years when the next revaluation will be made. The property owner will then be hit with a new valuation which will be scaled in over three years.

We read in the Budget speech that the Government was considering bringing in a revaluation every year. I am glad that that is not a proposal in this amending legislation. I would hate to think of the cost to the Valuer General's Office if such a proposal were implemented. I presume that the revaluations will be phased in over three years, as they were before.

Property owners subjected to increased land taxes pass on that cost. I know that the Real Estate Institute last year put up a submission to Mr Berinson. It was pleased with the hearing it got from him, but was disappointed that he did not take up its submission. Now, some 12 or 14 months later we have this amending legislation.

We are told that application of the new scale will result in provision of tax relief of nearly $11 million in the first year. It will be only a few months before the City of Perth puts up its property values again; that was where the large revaluation increases were last time, and the values of those properties are still going up.

The new scale will now include 10 rate steps instead of the 18 steps in the existing scale; in other words, the scale will be based on every $10 000 instead of every $5 000. I commend the Government for that change. The Bill provides for the new scale to include a maximum rate of 2c in the dollar, which is not a very big decrease. If a property owner does not have the property rented, the tax is paid by the property owner. If the property is rented, the cost is passed on to the tenant. The maximum rate now comes in for land valued at $150 000, instead of $120 000. However, as the Minister knows, most people owning land in this classification have more than one property. The value of the second property can well exceed $150 000, as can that of the third or fourth property. Although the maximum rate of tax will be 2c in the dollar, the property owner can recover from his tenants only the lower scale rate. The owner pays the penalty rate at the top.

The owner who sells the property is probably paying the maximum rate of 2c in the dollar on the property. It is scaled back with the adjustment of land tax at the date of sale. Valuations are going to increase beyond the control of the owner of the land for many years. It will go far beyond the control of the tenant, who is hit with increases between 100 per cent and 200 per cent. That is a very big increase for the poor tenant to receive from the landlord because the Valuer General puts an increased value on the property.

A short while ago I collated some figures using the old scale. Valuations in the North Fremantle area increased from $31 000 in 1983-84 to $58 000 in 1987-88—a mere 87 per cent increase over three years. That increase was scaled in at 29 per cent in 1985-86, 58 per cent in 1986-87, and 87 per cent in 1987-88. The value of a property that I know of at East Perth increased from $381 000 to $1.42 million, an increase of 272 per cent, phased in at 90 per cent in the first year, 181 per cent in the second year, and 272 per cent in the third year.

Since the flat rate of tax above a value of $150 000 is two per cent, the land tax payable escalates by an even greater percentage than the value of the property. For example, the land tax increase on a property that I know of over three years went from an increase of 75 per cent to 150 per cent to 225 per cent. That is a huge increase, particularly in view of the fact that in some cases tenants will pay for it. The actual land tax paid in dollar terms with respect to the last-mentioned property increased from $3 260 to $10 601. The tenant who pays $65 a week for a shop will be paying $200 a week after such land tax increases. Those rates have been worked out on the old scale and not the new scale, but the valuations are as they are today.

The valuation of a property in Hay Street, East Perth, increased from $125 000 to $345 000, an increase of 176 per cent. Because the owner has other properties, he pays land tax at the maximum rate, but the tenant pays it at the lower rate. The land tax collected has increased from $1 983 to $7 816. As I said before, I regret that more consideration has not been given to offsetting some of the massive increases in valuations. We can only hope that they will not continue. The increases in valuations in the last few years have been very high

and give no consideration to the ability of people to pay. The Valuer General has probably been catching up on a bit of a backlog. The taxes are also put on residential tenants. The landlord has to pick up that land tax, as well as the council rates and water rates. Before increases in land valuations, rentals would have increased by about seven per cent or eight per cent a year.

In recent times land tax has been far more severe and the Government has been remiss in not coming to grips with the problem. It takes a lot of credit for the first big change to be implemented in many years, and has said that the change should have been made before. In 1968, a $120 000 property was a good one, but it is not now above average. More consideration should have been given to the people who have to pay the maximum rate for properties valued in excess of $150 000.

The Budget speech asked where else the money would come from. Money is one thing, but people want some justice to be shown to the people who will have to pay the tax. I know that it is probably not a big vote-catcher, but down the line people will suffer because of the severe nature of this tax. The developers will capitalise on the cost. Their costs will all be passed on to future purchasers of the property. Once the new rates are introduced, the 10 per cent rebate which was introduced in 1985-86 will be taken away. Therefore, the reduction in tax under the new scale is negligible. The tax will still represent a big impost.

The tax is a huge impost on the owners of arcades, for example. They charge the tenants over a 12-month period, rather than at the time the tax is charged. The property owner then has to pay the cost up front; therefore, he pays the penalty. The tenants, however, have to pay for it over 12 months. It is a cost to the property owner in the first place, but every property owner passes on every cost to the tenant and the tenant pays once again. It is becoming very difficult for small business people. They are having to work longer hours with the lifting of Saturday trading restrictions and must now cope with increased land taxes.

I support the Bill, but I do not support the intention of the rate-setter.

HON. NEIL OLIVER (West) [3.48 p.m.]: People with small rural holdings are having great difficulty with shrinking incomes and imposts on farming. They are now looking, if possible, to non-farm income. That again places them at a disadvantage, penalty-wise. It is particularly noticeable in areas such as Wooroloo and Bullsbrook. These properties were viable many years ago, but are becoming less so as income from rural production diminishes.

There is a move towards what might be called more intensive agriculture. Particularly in the Bullsbrook area the move is into horticulture. This may have a benefit in the long term once a property becomes viable, if it gets through the initial period of plantings until crops provide a reasonable return.

Without doubt the present imposition of land tax creates severe difficulties for people in the category I have illustrated. I have raised this point with the Minister on several occasions previously in this House. In his second reading speech he said that the new rates will provide land tax relief across the board, and every taxpayer will benefit. I find this very difficult to reconcile with people in my own electorate. Each taxpayer may pay a reduced rate, but because the rate is dependent on land values it is unlikely very many will pay less tax.

This is a problem in the outer metropolitan areas where, due to subdivision, properties have increased in value. Naturally the evidence the Valuer General takes into account includes hobby farms and properties where people have invested for tax purposes.

The Minister claims also that the new tax scale will result in $11 million in tax relief. This figure is calculated on the basis of existing land valuations and does not take into account increased valuations. In the last two or three years land revaluations have been severe. I have just examined 12 real life examples of property on which land tax is payable. The amount payable on each has risen since 1983 by up to 530 per cent. The smallest increase is 37 per cent. Eleven of the 12 examples of increases were over 100 per cent; so the proof of any tax burden is clearly visible in the bottom line figure.

Since 1983 the total land tax receipts have increased by 66 per cent, exactly double the prevailing rate of inflation. While supporting the Bill, I direct the Minister's attention to the various hardships being experienced by agricultural landholders who are still endeavouring to maintain rural pursuits they have known throughout their lifetimes, even to the extent of examining ways to move into more intensive rural activities.

HON. J. M. BERINSON (North Central Metropolitan—Minister for Budget Management) [3.53 p.m.]: Mr Evans and Mr Oliver have given what I suppose can reasonably be described as grudging support to this Bill. I do not necessarily blame them for that; they have given fair accounts of the problems that arise with land tax. Unfortunately they have not provided us with any solution. Again I do not blame them for that because, having spent something like two years listening to a lot of good ideas from many people with serious submissions, at the end of the day I must face a dilemma which cannot be solved.

The dilemma is that land tax, like most State taxes, operates in a fairly arbitrary way in the sense that it is not linked necessarily to capacity to pay or to profits or income. That, however, is the way of life so far as State taxation goes. Precisely the same can be said about payroll tax, stamp duty, and so on. At the end of the day we are faced with the need to bring in a certain amount of revenue to meet our expenditure, and land tax has to play its part.

I am sure Mr Oliver was quite accurate in the figures he gave a couple of minutes ago. I do not have the figures with me, but I accept his assertion that, over a period, land tax has increased at double the rate of inflation. That happened because of a combination of factors to which Mr Evans and Mr Oliver alluded, namely, the operation of a static tax scale on a fast-increasing valuation base.

All I can say in response to that is that the Government did attempt, starting two years ago, to tackle that problem in a modest way with a 10 per cent reduction across the board. We are attempting again to tackle it as reasonably as we can, given current restraints, with the present Bill. In the last two years we did bring the increase down reasonably close to the CPI, and in the first year of operation the effect of the scale to be implemented by this Bill will be to keep any increase well below the CPI, if indeed there is any increase at all.

I am not claiming brownie points for that. I am not saying it is a marvellous achievement. What I am saying is that it is an effort to reflect our own recognition that land tax levies have been increasing too fast.

I should also indicate that our experience with the fundamental review which has been conducted in the last two years leads us to the view that very little can be done by way of logical change to the system, and what is probably needed in the future to keep land tax increases to some reasonable level is a more regular review of the land tax scale than we have had in the past. This is, after all, the first review in 10 years. That can be charged against not our Government but previous Governments which had this responsibility for the greater part of those 10 years. They simply let the system run and enjoyed the benefit of the revenue because the tax did not attract all that much attention. It was possible in the years of the previous Governments to say that there had been no increase in the land tax rates. That was true, but at the same time substantial increases were being raised in actual land tax collections.

I therefore suggest we need to look at these matters more regularly in future and do our best, in the context of the circumstances which emerge from year to year, to try to ensure that land tax imposts, like all other State taxes, are kept within reasonable limits. That is not a very exciting prospect, but being honest, it is about the best we can aim for.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Minister for Budget Management) in charge of the Bill.

Clause 1: Short title—

Hon. MAX EVANS: Although I accept the rates, I believe the $150 000 ceiling could have been higher when one looks at the length of time that $120 000 was the ceiling limit. Major amendments in this area could have made it more tolerable, particularly for the future.

The legislation should have been looked at more closely, and with experienced staff, who pay land tax and may have been more sympathetic. They could have tried to understand the problem of tenants and owners, and how they are affected. The figures per se do not mean very much. It is just a matter of putting down figures and doing equations until we arrive at a figure which will produce the amount wanted. When there is a second revaluation, we will see fairly big increases again. It is for that reason that I say the rates are wrong.

Clause put and passed.

Clauses 2 to 7 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon. J. M. Berinson (Minister for Budget Management), and passed.

LAND TAX ASSESSMENT AMENDMENT BILL

Second Reading

Debate resumed from 20 November.

HON. MAX EVANS (Metropolitan) [4.04 p.m.]: This Bill contains minor amendments. The first amendment is in respect of small landowners, and it provides that where the aggregate unimproved value of all the land owned by one person does not exceed $5 000, it is not subject to land tax.

I now have the updated figures. There are 7 000 property owners, and at $12.50, that is a loss to revenue of $87 500. The savings in administration expenses will be great, because the staff will not have to deal with all these assessments. The information will remain on the computer.

Land of a value of less than $5 000 is usually in country areas. If the Valuer General goes into those areas, the land will be back on the books if the value is over $5 000 and rated accordingly.

The Bill proposes also that the 10 per cent rebate is to be discontinued from 1987-88. That has been brought in over the last three years. The rates will be reduced from eight or nine per cent on the scale up to $150 000. I understand why that rebate had to be abolished when the other rates were dropped.

I am worried about the 20 per cent maximum interest rate which is to be charged where payment of assessment is deferred. In his speech the Minister said that this is similar to the provision in the Pay-roll Tax Assessment Act where the interest rate has been lifted from 10 to 20 per cent. The Minister did not say that under the land tax provisions the penalty for late payment was dropped from 10 per cent to five per cent, and we are grateful for this. However, the penalty for late payment of even one day is a flat rate of five per cent. The Act provides that if payment is not made by the due date, an additional amount equal to five per cent of the amount of the assessment will also automatically become payable by way of a penalty. Under the provisions of the Land Tax Assessment Act an extension of time for payment may be granted without penalty if sufficient reason is advanced and interest at the rate of 10 per cent per annum will usually be applied with respect to any extended period of payment.

There is a problem, because if an owner or tenant is even slightly overdue in paying this tax, he incurs a flat rate penalty of five per cent on his assessment. The Act provides that an extension of time can be arranged without penalty, but many people have had trouble getting that extension of time without the penalty. I know many owners of big hotels have had this problem. It is a severe penalty. Two or three years ago the rate was 10 per cent and the Treasurer reduced it to five per cent, but still left the provision in the Act. I would like to see that removed if we are now looking to increasing the interest rate to 20 per cent per annum for late payment. I do not disagree with the other points in the Bill and I support it.

HON. J. M. BERINSON (North Central Metropolitan—Minister for Budget Management) [4.07 p.m.]: Hon. Max Evans is dealing with two different matters when he discusses interest on deferred payment and the late payment penalty of five per cent.

The present Bill deals with interest on deferred payment only and in such cases the penalty is not applied. The need to increase the established interest rate from 10 per cent to 20 per cent is almost self-evident in that, with current overdraft rates and other commercial rates of interest, at the present moment it would pay taxpayers to get deferment at the statuatory rate of interest rather than meet their obligations on time with money borrowed on a commercial basis. That is the only purpose and it is the only effect of the present Bill. It is important to bring this provision into line with current commercial realities so that the purpose of the provision should not be distorted.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Minister for Budget Management) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Section 38 amended—

Hon. NEIL OLIVER: I was interested in the Minister's comments on the penalty rate that will apply. He explained the necessity for this

as being that people have delayed their payments of the tax because, with our current interest rates, it is far better for them to invest their funds elsewhere rather than meet their assessments on time.

The penalty rate is to be set at a level which will ensure the Government's coffers are not robbed by people putting their money on the short-term money markets at very handsome rates, no doubt under the guidance of the Minister for Budget Management.

The Prime Minister and the Premier have been referring to reduced interest rates since last June. Indeed, a Press conference was held in the Select Committee room—I do not really think it had anything to do with the State election—to announce a special assistance scheme to assist people in the process of purchasing their homes to cope with home loan interest rates. The Prime Minister and the Premier both told us that interest rates would come down early in the new year and certainly would be considerably lower by 30 June 1986. The reverse has been the case.

When the rate is supposed to be at the ruling rates it is a bad example to go from 10 per cent to 20 per cent, when 20 per cent is very much a penalty rate. I can only presume the Government believes that interest rates are here to stay, that the statement by the Prime Minister and the Premier has been proved to be totally wrong, and that we are now in a period of high interest rates which will be with us for years to come.

Hon. J. M. BERINSON: The Government can only deal with situations as they exist. When interest rates are reduced it will be our pleasure to reduce the penalty rate of provisions such as this.

Clause put and passed.

Clauses 9 and 10 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon. J. M. Berinson (Minister for Budget Management), and passed.

METROPOLITAN REGION IMPROVEMENT TAX AMENDMENT BILL

Second Reading

Debate resumed from 20 November.

HON. MAX EVANS (Metropolitan) [4.14 p.m.]: The metropolitan region improvement tax is being amended to take away the 10 per cent rebate given to people under this tax. The current rate of 0.25c in the dollar is to be reduced to 0.225c in the dollar. The Minister said that would be a $1 million revenue loss to the Government as a result of this lower rate. I have not worked this out mathematically, but I would have thought one would balance out the other. Nevertheless, I support the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon. Kay Hallahan (Minister for Community Services), and passed.

BILLS (4): RETURNED

1. Inheritance (Family and Dependants Provision) Amendment Bill.
2. Stipendiary Magistrates Amendment Bill.
3. Prisoners (Interstate Transfer) Amendment Bill.

   Bills returned from the Assembly without amendment.
4. Acts Amendment (Recording of Depositions) Bill.

   Bill returned from the Assembly with amendments.

ACTS AMENDMENT (PORT AUTHORITIES) BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.20 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to amend the port authority Acts for the ports of Albany, Bunbury, Esperance, Fremantle, Geraldton, and Port Hedland to permit the appointment of board members for periods of up to three years. The current Acts state that board members are to be appointed for periods of exactly three years. This, on occasions, does not serve the best interest of port authorities as it does not permit flexibility in the appointment of board members.

The amended arrangements will give that flexibility. Of greatest importance, it will allow the appointments of board members to be staggered to avoid the situation where the terms of office of many members terminate at the same time, with the difficulties that implies for continuity.

The amended arrangements will also make it possible to have shorter appointments for other reasons; for example, to appoint members who have specific expertise which is only required for a short period of time, where the reduced appointment is acceptable both to the port authority and to the member himself.

The thrust of the proposed amendment to the port authority Acts is to ensure that at all stages, the interests of the port authorities are of paramount importance and that the necessary expertise can be obtained at a very senior level. On a point of practicality, it is also necessary to ensure that the appointment of a chairman does not conflict with the individual's term of appointment as a board member. Therefore, it is necessary to amend the legislation to ensure that the term of appointment as chairman cannot exceed the term of appointment as a board member.

Amendment is not required to the Dampier Port Authority Act as this Act already enables board members to be appointed for periods of less than three years. A further benefit of this amendment therefore, is to bring about uniformity of all the port authority Acts with regard to the appointment of board members.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. D. J. Wordsworth.

BETTING CONTROL (BUNBURY GOLDEN CLASSIC) BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.23 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to allow licensed bookmakers to field on the proposed Bunbury Golden Classic.

The Bunbury Chamber of Commerce is embarking upon a programme to attract tourists to Bunbury, especially during the city's 150th anniversary celebrations. One of the concepts that has attracted unanimous support from business groups and other organisations in Bunbury is the staging, on an annual basis, of a professional foot racing series which will be known as the Bunbury Golden Classic. The Golden Classic is based on the highly successful Stawell Gift at Bendigo in Victoria.

The Stawell Gift, which is run at Easter each year, has been running for approximately 100 years. It attracts in the vicinity of 800 competitors amounting to some 2 000 individual entries, leading up to the main event which offers a total prize purse of $50 000. One of the main reasons for the success of the Stawell Gift is the provision of on-course bookmaking facilities.

It is proposed to hold the Golden Classic on the Anzac Day weekend, which will enable athletes to compete in both the Stawell Gift and the Bunbury Golden Classic.

The Bill before the House proposes to permit bookmakers to field on the Golden Classic as a "one off" special event. I would like to emphasise that the Bill permits bookmakers to field on the classic for 1987 only. The Bill has a sunset clause and will cease on 30 June 1987.

A feature of this Bill is that even though it has a sunset clause, section 8(2) provides for validity of action and the payment of moneys after the Bill has ceased. All other conditions and requirements under the Betting Control Act 1954 will apply, and include the keeping of records, the production of financial returns, and the payment of tax on bets taken.

A further feature of the Bill is that betting will be restricted to on-course facilities only. The totalisator Agency Board is not entitled to accept bets on the Bunbury Golden Classic.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. V. J. Ferry.

PERTH BUILDING SOCIETY (MERGER) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. Kay Hallahan (Minister for Community Services), read a first time.

Second Reading

HON. KAY HALLAHAN (South-East Metropolitan—Minister for Community Services) [4.26 p.m.]: I move—

That the Bill be now read a second time.

Perth Building Society is a society registered under the Western Australian Building Societies Act 1976. Hotham Permanent Building Society is a society operating in Victoria and registered under the Building Societies Act 1986 of Victoria.

In June 1983 Perth Building Society acquired 90 per cent of the permanent capital of Hotham Permanent Building Society and the remaining 10 per cent in September 1985. Hence, Hotham Permanent Building Society is wholly owned by Perth Building Society.

In 1985, substantial amendments to the Western Australian Building Societies Act 1976 were made to allow societies to expand their activities in the deregulated financial markets. However no provision exists in the WA legislation to allow an interstate merger. WA legislation only pertains to intrastate operations.

Victoria has presented a Building Societies (Amendment) Bill, which provides the mechanism to facilitate mergers between Victorian societies and interstate societies. Information received indicates this Bill will be passed in the current session of the Victorian Parliament.

The Perth Building Society, on behalf of both societies, has lodged an application to operate as a savings bank, and sufficient progress has been made whereby the granting of a banking authority could be recommended. It is intended to commence banking operations as soon as possible after the close of March 1987, and the timing to finalise the merger is critical.

Consultation between the Crown Law Department, the Registrar of Building Societies, and the society's solicitors indicates that time does not permit at this stage to proceed with general amendments to the Western Australian Building Societies Act 1976 to effect interstate mergers and that a special Bill to give effect to the merger is the desired method.

Subsequent to the merger, the combined entity will seek registration as a compny pursuant to the Western Australian Building Societies Act 1976 and the Companies (Western Australia) Code.

The Victorian Building Societies Act 1986 provides for the merger between a Victorian society and another building society incorporated in another State or Territory of the Commonwealth.

This Bill provides for Perth Building Society to apply for a merger under the Victorian Building Societies Act 1986 between itself and Hotham Permanent Building Society, and to give effect in this State to that merger. If the applications of Perth Building Society and Hotham Permanent Building Society are successful, then they shall apply for the relevant certificate of compliance under section 108(C) of the Victorian legislation. Merger time will be accomplished upon the issuance of this certificate by the Victorian registrar pursuant to section 108(D) of the Victorian legislation.

Under this Bill the merger under the Victorian Act of the assets, liabilities, and undertakings of Hotham Permanent Building Society with those of Perth Building Society shall, after merger time, have full effect and force in this State.

The recent deregulation of the banking industry has necessitated building societies and other non-bank financial intermediaries to review their operations in order to remain competitive in today's complex financial market. The Government is supportive of the merger in that it will ensure the entity's continued presence in the provision of housing finance. The successful merger is a condition precedent to enable the finalisation of the conversion of the merged entity to a savings bank.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Max Evans.

ROAD TRAFFIC AMENDMENT BILL (No. 2)

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.31 p.m.]: I move—

That the Bill be now read a second time.

The provisions of this Bill will honour an election undertaking to provide both aged and aged service pensioners with a 50 per cent concession on motor vehicle registration fees. It has been of concern to the Government that this category of pensioner has been disadvantaged by way of any concession.

The concession will extend to those aged pensioners and aged service pensioners not currently entitled to a concession. To be entitled to the concession a person must be the holder of a pensioner health benefit card and receive an aged pension under the Social Security Act or an aged service pension under the Veterans Entitlement Act. The concession will only be made available after an application is made by the owner of the vehicle and will only apply to one vehicle, either a motor car or motor vehicle with a tare weight not exceeding 3 000 kilograms, motor propelled caravans, motor cycles, or mopeds owned by the person. To obtain this concession a person will be required to make a declaration setting out his or her pension details. The application for the concession will be able to be made at any licensing and services centre in the metropolitan or country areas.

The new concession will apply to motor vehicle licences issued or renewed from 1 January 1987.

Other pensioners such as totally and permanently incapacitated persons currently receiving a concession will not be disadvantaged by this Bill and will continue to receive their present entitlements even if their pension is converted by the Commonwealth Government.

This new concession is another undertaking of this Government's commitment to the senior citizens in our community to ensure they do not become disadvantaged.

Debate adjourned, on motion by Hon. D. J. Wordsworth.

CEMENT WORKS (COCKBURN CEMENT LIMITED) AGREEMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. J. M. Berinson (Attorney General), read a first time.

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.33 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to obtain parliamentary ratification of the agreement entered into on 24 October 1986 between the State and Cockburn Cement Limited to vary the provisions of the cement works (Cockburn Cement Limited) agreement of 1971. The 1971 agreement was ratified by Act No. 45 of 1971 and will be referred to as the "principal agreement", with Cockburn Cement Limited being referred to as "the company".

The major functions of the variation agreement now before the House are briefly outlined as follows—

to amend the agreement to reflect the existence of the Mining Act 1978 and to preserve rights previously held under the Mining Act 1904 over limestone tenements required for the long-term viability of the company's operations under the principal agreement;

to update the agreement by including modern clauses covering environmental reporting, compliance with environmental laws, and requirements for proposals;

to require the company to submit and have approved at two-yearly intervals dredging and management programmes in respect of the company's operations in Cockburn Sound;

to provide for the issue of a lease in the form of the schedule over the sand washing plant site at Woodman Point for a period coterminous with the life of the agreement. The company previously held a lease, expiring in 1992, from the Commonwealth. This was transferred to State jurisdiction as an encumbrance on the Woodman Point land acquired from the Commonwealth;

to permit the company to dispose of land no longer required for purposes of the agreement subject to prior consent being obtained.

I turn now to the specific provisions of the variation agreement scheduled to the Bill before the House, which are contained in clause 4 of the document. The variation agreement provides in clause 4(1) for additions and variations to the definitions contained in clause 1 of the principal agreement and recognises the

substitution of the works site plan B for a new plan X.

I now table a copy of plan X which depicts the current extent of the works site. The area is somewhat smaller than that on original plan B due to excisions for road and rail purposes and disposal of certain lots.

(*See paper No. 521.*)

Hon. J. M. BERINSON: Subclause (2) inserts into the principal agreement four new clauses—

> 6A, which provides for a dredging management programme covering the company's dredging operations on Success and Parmelia Banks in Cockburn Sound to be submitted by 31 December 1986. Subsequent dredging management programmes are to be submitted at two-yearly intervals. Each will cover a 10-year period of dredging;
>
> 6B, which details the mechanisms for ministerial consideration and approval of dredging management programmes;
>
> 6C, which outlines the circumstances under which variations may be made to approved dredging management programmes; and
>
> 6D, which provides for the company to surrender its existing sand-washing plant lease that expires in 1992 to permit the grant of a lease and licence in the form of the schedule for a term expiring with the termination in 2021 of the right to dredge shell sand from Success and Parmelia Banks in Cockburn Sound.

Subclause (3)(a) substitutes subclause (2) of clause 7 of the principal agreement with new provisions that reflect the existence of the Mining Act 1978.

Subclause (3)(b) introduces a new subclause (2a) of clause 7 to modify the operation of subclause (2) to the extent that mining tenements may enjoy the benefits of subclause (2) only so long as they are, in the opinion of the Minister, responsible for the administration of the Mining Act 1978, being held for future operations under the agreement.

Subclause (3)(c) substitutes the exemption from labour provisions under the Mining Act 1904 with exemption from expenditure conditions under the Mining Act 1978.

Subclause (4) introduces a new clause 7A into the principal agreement to allow the company, with prior consent, to dispose of land no longer required for the purposes of the agreement.

Subclause (5) introduces into clause 8 of the principal agreement a reference to the substitution of the works site map B with a new map X.

Subclause (6) introduces into the principal agreement three new clauses—

> 10A, which requires the company to report to and cooperate with the State as required with regard to environmental matters in respect of total company operations;
>
> 10B, which obliges the company to submit and have approved proposals in the event of the company wishing to significantly modify, expand, or otherwise vary its cement and clinker operations, or, if it wishes, to carry on operations other than the manufacture of cement and clinker on the works site referred to in the principal agreement;
>
> 10C, which makes it clear that the company is not exempted from complying with the provisions of environmental protection legislation of the State.

Subclause (7) makes adjustments to clause 17 of the principal agreement to recognise the existence of the Commercial Arbitration Act 1985.

Subclause (8) introduces the form of the lease and licence for the sand washing plant and services corridor linking with Cockburn Road.

Clause 5 of the variation agreement reflects State recognition that the company has met its obligations in respect to the mortgage referred to in clause 3(2) of the principal agreement.

It will be seen that the foregoing amendments and additions dealing with environmental matters result in a substantial modernisation of the principal agreement to a form more in keeping with that of more recent agreements. Ratification of the 1986 variation agreement will permit the terms of the 1971 agreement between the State and the company to be substantially modernised.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. V. J. Ferry.

VALUATION OF LAND AMENDMENT BILL (No. 2)

Returned

Bill returned from the Assembly without amendment.

WORKERS' COMPENSATION AND ASSISTANCE AMENDMENT BILL (No. 2)

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.42 p.m.]: I move—

That the Bill be now read a second time.

The Workers' Compensation and Assistance Act has the potential to seriously impact upon the economic viability of employers in this State with premium costs comprising a significant on-cost for business. The Government has, as a result of a recent High Court decision, deemed it necessary to undertake urgent amendments, and these are now before the House.

The Bill addresses the main areas requiring amendment; namely, section 122 and clause 17 of schedule 1 of the Act. In 1970 a committee of inquiry under the chairmanship of Judge N. Mews examined the need for a discretionary power to enable the Workers' Compensation Board to extend benefits beyond limits existing in the above provisions. The recommendation of that committee, which was accepted and acted on by the then Government, that a discretion be incorporated in the Act, was predicated on the board being convinced as to the grave economic need of a totally and permanently incapacitated worker.

A recent decision of the High Court in the case of Denn *v.* Midland Brick Co Pty Ltd has had the effect of enabling any worker with total and permanent disability to apply to the board and obtain payments beyond the prescribed amount regardless of his need for additional payments or its benefit in enabling his return to the workplace. The decision in that case caused an estimated cost to premiums of $2.5 million, as compared to a normal entitlement at that time of $71 000.

The High Court decision has also placed the board in the position where it is obliged to award health care expenses beyond the prescribed limit to any totally incapacitated worker irrespective of his ability to meet these costs from other sources.

The Bill before the House clarifies these provisions to reflect the original intention that economic necessity exists before the discretions provided to the Workers' Compensation Board are exercised, and also places a finite limit on these discretions of $50 000 beyond the prescribed amount in each case.

The above amendments have been strongly advocated by employers as claims of this magnitude would have a disastrous effect on premium levels in this State. In presenting this Bill to the House, I point out that it is one of a balanced package of Bills designed to overcome problems identified by both employers and workers, including the payment of compensation to waterfront workers with asbestos related diseases. Members will therefore understand the importance of evaluating these Bills as a single package of measures.

A further provision in these amendments will result in an extension of benefits for workers in the area of rehabilitation. The Workers' Assistance Commission will be authorised to spend up to $2 000 for aids, appliances, and services targeted towards rehabilitating injured workers back into the work force. This amendment will enhance the ability of the commission to ensure effective rehabilitation of injured workers even in the most difficult cases.

The Bill will also clarify the obligation of employing companies to insure for their liability to pay workers' compensation to working directors. While the intention of the Act has always been that working directors should be classified as workers, the current amendment is designed to place their status under the Act beyond doubt.

The Bill also provides for a minimum contribution from insurers and self-insurers to the workers' assistance general fund. At present, some insurers and self-insurers have only minimal involvement in workers' compensation and, as a consequence, do not contribute equitably to the cost of administering the Act. The amendment will overcome this anomaly.

The proposed amendments address areas requiring urgent attention, as well as some administrative matters in the Workers' Compensation and Assistance Act.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

WATERFRONT WORKERS (COMPENSATION FOR ASBESTOS RELATED DISEASES) BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.45 p.m.]: I move—

That the Bill be now read a second time.

The Bill before the House is the Government's response to urgent representations by the Asbestos Diseases Society, trade unions, and individuals involved with the plight of waterfront workers who have contracted asbestosis in the course of their employment.

As a result of the casual employment arrangements which existed in the stevedoring industry prior to 1968, workers involved in handling asbestos have found it impossible to identify the responsible employer and secure entitlement to workers' compensation for their disability. The situation confronting these workers is simply that while they have contracted a compensable disability of the most serious type, they are unable to fulfil the present requirements of the Workers' Compensation and Assistance Act and identify the employer responsible.

In view of the gravity of the situation, the Government has determined that payment should be made to workers who can establish they were employed in the loading or unloading of ships carrying asbestos, providing the normal requirements applying to silicotic workers under the Act are met.

While it is the Government's intention that the responsible employers or insurers will meet these claims, the unique nature of the situation confronting these workers requires an immediate source of funding. For this purpose, and in order that no premium impost will occur, the Bill provides for payment of claims from the employer's indemnity supplementation fund. The fund currently has a balance in excess of $5 million, and known claims could be met from the interest earned.

A further provision in the Bill empowers the Workers' Assistance Commission to take recovery action against any employer or insurer identified as having a liability under the Workers' Compensation and Assistance Act. Moneys recovered will be returned to the fund.

The Bill addresses the urgent need to provide compensation for asbestos disease victims, who are currently being denied their compensation entitlements due to an employment situation not envisaged in the existing legislation. On all previous occasions when legislation designed to assist people with this tragic disability has been presented to the House, the measures have received bipartisan support, and I believe that all honourable members will agree that similar support is justified in this instance.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

ACTS AMENDMENT (WORKERS' COMPENSATION AND ASSISTANCE) BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.50 p.m.]: I move—

That the Bill be now read a second time.

The intention of this Bill is to amend the title of the Workers' Assistance Commission.

In 1978, the judicial inquiry into the Workers' Compensation Act conducted by Hon. B. J. Dunn, OBE, recommended the name of the Act be changed to Workers' Assistance Act and a commission by that name be established to administer the Act.

While the title of the Act was changed to include reference to compensation, that of the commission was not.

Over the past four years it has become apparent that the name of the commission does not accurately reflect its role in terms of its administration of the Act and the coordination of rehabilitation of injured workers in this State. This confusion has affected the commission's ability to carry out its functional requirement to assist both employers and workers. This Bill will overcome the situation by altering the name of the commission to the Workers' Compensation and Rehabilitation Commission, which reflects its main functions.

The Bill also changes the title of manager of the commission to executive director, which is consistent with management terminology applied to permanent heads of similar Government departments.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

ENVIRONMENTAL PROTECTION BILL

In Committee

The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clause 1: Short title—

Hon. A. A. LEWIS: I take issue with a couple of things the Minister said in her second reading speech. She said that she believed there was a need to ensure consistency between the laws of other States, the Commonwealth, and Western Australia. I wonder about that comment. I believe, and it seems to be acknowledged everywhere, that Western Australia has the best laws in respect of conservation; yet now the Government wants to hop into those laws because it thinks it can improve them vastly. I doubt that. I would like the Minister to explain in more depth why we have to have consistency with the laws of the other States and the Commonwealth. I find the Commonwealth laws most disturbing because they seem all the time to go only halfway, and they never give the backup needed to implement anything. The Commonwealth's laws in this respect seem to be airy-fairy and the Commonwealth does not seem to be able to put them into operation. The beauty of Western Australia has been that we have been able to put our laws into operation day by day. We have had the example of the dog last week, the "wuff" justice; and the Minister has to answer for that. That is the sort of thing other States do and I do not think that this State should be led down that path.

I would also like the Minister to explain in depth why she said—

> The Department of Conservation and Environment provides the backup to the EPA; that department is taken up with responding quickly to small development proposals and questions from the public on environmental matters. The EPA itself is mainly involved with large developments.

Is that right? I do not believe it is, because the present Act spells the matter out differently, and I do not believe it will be right in the new Act. I believe that all areas large and small will be referred to the EPA, but I would like the Minister to comment on that. I do not believe this is accurate; I understand that the Minister has to make the final decisions but the EPA has to make recommendations to the Minister on small and large matters. The Minister may be able to explain that to me. I believe it is in the new Bill.

The Minister talked about staffing. I asked about the size of the staff under the new Act, and the Minister informed the House that the department would have a permanent staff of 118 officers. This horrified me somewhat because I can remember the days when the department had a dozen or so people on its staff and it appeared to be doing the same job. The Minister did not tell us how many extra staff it is proposed to put in the department. She said that the Minister in another place had said that the department had shed some of its functions and that six of its officers had already gone to other departments. I want to know the estimate in this regard.

The Minister also dealt with the size of the EPA. This is the most fascinating answer because she said it would satisfy the need to widen the level of input of expertise within the authority. Irrespective of whether the authority has three or five members, it has the ability to set up advisory committees and ask for highly professional advice—significant advice—on a particular proposal.

[Questions taken.]

The CHAIRMAN: Before Hon. A. A. Lewis resumes, I wish to lay down a few ground rules. This is going to be a very long debate. It should not turn into a talkfest between the Minister and Hon. A. A. Lewis. Rather than interjecting on each other with responses they should try to make those interjections into speeches and rise to each point. I am concerned it will become a conversation between two people and the Chamber will empty in about 10 minutes.

Hon. A. A. LEWIS: Thank you for that advice, Mr Chairman.

I was discussing the Government's argument that it could widen the level of input and expertise within the authority by increasing the number of members to five. I challenge that by saying I would have thought one could have three members on the EPA who could get advice from highly professional people in relation to noise or pollution or whatever, without having a huge authority. I think it was Henry Ford who said one could purchase most things without having to set them in concrete.

I wonder whether the advisers to the Minister in another place have gone overboard. I doubt whether the Minister was advised to do this; I wonder whether it was one of his own ideas. The Minister went on to say—

> We are looking at a body which is solely advisory. However, the Bill provides for a managerial role for the Chief Executive Officer in respect of pollution control. There has been some confusion about the two functions—advisory on the environment and the managerial on pollution control. Pollution control is the only area of actual management that is undertaken by this body.

The title of the Bill says that it is "An Act to provide for an Environmental Protection Authority for the prevention, control and abatement of environmental pollution, for the conservation, preservation, protection, enhancement and management of the environment . . ." So even the long title does not back up what the Minister told us. It seems to me some people have gone fairly berserk about pollution. One only has to look at the definition of pollution to see that it includes the environment, and that is followed all the way through the Bill.

It was patently obvious from reading the debate in another place that not one of the speakers, including the Minister, understood what he was talking about when referring to environment and pollution, because time and time again the Minister said pollution had nothing to do with the environment. The definition of pollution contains the word "environment". It must have something to do with the environment; it is referred to, even though it is only a second level referral. I would like a far better explanation of that point than I have received so far.

I am not going to slash my wrists about this next matter, but it relates to delegation. The Minister said the Chief Executive Officer would have power to delegate duties under the Bill. Okay, but can he do it both as chairman and Chief Executive Officer?

Is the second-in-charge of the department delegated to take over the responsibilities of the Chief Executive Officer of the EPA if the chief executive officer is away on long service leave or sick leave?

The CHAIRMAN: Order! We are debating the short title of the Bill, and I believe the member should be sticking somewhat to the short title. I have been generous. However, I believe he is now referring to something that will arise in one of his many amendments.

Hon. A. A. LEWIS: I am trying to cover all things in an attempt to make the debate more simple. If you, Mr Chairman, direct me to deal with the matters one by one as they appear in the Notice Paper, I will do so. However, I think it will take longer to handle the Bill in that way. I am attempting to deal with as much as I can quickly.

The Minister also spoke about the Queensland example. I mentioned the Queensland example to indicate how one other State deals with these matters. That example is that, if the Minister has not replied in 28 days, the developer can proceed. Whether that is right or wrong, we do not seem to have anything like it in this Bill.

I understand we could argue about the definition of "environment" for weeks and not get anywhere.

The Minister mentioned the Rhine River accident. What can we do about an accident after it has occurred? I guess it highlights that, unless people are careful in the beginning, all the legislation in the world will not prevent accidents occurring. I guess that with the checks and balances of a canal system, some pollution could be prevented.

Hon. V. J. FERRY: The question of uniformity of environmental laws in Australia was raised by Hon. A. A. Lewis. Although there needs to be some consistency in environmental control, I do not believe that it has to be the same for every State. New South Wales has an environmental court which I do not believe does anything to enhance the environment. It certainly does nothing to enhance the management of the State. I hope the Minister will affirm that this Government has no intention of invoking an environmental court in this State.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation—

Hon. A. A. LEWIS: I want your guidance, Mr Chairman. Will we deal with all of these amendments at one time?

The CHAIRMAN: I think it will be cleaner to deal with them one by one.

Hon. G. E. MASTERS: It may be that we will need to refer back to a previous page of the clause after we have dealt with an amendment to a part of the clause appearing on, say, pages 4 or 5. Are we able to do that?

The CHAIRMAN: It is not the usual practice, but in the circumstances, I think that is acceptable. Members certainly will not be able to go back to a clause after it has been put and passed.

Hon. A. A. LEWIS: Will the Minister explain "beneficial use"? I think it needs to be cleaned up as it is referred to in the Bill. Surely "beneficial use" could be defined as any issue that is not covered by clause 35(2)(f)(i) and (ii).

Once the parameters have been set, anything else could be a beneficial use. Why do we need a huge interpretation of beneficial use that goes on for a page and a bit when it could be considered all uses other than those for which a party could be clobbered? I will let the Minister answer that, and see how we go from there.

Hon. KAY HALLAHAN: The use of the term "beneficial use" is somewhat more global than the honourable member has indicated in respect of clause 35, which identifies a range of things which all seem quite clear to me. The clause indicates the preferred use of an area. For example, the beneficial use of the Fremantle Harbour would be for shipping. Therefore, its water quality might not need to be as good as that of a swimming beach at Cottesloe. Thus the clause considers the community in terms of what might be a beneficial use to the community in a particular area. The clause must be read in that broader context.

The honourable member indicated that an approved policy may set out the indicators and the like to be used in assessing environmental quality. We would expect that there should be detailed appraisals. Beneficial use, for example, of the Kwinana air shed might allow for a maximum level of sulphur dioxide emissions, but the policy would be so framed as to ensure that the environment was protected and the health of people living in the area would not be unduly affected. The nature of an area and its role in community life may determine what might be a beneficial use of the area. I would like the honourable member to think about that. I had some difficulty when I first read the Bill, but after accepting that concept I find that it makes a lot of sense.

Hon. G. E. MASTERS: I listened carefully to the Minister's remarks. It demonstrates that all the definitions that we include are designed to demonstrate that there is a little bit of concern or a little bit of interest, but there is nothing in many definitions that are binding. They are simply open to interpretation. For example, the definition of beneficial use in the legislation refers to the need for that use to be conducive to public benefit, public amenity, public safety, public health or aesthetic enjoyment. The Minister has said that what might be considered a beneficial use of Fremantle Harbour would be interpreted quite differently from what might be beneficial to the waters of Cottesloe swimming area. I understand that, but different Ministers and advisory groups would have varying views on what might be a beneficial use. It may depend on what was beneficial to the health of the people living in the area or what was beneficial to the industry employing the people living in the area.

I am not saying that there should not be an attempt at a definition, but I am saying that it means nothing because the end result is that the Minister of the day or perhaps the adviser to the Minister of the day may well have a view different from that of the Minister and me. Although there has been an attempt to define the term, it really means nothing at all. It is simply up to the person who is responsible at the time to make a determination about what he or she thinks is a beneficial use. The President of the Conservation Council of Western Australia, for example, would have an interpretation of the term which would be quite different from mine.

Hon. KAY HALLAHAN: The previous speaker threw in a red herring, because the definition is quite clear. Whether the use may be considered beneficial to the people or to the industry is irrelevant because the definition of beneficial use quite specifically refers to use which is conducive to public benefit, public amenity, public safety, public health or aesthetic enjoyment. The Conservation Council will not be making the judgment. The EPA will be giving advice to the Minister who will represent the public, and who will give due consideration to the public benefit, public health, and the like.

Hon. G. E. Masters: I understand that. I am just saying that the interpretation could be wide and varied.

Hon. KAY HALLAHAN: It seems to be that the definition is an attempt to incorporate commonsense into the Statute.

Hon. C. J. BELL: The Chamber should be aware that the definition of beneficial use includes use of the environment that is conducive to aesthetic enjoyment. If a hills orchardist in a scenic valley decides to dispose of his orchard trees to pursue some other use of the land, that may well impinge on the aesthetic enjoyment

of other people. The quarry area in the hills could also be affected by this legislation. Am I correct in assuming that the provision with respect to beneficial use can affect what might otherwise be considered normal pursuits in those areas?

Hon. KAY HALLAHAN: The first example raised by the member is fairly trivial. People will be unable to make complaints of a trivial nature, for example, about an orchardist who wants to clear his trees to use his land in some other way. On the other hand, the member is right in identifying quarries. A quarry at Gosnells has been the subject of enormous public debate.

Hon. G. E. Masters: The one in the Swan Valley is the same.

Hon. KAY HALLAHAN: The company involved with the quarry at Gosnells is going out of its way to plant trees and to reduce the offence to aesthetic senses. If the member is concerned about individual land use, he should not be overly concerned because the Bill is not directed against people such as the orchardist he gave as his example. I can understand that members may feel the need to have that clarified, but we are concerned about the Bill's having a role with respect to significant impacts on the environment.

Hon. V. J. FERRY: When speaking to clause 1, I made some comments about the environmental court in New South Wales. It seems to me that the definition of beneficial use in clause 3 could well be an area in which an environmental court could come into play. I do not believe that that is the best way to go and I would like the Minister to give the Chamber the Government's view on an environmental court.

Hon. KAY HALLAHAN: May I give some information which is probably more pertinent than what I have already given members.

Point of Order

Hon. A. A. LEWIS: I wonder if the Minister could turn this way?

The CHAIRMAN: One of the difficulties is that *Hansard* is having difficulty when the Minister turns to speak to you.

Hon. A. A. LEWIS: As I am handling this Bill for the Opposition, may I use some other seat?

The CHAIRMAN: You have the option of coming to the Table, as long as that does not turn the debate into a conversation between you and the Minister.

Hon. A. A. LEWIS: I am sure that would make it speedier.

The CHAIRMAN: The Minister has been asked to speak into the microphone, and that is what she is trying to do. There is no point of order.

Committee Resumed

Hon. KAY HALLAHAN: The question of beneficial use is covered in section 40(2) of the present Act. Members must remember that much of what we are doing now is formalising and amalgamating all these provisions into one Act. The term "beneficial use" does not seem to have caused problems in the past.

In regard to the question raised by Hon. Vic Ferry, we do not intend to set up an environmental court, subject to the amendments put forward by Hon. Sandy Lewis. I share the member's concern. The New South Wales Act is not a good model, in our opinion.

Hon. A. A. LEWIS: The Minister's example of a port and Cottesloe Beach was pretty weak.

Hon. Kay Hallahan: Pretty obvious.

Hon. A. A. LEWIS: It is obvious if one has not read the Bill. The Bill says all these things have to happen. Under environmental law, one can draft a Bill setting out parameters to be used in certain areas. One does not need a page-and-a-half on beneficial use. It seems to me we are trying to load the State with environmental law which will come down to an environmental court when all we should be doing is setting parameters for various areas, and saying, once one moves out of those parameters one is clobbered. It is the picture frame theory all over again.

The Minister is doing this in the definition and in clause 35(2). Clauses 16 or 17 would allow us to outline the point; we do not need all this extra verbiage. Simplicity is surely what we need in environmental matters, because the public have to appreciate it. The public have to go through this and understand it. We do not want to start a new race of environmental lawyers, and that is what we are doing at the present moment with this Bill. We have collated and stirred up a heap of stuff. My job is to ensure that this is good legislation which the public can understand.

Hon. KAY HALLAHAN: It is the job of all of us to see that good legislation emerges from this Chamber. Hon. Sandy Lewis implied that people like me had not read the Bill. He talked about beneficial use. I draw his attention to the top of page 3, where "beneficial use" is de-

fined. On page 26, under clause 35(2), the Bill sets out what an approved policy would be. Beneficial use would obviously have to be considered, but that is only one factor. It does not all relate to beneficial use. I hope that clarifies the position.

Hon. A. A. LEWIS: It does not clarify it. I will not keep the Minister because if she reads the definition of beneficial use she will see it means—

> ... use of the environment, or of any portion thereof.

Then we turn to the definition of environment. That reads—

> ... subject to subsection (2), means living things, their physical, biological and social surroundings, and interactions between all of these.

Those surroundings directly affect and are affected by the physical, biological surroundings, if members follow that.

Hon. G. E. Masters: The whole thing is interrelated.

Hon. Kay Hallahan: The environment is like that, though.

Hon. A. A. LEWIS: It makes a nonsense of it all. The definition goes on, "or any portion thereof". It goes on to talk about public benefit, public amenity, public safety, public health, or aesthetic enjoyment. Aesthetic enjoyment has already been mentioned. Can the Minister tell us why we have to refer to aesthetic enjoyment twice? I am sure the Minister can follow me when I say the definition is nonsense.

Hon. KAY HALLAHAN: We seem to be having an extraordinary debate. May I give another example of beneficial use and try to relate that to what Hon. Sandy Lewis is saying. I cannot see the problem about beneficial use meaning use of the environment, and then having to look at what "environment" means and associating it. We are looking at interlocking systems.

Another interesting example is the beneficial use of an area for waste water outfalls as a mixing zone for the dilution of waste water. The area around that can be deemed to be for beneficial use, but it is still using the environment to achieve what needs to be achieved for human beings to live. We have to keep in mind that we are talking about the environment and the impact of human beings on that environment. We must remember what we have to define in order to protect it in the best way we can to live our lives in some sort of qualitative state.

Hon. A. A. LEWIS: I am sure the Minister does not follow me. I refer to the definition of environment. Instead of saying "environment", it should say that "beneficial use" means living things, their physical, biological and social surroundings and interaction between the two. I refer to subclause (2). It is a nonsense if one follows it through logically. It refers to "or in portion thereof". I am not trying to be obtuse. I am trying to point out that this is the sort of legislation we do not want and environmental lawyers could debate the matter far better than I. They will make an absolute hash of this and will be charging their $1 000 a day. Companies will receive bills of $5 000 or $6 000 while they are trying to sort out the environmental impact status. I do not think the Government will allow an amendment and I will not move one because I read the comments of the Minister in another place.

I am using this clause to point out how devastating this Bill would be if it were allowed to escape from this place without drastic amendment. In fact, Hon. Fred McKenzie and I were thinking of doing a law degree to become environmental lawyers, because we could make a small fortune. This is a very serious matter.

Hon. KAY HALLAHAN: I say quite categorically that I do not think we have a devastating situation with this Bill at all. It has been open to very wide consultation and as much as I do not want to see it bogged down with legal wrangles, the fact is that lawyers have drawn up this Bill. The honourable member has suggested that I would not accept an amendment. I think we would get into a very difficult and devastating state if we tried to amend definitions at this point. Personally, I do not see the need for them and secondly, I think we can all look for complications if we want to. I am not convinced there is anything of real concern in what the honourable member has put forward.

Hon. G. E. MASTERS: Earlier, the Minister said that the definition of beneficial use was set out in paragraphs (a) and (b). She said that was all there was to it, and clause 35(2) was not related. I made the interjection that it was all linked together. "Beneficial use" does relate to the definition of environment. It is set into one very complicated piece of legislation. The Minister went on to say that it was a Bill drafted by lawyers, and she was right. It is a very complicated Bill which in my view will be subject to many interpretations. It will be a bonanza for

lawyers if people want to challenge it. There should have been a much easier way. The Minister is right: It certainly is intertwined, with one definition and clause relating to another. It will cause many headaches as time goes on.

Hon. KAY HALLAHAN: I do not think this Bill is all problems and gloom. The Environmental Law Association has commented on the Bill and has not challenged the definitions. Mr Michael Barker, a solicitor specialising in environmental matters, feels the same.

The Victorian Bill has a definition of beneficial use which refers to the use of the environment or any element or segment of it. Victoria has a setup similar to that which we have. What we are doing is seen to be correct by the people in the field. Hon. Sandy Lewis referred to legal people but I do not think they have the same expertise as environmental people in this area.

Hon. A. A. LEWIS: If we are to get on quietly with this Bill, I suggest we do not mention the Victorian Act because it is just about unmentionable. Victoria does not know in which direction it is going; it has not even formed a proper department yet. It has a lot to do with the attitude there. Even members on the Government side would agree that we should not take Victoria as an example. I have given my warning to the Minister about what I think about Victoria. When I was there—even as late as the middle of this year—I could not find any evidence of any sane environmental movement. We are so far ahead of them it does not matter. I think they are nearly as bad as New South Wales and that is saying something.

Hon. H. W. GAYFER: We have been here for three-quarters of an hour talking about "beneficial use". Every now and again we hear a word or two. Hon. A. A. Lewis's voice is not bad and the Minister does not want to be screaming and spitting over Mr Lewis, but we do want to hear what is going on. I would not be surprised if we had 100 pages of amendments. This would be the most boring Bill that has ever come before this Chamber.

When Hon. Sandy Lewis referred to Hon. Fred McKenzie as being an authority with him, it seems that they have much in common in respect of the contents of the Bill, even though Mr McKenzie has not said very much up to date. If ever a Bill needed to go to a committee for examination, it is this Bill. I do not believe this Bill can be properly thrashed out in this light. The debate up to now has been rather strange. I have never heard the like of it before in this Chamber and there certainly seems to be a bit of lovey-dovey going on at the Table. That might sort something out but as far as I am concerned it is doing nothing for members generally, who want to hear what the Minister and Hon. Sandy Lewis are saying in order to grant them points for their arguments.

I believe members are wasting their time debating this Bill, with the mass that it contains, in this Chamber. I believe it should be referred to a Select Committee before we go any further. The Minister would be on the committee as would be Hon. Sandy Lewis and others, and they could thrash out the issues and come to some amicable arrangement, if possible, on the various clauses of the Bill. I know this is usually moved at the third reading stage but I do not believe members are going to make any progress at all at this rate. When we do get to the end, Hon. Sandy Lewis will probably move that the Bill be referred to a Select Committee anyway. We may as well reverse that situation and start now, and see whether we want it to go to a Select Committee or not.

The CHAIRMAN: Are you raising a point of order?

Hon. H. W. GAYFER: I am allowed to speak on the word "beneficial" and I think it would be beneficial to all members if we did as I have suggested.

Hon. A. A. LEWIS: I am all for Hon. Mick Gayfer referring the Bill to a committee, and I would suggest he chair that committee. I think it would be a magnificent idea, but I am not certain the Government would like it at all.

Hon. KAY HALLAHAN: I find the suggestion of referring this legislation to a committee quite unacceptable. The Bill has been the subject of wide consultation in the community. It is fair enought to have something to say about the way that I and Hon. Sandy Lewis have been conducting the debate. Hon. Sandy Lewis and I may need to have a look at the way we interract over the Bill, but I do not believe that is any excuse to take the matter out of this Chamber and off to a committee.

This Bill has had more consultation over a period of time than any other Bill I can think of. To defer its passage through this Chamber by sending it to a Select Committee is quite unacceptable and not at all required in the interests of having decent legislation covering environmental and pollution matters in this State.

I am speaking very loudly and I am sure Hon. Mick Gayfer can hear me.

Hon. V. J. FERRY: Speaking of the beneficial aspect of this Bill, I refer to a item on the Notice Paper which deals with consideration in Committee of a report for the implementation of a system of handling legislation such as this and other matters.

I believe it is a great disadvantage to this Chamber and certainly to members of Parliament generally that there is not an appropriate Standing Committee system of this Chamber to deal with this type of legislation. Notwithstanding the assurance given by the Minister—that this Bill has been widely canvassed throughout the community—that does not in any way circumvent the role to be played by members of Parliament. Members of Parliament have the responsibility and privilege of making the final decision on legislation. Members of Parliament, who are elected representatives of the people, have the responsibility to ensure that whatever leaves this place is hopefully the best for the community.

A Standing Committee of the Parliament should be supported by the Government. It is not necessary for this Bill to be referred to a Select Committee at all; if a proper committee system existed, as proposed in the recommendations of a Select Committee tabled in this place some time ago and yet to be debated and adopted, the Government would find it infinitely easier and members would find it infinitely more satisfactory. I agree with Hon. Mick Gayfer—this Chamber is under some handicap when dealing with this type of legislation. Indeed, there are other measures which come to this place from time to time that need to be dealt with by a Standing Committee.

Further to that, I must add that the Government introduced legislation to do away with another Standing Committee of the Parliament and has yet to bring forward proposals to replace that Standing Committee. The Government stands condemned in its attitude towards committees of this place. Notwithstanding the fact this Bill has been widely canvassed within the community, there are many questions yet to be satisfactorily answered. It is on the shoulders of the Government that this situation prevails.

Hon. A. A. LEWIS: I think the Government probably does not realise how hard it is to circulate amendments. It was hard enough to get amendments for this legislation to the Government; but to get the amendments to other organisations and to get replies back was extremely hard.

Hon. Mick Gayfer referred to not being able to hear Hon. Kay Hallahan and me. I have just had a quiet conversation with the Minister and after dinner we will move back to our respective seats, and if possible a table will be provided for the Minister's adviser by the side of the Minister. I think that may overcome that problem.

The CHAIRMAN: I have allowed a far-ranging debate over whether or not we should have committees of this Chamber. That this Chamber does not have a Standing Committee system is not the subject of debate. This place has to work by its Standing Orders, which means a Committee of the Whole House. We have experimented with having a centre table; *Hansard* had some difficulty hearing the Minister when she turned to address Hon. A. A. Lewis. The problem has not been overcome but if the Minister and Hon. A. A. Lewis go back to their seats, it might be better.

However, I implore members to bear with us. The matter is in their hands; they can debate or they can move motions. I think members should become as involved as they possibly can in this debate.

Sitting suspended from 6.00 to 7.30 p.m.

Hon. A. A. LEWIS: It has been proved that the definition of beneficial use does not do what the Government wants it to do. I shall not say any more. It is up to the Government to move an amendment with regard to this interpretation. The Government is on very shaky ground.

My job is not to unnecessarily cut away at the Bill and I do not intend to do so. It is the Government's job to introduce the Bill. I know that this Bill will provide the environmental lawyers with a great deal of financial benefit and that it will create havoc in industry in all the environmental areas. If that is what the Government wants, so be it.

My job in this debate is to point out to the Government where it is going. The public will make its decision on where the Government is heading once the provisions are implemented. If the Government had listened to what I said several years ago when we debated the Conservation and Land Management Bill, or had heeded the Royal Commission's report, it could have done something in the conservation and land management area. It has been a failure because the implementation of good management and proper processes was denied to the department. Of course, funds were denied to the department despite the Government's

promises. I shall deal with the provisions of this Bill at length, not superficially as I have with this definition.

Hon. Robert Hetherington: At tremendous and boring length.

Hon. A. A. LEWIS: Hon. Robert Hetherington may feel it is at tremendous and boring length, but it is his Government's Bill. We have to wear this in the public sphere. The hold-up of only one development by this beneficial use definition will condemn this Government and the Labor Party which has pushed it through. The Government has been warned about what will happen. It is very naughty of it to press on with these sorts of provisions when it should be amending the Bill.

I have pointed out where the problems lie. Hon. Gordon Masters, Hon. Vic Ferry, and Hon. Colin Bell have also done so. If the Government is prepared to ride roughshod over those comments, so be it. The Government and its advisers will have to take the flak. I will not enter into the lists but when the Government mucks it up, I shall say that they were told. The Government will provide work for heaps of environmental lawyers; there will be conflicts beyond our wildest dreams. For years to come in the environmental protection area it will be remembered that the Labor Government of 1986 stopped the development of this State, and stopped the jobs and everything from going forward because of its pigheaded attitude to the environment.

I move an amendment—

> Page 4, lines 18 to 20—To delete the definition of "environment" and substitute the following—
>
> > "environment" means living things, their physical and biological surroundings and the interactions between all of these;

The amendment has been moved because of certain requests received by the Opposition. I will not refer every time to the list of people who have asked for certain amendments. It can be seen that we have virtually changed the definition of environment, almost, if not exactly, back to what it was previously. At the moment it reads in the Bill—

> "environment", subject to subsection (2), means living things, their physical, biological and social surroundings, and interactions between all of these;

I get more and more confused, and I think the average person does, when reference is made in the interpretation to other clauses.

I want to know why the Minister wants it to be subject to subsection (2), and why the Government wants "social surroundings" within that definition. It appears to me that the reference to subsection (2) has been included in the legislation to confuse people.

I know the answer I will get when I ask the Minister about the social surroundings of man. It will be that it is dust from a rose blowing into a house—I have read all the replies received by members in another place. But who will be the judge of the aesthetics or the cultural surroundings, and under what definition will they be judged? What are the limitations of aesthetics or cultural surroundings? I hope the Minister can tell me the limitations. Obviously the Government had some idea why it wished to include that in the Bill, and I believe it should tell us what these things mean. It has not done so up to this time.

Hon. J. N. CALDWELL: Hon. A. A. Lewis mentioned that the previous environmental Bill was the best in Australia. He has foreshadowed some 90 or 100 amendments—he must be at loggerheads in trying to come to grips with the Bill presently before us. I wonder why he did not vote against the entire Bill. I find it rather strange that he should move all these amendments.

I find I cannot go along with the amendment concerning social surroundings. I have looked up in the dictionary the word "social" and find it means "living in organised communities". "Surroundings" is defined as "things in the neighbourhood, conditions affecting a person or thing". That suits very well the word "environment". That is what this is all about, so I cannot support the elimination of "social surroudings" from the clause under discussion.

I oppose the amendment.

Hon. MARGARET McALEER: I take issue with the last speaker. While in the most general possible way social surroundings could be said to be part of man's environment, it seems to me that half of our politics are about our social surroundings, and that is why we have the State Planning Authority and various other political agencies to deal with the matter of social surroundings. Including "social surroundings" in the definition of "environment" in this sort of Bill makes it far too wide.

Hon. V. J. FERRY: The amendment concerning social surroundings deserves consideration and support because I do not believe environmental guidelines and controls should be used for social or political engineering in the community. This Bill, if it becomes an Act without the definition of environment being amended during its passage through Parliament, could very well result in being a vehicle for the Government in future to use the Environmental Protection Authority legislation for social engineering—political engineering, if members like—because it would be politically motivated. I do not believe that political or social engineering has anything to do with environmental matters. It is a completely different issue altogether. Therefore, I support the amendment.

Hon. KAY HALLAHAN: I want to make it clear that the Government regards this as a very appropriate inclusion in the definition of environment because social surroundings are an integral part of our existence and environment. It rather astonishes me to hear Hon. Margaret McAleer refer to it making the Bill too wide. How wide is the Bill if some reference to our social surroundings is not included? I think Hon. Margaret McAleer and I could debate that without getting anywhere, but I cannot see the logic of the position put by her.

As to the point made by Hon. Sandy Lewis, things will be ajudged to be of significant impact, and it will be on that basis that a matter will be ajudged by the EPA, which will then give advice to the Minister. We could agree or disagree on this matter.

I am pleased to have the support of Hon. John Caldwell because I believe those words make it a very complete definition. It is a definition which does not cause me any fears about social or political engineering; it is a fact of our life and existence.

However, this factor is important with regard to trade and the raising of loans. The Commonwealth Environmental Protection (Impact of Proposals) Act requires the examination of social issues, and will be a factor in overseas trade. If that is part of a matter, it could also be a factor in the raising of funds overseas. Members must keep in mind that if we do not have this definition within our legislation and act accordingly, we could find the Federal Government acting within its jurisdiction.

It seems to me to be rather shortsighted of us not to include this definition in our Bill and carry out that assessment within our own State by our own EPA on behalf of the Commonwealth. I would have thought those who are sensitive to intrusions by the Federal Government would have applauded our looking after our own house on this occasion.

Hon. A. A. LEWIS: I go back to land rights and say I understand how worried we all get about intrusions by the Commonwealth Government.

I now ask the Minister to answer the question I asked, and to give me some examples of "aesthetics" and "cultural". I have asked that previously but have not been answered. I want to know what those examples are so that I can make a judgment without arguing too much.

Who will make the judgment about those aspects? The Bill asks for a judgment, and it talks about the environment, and I want to know what those two things mean.

Hon. KAY HALLAHAN: In response to one of the questions asked by Hon. A. A. Lewis, the EPA will make the judgment. That is quite clear. I do not know whether that thought comforts him at all.

One of the members opposite raised the question this afternoon of a quarry, and I cited the example of Gosnells quarry as being an aesthetic problem. Hon. Gordon Masters referred to another quarry with which I am not familiar. I am advised one could look at a canal development as having a cultural component. A canal development such as the one at Mandurah sets up a close-knit community, interacting with one another in a particular way.

I am trying to understand the difficulty Hon. Sandy Lewis is having with the clause, and to answer that as best I can, but I cannot see why it is a problem for him.

Hon. A. A. LEWIS: I still have a problem because the Minister has not been able to explain why I should not have a problem. Come on! What are aesthetic and cultural surroundings? Canals would come within physical and biological surroundings, but to say they are cultural surroundings is drawing a long bow. If the Minister cannot give us a better answer we should report progress and go back to the people who wrote the Bill. I see Hon. Graham Edwards shaking his head; the people who wrote the Bill probably could not give us an answer.

Who makes the subjective judgment? Are these five wise men on the EPA going to make that judgment? The concept of economic surroundings worries the living daylights out of

me, but I was referring only to the other two aspects, and the Minister obviously does not know the answer.

It is obvious we are going to have some big problems in the future with this Bill, especially when we consider the question of goldmines on farms. What happens if the farmer next door says he does not like the aesthetics of the goldmine on the next property and he will stop it? What happens if the farmer next door to the goldmine says he does not like trucks going past his property? I am sure Hon. John Caldwell knows what I am talking about. What if the EPA can make a decision to stop mining on a property or to stop someone putting in a piggery because the smell might blow across other properties? A decent abattoir throws a pretty good smell for a number of miles, as does a piggery.

Who makes those decisions, and on what grounds? Is the EPA going to say that the dust thrown up by a truck going past my property to a goldmine interferes with my pasture on economic grounds; or is it an aesthetic ground that the dust looks bad lying on my property? Is it a cultural matter if we cannot dance on the pasture because there is dust on it? We must have answers. It is the Minister's problem, not mine; she has to explain the Bill. If she cannot do so I suggest we report progress and seek leave to sit again. It is a very important part of the Bill. If the Minister cannot explain we should not go on.

Hon. C. J. BELL: Earlier I spoke of two illustrations of possible aesthetics. I would like to refer to another matter in that area which gives me great concern. I remember that in the late 1970s the System 1 report was brought out. It proposed that in the Leeuwin-Naturaliste Ridge area there would be total control over the way farmers built buildings because of the aesthetics involved. In other words, a farmer would be told where he could build his house or shed, and whether he could remove a tree or plant trees, or not plant them because it might block the view. That was the interpretation placed on System 1 by many landowners at a public meeting in Busselton in the late 1970s.

If we are going to go along with this definition of social surroundings we need to be clear about what the Minister believes is involved. It is a very important factor because when others make judgments I hope they will look at the Minister's reply to put their decisions in perspective in the light of her definition. I seek some qualification as to what is meant by those factors.

Hon. KAY HALLAHAN: In relation to the point raised by Hon. Colin Bell, System 1 affected the Leeuwin-Naturaliste Ridge and dealt with the establishment of nature reserves and national parks, not with what could be done in them. Many people get worried and say that certain things affect them in particular ways when that is not so. This matter seems to be one of those cases. It seems to me I could go on for ever trying to explain. It is a matter of those who have ears to hear being able to do so, and those who do not wish to hear not being able to hear.

We are talking about a natural component and the impact on human beings, the impact of human beings on the environment, and the effect in relation to the wellbeing of the economy. The cultural aspect is a bit obscure, but cultural matters permeate all human endeavour, and that is integral to the question of social surroundings. I think it covers the whole range of economic, social, and other matters.

I do think we are in a very difficult position. I meet—and I cannot believe Hon. A. A. Lewis does not also meet—people of commonsense who have concern about the environment and the way in which we safeguard that environment. One of the safeguards of the EPA is that it has people bringing it expertise. That is a greater safeguard than a smaller number. This is adequately covered by reference to the EPA, which is an expert in the field.

Hon. V. J. FERRY: Definitions are man-made, and we are talking about the definition of environment. I refer to the Commonwealth Act which defines environment. The Environment (Financial Assistance) Act 1977 provides the means for the Commonwealth to provide financial assistance, whether by loan or otherwise, to a State or an approved body in respect of projects related to the environment. Environment is defined in section 3 as including all aspects of the surroundings of man, whether affecting him as an individual or in his social groupings.

That definition is as wide as the ocean. It is a matter of a person's interpretation as to what the environment is. That is extremely wide and is not a worthy definition at all. It suits the purpose, but that worries me because it is a Commonwalth Act and we are governed by the powers of the Commonwealth in respect of environmental and other matters. Certainly, the Commonwealth has control over the environment where it affects international treaties. That has been evidenced by the Franklin River situation in Tasmania. We have to be very

careful in Western Australia to ensure we have the best definition possible to meet our needs.

I am reminded by Hon. Colin Bell about the Busselton area being one of the System 5 regions. That created a tremendous amount of unhappiness among the people in the region because of the implications of what was proposed. The people were not consulted to their satisfaction at all. Members who attended a public meeting would understand the heat and fervour with which the residents of that area expressed their opinion. It is a very sensitive area and we have to make sure we are not inhibiting the total environment which those people and others throughout Western Australia enjoy.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon. J. M. Berinson (Attorney General).

(Continued on page 4679.)

ACTS AMENDMENT (PENALTIES FOR CONTEMPT OF COURT) BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

HON. JOHN WILLIAMS (Metropolitan) [8.07 p.m.]: I can well understand the urgency of this Bill. I ask my colleagues to support it without hesitation. A loophole has been established by a judgment of the Supreme Court, and if we as a Parliament do not take action urgently, the law will not be enforced and the legislation passed through this Parliament would be made to look foolish.

In point of fact, people would be at odds as to what they should do in respect of contempt of court. The Attorney General made that clear in his speech. As with all the Attorney General's speeches, it was lean and to the point, but he did not actually tell us, in the cases of Pismiris and Cullen, what went on. I am sure Cullen sent chills through the legal profession of this State when he successfully defended a charge of safebreaking in the District Court, and he did it magnificently.

We should look back to the times when Lord Birkenhead wrote books about people like Cullen being very colourful characters and successfully defending themselves in court without the aid of an attorney. The case of safebreaking with which Cullen was charged was dismissed. However, he did commit an offence of contempt of court by refusing to answer a particular question. Judge Whelan decided at the time he was in contempt. When he sentenced him for contempt, he gave him six months.

Cullen has spent about two-thirds of his adult life behind the walls of the Fremantle Prison. He appeared before the Supreme Court and pointed out that the District Court could not sentence him to six months because the maximum penalty it could impose was one month. The Chief Justice in the Court of Appeal found him innocent on a technicality of the charge of contempt. He was found innocent because the District Court did not have the authority to sentence him to that amount. This was duly reported in the Press.

Mr Michael Murray, QC, who is surely one of the most eminent legal people in this State, decided that the one-month limit applied to contempt cases in civil courts only. However, Mr Justice Kennedy in the court of Criminal Appeal ruled against that.

Far more serious is the case of Pismiris. Pismiris was a convicted heroin dealer who went into court and refused to even take an affirmation or an oath. In doing that, I guess a man of that ilk had weighed the possibilities and had thought, "They can't do a great deal to me, even if they find me guilty of contempt", and he appealed.

The Attorney General, Hon. Joe Berinson, rightly and properly made an appeal to the Full Court. The Chief Justice, Sir Francis Burt, and Mr Justice Rowland dismissed the Attorney General's application saying that the real factor attached to this case did not rest with them but with this Parliament. That is why I am supporting the Attorney General tonight and that is why I am supporting the amendments which the Attorney General has brought in because Sir Francis Burt and Mr Justice Rowland were well aware that the penalty was inadequate, but they did not have the power to increase the penalty because we, the legislators, had not given them space, as it were, to act.

If they find it wrong in law, it is up to us, as legislators, to correct that law. That is the the relationship between the Legislature and the judiciary. When a Chief Justice of this State makes a statement such as the one made by Sir Francis Burt, and rightly made, that the severity of the sentence was not up to the Supreme Court but within the hands of the Legislature, I feel that we should support, without hesitation, the amendment which says that the penalties now applicable for contempt in the District Court, the Court of Petty Sessions, and

the courts of summary jurisdiction are inadequate.

I am pleased to see that in future people who are in contempt of court will be prosecuted properly, and they will be well aware of the penalties before they commit that contempt.

I congratulate the Attorney General, first of all, on having the perspicacity to take the cases of Pismiris and of Cullen to the Supreme Court. Until we straighten out between ourselves and the judiciary what the limitations are, we cannot, as legislators be expected to make sensible legislation. The Attorney General has presented sensible legislation to us this evening to dissuade those of a criminal mind from the idea that it is better to have one month in gaol for contempt than the possibility of six years in gaol. For a trial of a drug dealer to be aborted for contempt of court is something which requires our attention.

I hope I have said enough to convince my colleagues that they should support this measure.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [8.13 p.m.]: I thank Mr Williams for his support of this Bill and for at last recognising in me a degree of perspicacity. This is the frst time that anybody has made that recognition, belated as it is.

I add to that my serious expression of appreciation to the Opposition for accepting the urgency of this measure and for its cooperation in ensuring that the legislation goes through the Parliament with an absolute minimum of delay.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. Mark Nevill) in the Chair; Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Clause 1: Short title—

Hon. P. G. PENDAL: Last week when this matter came before the public by way of a report in *The West Australian* of 19 November, I asked a series of questions of the Attorney General. In question 189 I asked whether or not any action had been taken against the heroin dealer, Pismiris. At the time the Attorney General replied that to the best of his knowledge Pismiris had not been dealt with for contempt.

I wish to raise a number of matters that, had I been a little quicker, I would have raised during the second reading stage. I want to know whether or not any measure of retrospectivity is involved in this particular case because it appears from the Attorney General's answer that, in the case of Mr Pismiris, he will be left in the glorious position of having refused to answer what the District Court regarded as a legitimate question. The sequence of events, as I understand them, was that Judge Toni Kennedy felt that it was not something she wanted to make a decision on. She preferred to leave it to the Attorney General to take whatever action he was advised. I cannot work out why, in this case, the judge did not take some action against Pismiris. Perhaps the Attorney General could address that point.

I am well aware that the judge's stance was that a one month sentence was inadequate and therefore someone else, beyond the District Court, ought to deal with the matter. I would like some guidance from the Attorney General because it seems to me that the essence of what we are being asked to deal with is quite difficult. If the Attorney General is of a mind to admonish members for their lack of comprehension of this matter, I would remind him that it was with the agreement of the Opposition that all stages of this Bill be dealt with in the one sitting and that therefore members on this side have been given no more than several hours' notice of something which I raised only last week by way of a series of questions.

I would ask for some explanation, and I am sure there is an explanation, for the Attorney General's remarks in the second reading speech on this legislation. I concede that I ought to have been here for that part of the debate when he told the Chamber that the majority in the Supreme Court further held that even if the Supreme Court had the power, it should never exercise it. I agree that is consistent with what was in the newspaper report of 19 November. The question I would ask the Attorney General to clear up for me is: Why not? Surely the Supreme Court, like any other body exercising functions that are conferred on it by the Parliament, has no option but to work within whatever limits it is given. It seems a strange comment for the Attorney General to make and I quote—

> The majority in the Supreme Court further held that even if the Supreme Court had the power it should never exercise it.

I think he understands what I am saying. Surely if the Legislature confers on any judicial body a power—whether it wants the power is quite irrelevant from its point of view—it seems to

me to be an odd thing for the first law officer of the State to say that the Supreme Court would not have used the power even if it had it to use.

Hon. J. M. Berinson: But, Mr Pendal, I did not say that. I said that that is what the Supreme Court said.

Hon. P. G. PENDAL: I accept that, but the Attorney General's words in the second reading speech were as follows—

> The majority in the Supreme Court further held that even if the Supreme Court had the power it should never exercise it.

That is one of the reasons being put forward by the Government as to why the Opposition should support the Bill.

Hon. J. M. Berinson: I suggest that that is of purely academic interest since it previously held that the power was not there. The further comment did not take that any further.

Hon. John Williams: Mr Justice Wallace said it was not within the full court's power to deal with it, which is part of the 2:1 decision.

Hon. P. G. PENDAL: That is right, because the judges were saying to the District Court judge—in this case, Judge Toni Kennedy—that it was not for them to decide the matter, but for the Parliament to decide it. Is that correct?

Hon. J. M. Berinson: No. It is for the Parliament to decide whether the District Court's power to punish for contempt should be less restricted than it was.

Hon. John Williams: If it was adequate. Mr Justice Rowland said it was not adequate, but the Supreme Court did not have the power to deal with it, and Sir Francis Burt echoed that, with Mr Justice Wallace dissenting.

Hon. P. G. PENDAL: I am grateful for the "Assistant" Attorney General's assistance.

Hon. J. M. Berinson: I am getting some pretty stiff competition.

Hon. P. G. PENDAL: Perhaps over tea I should not have told the honourable member who has just very rudely interjected the point that I was going to raise, but I can see the point that he was making.

I make the point again that that is part of the difficulty that occurs when a difficult piece of law is introduced, as the Attorney General himself conceded last week when I asked questions on this matter. A difficult piece of law was introduced to us this afternoon, with the request that we pass it more quickly than normal.

At page 3 of the Attorney General's speech, he told us that in the meantime the Supreme Court decisions had given rise to a serious problem. As I understand it, the serious problem presumably is that people who wish to defy the District Court in the next six months can do so with impunity because there is no force of law that can be brought against them. However, the Attorney went on to say—

> In recent weeks witnesses have refused to be sworn to give evidence or to answer critical questions in three quite serious criminal trials in the District Court. These witnesses have preferred to incur the punishment which the District Court can impose—one month's imprisonment or a $100 fine—rather than give evidence. Two of the three trials were for drug offences.

I simply want to make the observation—without making the Attorney General unduly angry tonight—that it is ironic that a month after the House dealt with Mr Ellett when he was called before the Bar of the House because the House considered that in one form or another he was in contempt of the Parliament by declining or refusing to answer questions that were put to him by a committee of the Parliament, the Full Bench of the Supreme Court of Western Australia should deal with a similar challenge to its jurisdiction. The only reason that we have this Bill before us is that there is the challenge by way of the prisoner or the heroin dealer.

I am simply drawing the parallel between the challenge that Mr Ellett gave to the Legislature over a contempt matter and the challenge given in this case. The Government is very quick to come to the rescue of the law in this case.

Hon. J. M. BERINSON: I will attempt to answer Mr Pendal's questions in turn. His first question asked whether the legislation was intended to act retrospectively. It is not. All of us are cautious about implementing legislation retrospectively, even though we will be taking such a step this week in relation to taxation. That, however, is a quite different matter from the type of criminal offence to which contempt is at least analogous. In any event, in the case of our retrospective stamp duty legislation, anyone entering into transactions from the date that that Bill will take effect has been put on notice that it is to take effect from that date.

Mr Pendal also asked why no action was taken by the District Court in respect of Mr Pismiris. The judge indicated at the time that she would not proceed to punish for contempt because the penalty available under the District

Court Act was in her opinion manifestly inadequate. It was restricted to a fine of $100 or imprisonment of one month. Judge Kennedy said that that was inadequate, and she then left it to what other avenues were available to be explored.

Perhaps Mr Pendal was saying that the District Court should have imposed whatever penalty was available to it and still gone on. It is not in the nature of the process that a person should be punished twice for the one offence. That was the reasoning, as I understand it, for the matter effectively being stood aside.

Mr Pendal's third question was satisfactorily answered by way of what I thought was a helpful, rather than a rude, interjection from the backbencher on the opposite side, and I need add nothing further to that.

As for Mr Pendal's fourth and last point in respect of Mr Ellett, I can only say that his attempt at an analogy was interesting enough, but quite irrelevant.

Hon. P. G. PENDAL: I thank the Attorney General for his response. We were told by way of the Full Court's decision on 18 November, last week, that this arose out of Judge Toni Kennedy's belief that to deal with that contempt and to impose one month's imprisonment or a $100 fine was inadequate. As I understand the sequence, she transmitted it to the Supreme Court.

Hon. J. M. Berinson: No, she referred it to the Attorney General.

Hon. P. G. PENDAL: The upshot of that was, was it not, an appeal to the Full Bench of the Supreme Court?

Hon. J. M. Berinson: Yes, but it was an application rather than an appeal.

Hon. P. G. PENDAL: The Supreme Court ruled by 2:1 that it was a matter for the Legislature to decide. Many times in the past I have said that for my part that is our job and not the judge's job, and I accept that. However, that was the reason for my question as to whether there was any measure of retrospectivity. I accept the Attorney General's caution about how we ought to accept retrospectivity because, as he would know, my party has been in more trouble than enough with respect to retrospectivity.

Hon. E. J. Charlton: I was going to remind you.

Hon. P. G. PENDAL: We do not need any reminding, because we have paid an awful penalty for it.

What I want to ask is this: Judge Kennedy, in effect, says that one month is inadequate, so we go through the process I have just described to the Attorney General, which he has confirmed. We all now decide it is inadequate, and the judges of the Full Court of the Supreme Court agree with us. Crown Law reports back to the Attorney General, and the Attorney General comes here and asks us to do the very unusual thing of passing a Bill through all its stages in one day. We come to the end of the day and still nothing has happened against the original offender. I find that offensive.

Is there any way for the Attorney General to transmit this matter back to the District Court without interference in what is an independent obligation on its part, so that the person who caused the problem in the first place bears some of the responsibility for the action that he took?

Hon. J. M. Berinson: Do you mean the maximum of $100 or one month?

Hon. P. G. PENDAL: That is what I mean. So that even if Pismiris, if nothing else, could feel the full force of the law, which is very inadequate—every member says it is inadequate—by way of a month's extra imprisonment, it still seems to me that that will not happen. I asked about retrospective provisions by way of questions without notice on the day after the Full Court decision was released. I am still trying to get to the bottom of whether Pismiris and the other fellow remain to be dealt with.

Hon. John Williams: Cullen has been dealt with.

Hon. P. G. PENDAL: Does that apply to Pismiris? If it does not, is there any way for the matter to be transmitted to the District Court for one at least to face what we might laughingly call the full force of the law, even in its present inadequate form?

Hon. J. M. BERINSON: Mr Pendal asked me very much the same question last Wednesday or Thursday. I asked for advice from the department, and so far I have not received it. I will pursue the matter.

Clause put and passed.

Clauses 2 to 9 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

ENVIRONMENTAL PROTECTION BILL

In Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clause 3: Interpretation—

Progress was reported on the clause after the following amendment had been moved—

> Page 4, lines 18 to 20—To delete the definition of "environment" and substitute the following—
>
> "environment" means living things, their physical and biological surroundings and the interactions between all of these;

Hon. A. A. LEWIS: It is obvious the Government will not give me an answer on the queries I have regarding aesthetics and cultural surrounds. May I ask the Minister to tell me why the new definition of the environment was needed at all? Under the current Act "environment" basically includes land, coastal waters, seabed, subsoil adjacent thereto, water, atmosphere, sound, odours, tastes, radiation, the social factor, aesthetics and all factors affecting animal and plant life. Why did it need to be changed?

Hon. KAY HALLAHAN: The Government looked at 15 definitions from overseas, interstate and local. These were all considered to establish what would be appropriate and workable, and this was the definition decided upon. I think it is an all-embracing and workable one. It has certainly been the subject of a lot of consideration.

Hon. A. A. LEWIS: May I ask the Minister who made the decision on the interpretation? Who was the person who chose one of the 15 definitions?

Hon. KAY HALLAHAN: This Bill comes from the Government and from the responsible Minister. The decision is one which the Government is putting forward to the people of Western Australia.

Hon. A. A. LEWIS: Am I to understand that the Minister made the decision?

Hon. KAY HALLAHAN: I think I made it quite clear that this comes forward from a Government under the Westminster system, which means we have a system of responsibility by Ministers, and the Minister is putting this forward to the Parliament and to the community at large as a suitable definition.

Hon. A. A. LEWIS: In all my hunting around I can find nobody to take responsibility for this definition. I can only assume that the Minister took it on his own shoulders. I cannot find anyone among all the people the Government has listed who believes that this is a definition we ought to have in respect of our environment. Will the Minister say yes or no as to whether the Minister made this decision himself? I do not mind if he did, because he has to live with it.

Hon. KAY HALLAHAN: May I make it clear that the Minister is putting this definition forward as a result of extensive consultation and consideration of other definitions. There is nothing ambiguous, hidden or unaccountable about his definition. To answer yes or no seems quite inappropriate.

Hon. A. A. LEWIS: It is obvious that I am not going to get an answer, as will no doubt be the case with the rest of my questions, so I will not press it further. Obviously the Minister has decided on what definition should be included. I doubt that it is a good one because the Minister has limited experience with this portfolio.

Amendment put and negatived.

Hon. A. A. LEWIS: I move an amendment—

> Page 5, lines 28 and 29—To insert before "detriment" in paragraphs (a) and (b) the following—
>
> significant

I have moved this amendment because a number of people I have consulted believe the word should be added, and I do not think it hurts the Bill. This would give a lead to the EPA on how it should make decisions involving significant detriment.

The Western Australian Chamber of Commerce and Industry and the Chamber of Mines, as I understand it, believe the amendment is necessary, as I do. It is a significant addition to the Bill and makes a fair amount of difference when we are talking about pollution.

Hon. KAY HALLAHAN: The addition of the word "significant" would add very little to the Bill, and so the Government does not intend to support the amendment. We talk incessantly about significant impact throughout

the Bill and how the EPA should judge significant impact. I ask members to vote against the amendment.

Hon. A. A. LEWIS: The Chamber of Mines submitted a list of recommendations to both the Opposition and the Government. It says that pollution refers to direct or indirect alteration of the physical and biological environment. It recommended that the words "detriment" and "degradation" mentioned in the definition of pollution should be qualified by the word "significant".

It is all very well for the Minister to say she will not accept the amendment, but I intend to push it to the limit and divide on it. The Government cannot have it both ways; it cannot say it has consulted with a number of people and then not take the advice it receives from various bodies. It would be sensible of the Government to accept this amendment.

Hon. KAY HALLAHAN: The nature of this Bill is that a lot of conflicting interests are involved, and it simply would not be possible to accommodate them all. The Bill balances the very sensitive and competing interests of the various groups. We believe the word "significant" is implied throughout the Bill, and the addition of the word would add nothing to the interpretation.

The member cannot claim that the Government has been neglectful of the consultations that have taken place. The Bill is largely a response to those consultations and balances the various competing interests. For that reason we would prefer to see its wording remain unchanged.

Hon. V. J. FERRY: On the Minister's admission the main thrust of the Bill indicates that significant detriment is implied throughout. By accepting Hon. A. A. Lewis' amendment to include the word "significant" we would cement the Government's view and its emphasis in the Bill. As the amendment is in line with the Government's intention, it should accept it.

Hon. MARGARET McALEER: I failed to understand the Minister when she said that one reason for not including the word "significant" was that the Bill was so finely balanced between competing interests. I do not see how the inclusion of the word "significant" could damage those competing interests. I would limit the openendedness in the present definition.

Hon. J. N. CALDWELL: The word "significant" would add nothing to the definition and I see no reason for it to be added.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Ayes.

Division resulted as follows—

Ayes 11

Hon. C. J. Bell	Hon. Neil Oliver
Hon. Max Evans	Hon. P. G. Pendal
Hon. A. A. Lewis	Hon. John Williams
Hon. P. H. Lockyer	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. Margaret McAleer
Hon. N. F. Moore	*(Teller)*

Noes 16

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. B. L. Jones
Hon. T. G. Butler	Hon. Garry Kelly
Hon. J. N. Caldwell	Hon. Tom McNeil
Hon. Graham Edwards	Hon. S. M. Piantadosi
Hon. H. W. Gayfer	Hon. Tom Stephens
Hon. Kay Hallahan	Hon. Doug Wenn
Hon. Tom Helm	Hon. Fred McKenzie. *(Teller)*

Pairs

Ayes	Noes
Hon. W. N. Stretch	Hon. D. K. Dans
Hon. V. J. Ferry	Hon. John Halden
Hon. E. J. Charlton	Hon. Mark Neville

Amendment thus negatived.

Hon. A. A. LEWIS: I move an amendment—

Page 6, line 14—To delete "or change in land use".

Will the Minister explain what "or change in land use" means. I wonder whether it means change in land use, for example, from Lands and Forest Commission land to National Parks and Nature Conservation Authority land. Do authorities have to gain approval of the EPA to change the use of land?

Hon. KAY HALLAHAN: It means any change in land use. The member referred to the EPA's giving approval. The EPA gives advice to the Minister; it does not give approval. The provision relates to any change of land use. I hesitate to add that the Chamber of Mines endorsed the clause as it stands and not the amendment.

Hon. A. A. LEWIS: The Lands and Forest Commission set up under the Conservation and Land Management Act is to be undermined. Under that Act any person can approach the EPA, which can then recommend a change in land use to the Minister.

Hon. G. E. Masters: Or disallow a change in land use.

Hon. A. A. LEWIS: Yes.

Hon. C. J. Bell: Does that also refer to sheep and cattle?

Hon. A. A. LEWIS: Let us deal with CALM first and then come to the farming situation.

The Minister has led me to believe that the EPA will be able to hear a complaint against the use of land which may be under the control of the Lands and Forest Commission or the National Parks and Nature Conservation Authority's control. It seems that this provision cuts the ground out from underneath those authorities, as I believe this Bill intends.

Hon. KAY HALLAHAN: The member has indicated a fear about certain bodies being undermined. The fact is that this sort of provision exists in the current Act.

Hon. A. A. Lewis: Can you tell me where?

Hon. KAY HALLAHAN: In the schedule on page 54. It does not appear in the same words, but the provision is there. This provision would come into play where there is a significant impact. The EPA will then make recommendations to the Minister and the Minister will make a decision and wear the consequence of that decision. That is how the Bill will work.

Hon. A. A. LEWIS: Will the Minister explain where, under the Environmental Protection Act, land that is already reserved is referred to? How can the EPA act on the complaint of one person and then say to the Lands and Forest Commission that because it has received a complaint about an allocation of land, the EPA has advised the Minister that the Lands and Forest Commission should not be allowed to use that land for logging? If that is so, where does future planning go? A Minister cannot have that much power.

We were sold the Conservation and Land Management Act on certain conditions, and this Bill ignores those conditions. What happens if the Minister in charge of the EPA is not in charge of the Department of Conservation and Land Management? The Minister in charge of the EPA could go over the head of the Minister in charge of the department and tell him he cannot change the purpose of which land may be used.

To my mind that is not on. It just highlights what this Bill is doing, especially to CALM. The Minister said I have an affinity with CALM. I happen to have represented that area in the past and I have given CALM a fairly good run under successive Governments and a succession of names. I will continue to do that because I believe that CALM is composed of highly-qualified and professional people. I do not believe some of the things which have been done since the Bill was brought forward are too hot. However, I will comment on those at the appropriate time.

The Minister told the Chamber—and it is fascinating—that the Minister for Conservation and Environment can override the Lands and Forest Commission. I want a straight answer on this matter because if that is the condition, we ought to be examining it further. God help the Labor Party in Warren if this is the case, because it means that the people working for CALM have absolutely no hope of controlling their own destinies as the Government wants to make the Minister for Conservation and Environment separate from the Minister for CALM. In effect, this means that the EPA will be running CALM's business.

I will deal with the farming aspect after the Minister answers this query.

Hon. KAY HALLAHAN: I make it clear to the Committee that if there is a significant aspect and the EPA, which will be a broadened body with five members with expertise in the whole environmental or technical area, makes a recommendation to the Minister, that is what it will do. That is what we would want it to do. Such an ability already exists in the Act, and that is what we are living with, and it is working reasonably well.

If Hon. Sandy Lewis is worried about his electorate and the operation of CALM in his electorate—now he is going on to farming and then I guess we could move on to something else, and then something else after that—the fact remains that if there is a significant impact and the EPA, having considered all the factors, makes a recommendation to the Minister, the Minister will have to make a judgment on the basis of that advice. That is how this will work.

Hon. V. J. FERRY: I am becoming more fascinated by the minute. Several minutes ago the Minister and this Chamber rejected an amendment to insert the word "significant", and yet 30 seconds ago, in her defence of this Bill, the Minister has used the word "significant".

Hon. Kay Hallahan: Presumably Hon. Vic Ferry would have heard the debate on that clause and would have heard what I said.

Hon. V. J. FERRY: I was listening. I suggested that the word "significant" should have been inserted in this amendment to support what the Minister had contended was the thrust of this Bill. She would not accept that, but now she still insists on the word existing in this Bill. It is a shield and an umbrella.

I am becoming more worried by the minute as to the real intention of this legislation. I am becoming more apprehensive that this Bill will be misused and the public will be abused by the Government. I do not think the Government knows what its powers are. It is clear to me that the Government will use its powers under the Act when this legislation passes through the Parliament for its own devious ends.

I refer again to social and political engineering. The forest country in the south-west to which Hon. Sandy Lewis referred is a very significant feature of this State. It has been a significant part of the support of the Labor Party, and it is a very significant area of influence in the total community. The Minister tended to make light of this matter by her almost flippant comments in response to Hon. Sandy Lewis, and she tended to imply that this was somewhat of a joke. I do not believe that the Minister really thinks it is a joke, but that is the way it is coming through. It worries me that the Government, represented by the Minister tonight, is making such a poor showing in explaining responsibly the implications of this measure.

Many people are affected in the timber areas of this State. The south-west corner, as it is mostly known, is very much the garden of WA. It does not deserve the Minister's flippant responses.

Earlier in the debate Hon. Colin Bell referred to a public meeting in Busselton some years ago, which I attended, amongst hundreds of others.

Hon. Kay Hallahan: Was that in 1975? A decade ago?

Hon. V. J. FERRY: Does that make any difference?

Hon. Kay Hallahan: It hardly makes it current consultation.

Hon. V. J. FERRY: It does not make any difference. People can still go to public meetings in their thousands if they want to. There was a meeting in Bunbury only yesterday—the first one ever held dealing with the auction of milk quotas. I would guess that there were over 1 000 people present at that meeting—not only people from the south-west, but people from the Government as well. It is not fair that the Minister should say it was in 1975 and imply, "So what?" Public interest is still there; public concern is still there; but it exists mainly among people who have a very great feeling for the south-west area, whether they be farmers, or people living on the land for other reasons such as alternative lifestyling. I might add that the first settlers in Western Australia were alternative lifestylers; they came from Europe and settled into a different lifestyle.

However, the people in the south-west are very sensitive about their environment and they wanted to protect it. In the main they are sensible people who showed that at the meeting in 1975 to which the Minister referred—and the same thing will happen again with greater fervour should the Government abuse and misuse its powers.

Hon. A. A. LEWIS: It is obvious that the Minister will not try to address this matter. That worries me because it will only delay the passage of this Bill even further.

Will the Minister explain to me where it says under section 54(1) of the present Act that a person can go to the authority, put in a complaint about the Lands and Forest Commission, and have the authority make a recommendation to the Minister? Will she explain to me in section 54(1) where people can do that? Section 54(1) reads as follows—

> 54. (1) The Authority may from time to time request a responsible officer—

I presume that means a responsible officer of the Department of Conservation and Environment—

> . . . to submit to the Authority particulars of—
>
> (a) any application or proposal mentioned in the Schedule; or
>
> (b) such types or classes only of those applications and proposals as the Authority specifies in the request,
>
> being an application or proposal which comes under the administration of that officer, and may at any time revoke or vary a request so made.

That does not say that somebody from outside can come in and put a suggestion before the authority. The Minister talks about devastation. It has been fairly obvious that clearfelling is the greatest devastation when we see it for the first time. I do not think anyone would deny that Hiroshima probably looked good against it. We cannot talk about devastation flippantly.

I do not know whether the Minister had a chance when she went to the Cabinet meeting held in Manjimup to look at the regeneration. I do not know whether the Minister for Conservation and Land Management took his colleagues around to see the magnificent work being done by the previous Forests Department

and the present CALM in regeneration. The Chairman knows what a superb job is being done. I am sure that the first time he saw clear-felling he was horrified. I know that Hon. Fred McKenzie was; he lost hair over it! All of us were worried about it. The first time I saw it, I wondered what the blazes was going on.

However, the Minister is telling us that we cannot have devastation. She quoted the present Act and said that under section 54(1) and the schedule, they cannot do certain things. I ask her to please explain whether under section 54(1) and the schedule, outsiders are allowed to give instructions or to ask the EPA to do anything. The Act does not allow that. I do not think the Chamber should be misled in this way.

Hon. J. N. CALDWELL: We sometimes completely get away from the subject under discussion. We are discussing the word "proposal". In this case it means "any change in land use". I am at a complete and utter loss to understand why these words have to be deleted. There are thousands of ways in which land can be used, and many are detrimental to the environment. I am sure that the concern of people living on the land would be intensely acute if those words were deleted.

Hon. KAY HALLAHAN: In response to Hon. Sandy Lewis' request for further information, section 56 of the present Act allows the public to refer any matter which they have concern about the environment to the EPA. Section 54 of the Act allows the authority, once alerted in that way, to call in and have referred to it any matters relating to schedule 1. For example, I refer to changes in the land use for parks, town planning development, etc.

It really does mainly refer to Government operations, such as State forests, being used for agriculture; and during the planning of the Bill industry representatives raised the view that Government actions should be subject to the same treatment as those of other sections of the community. Therefore, they recommended that this be included. I think the rationale of the industry representatives' thinking is quite logical and sound, and that is the reason the Government has included it in the Bill.

Hon. A. A. LEWIS: That is incorrect. The Minster referred to section 56 of the present Act, which deals only with pollution. I do not mind having a fair go at this but section 56 states—

> 56. (1) Any person or body may in writing refer to the Authority any matter which gives rise to concern as to a possible cause of pollution.

If that has anything to do with clear felling, I will go hopping to hell. The Minister should report progress and get some views on this. She has twice misled the Chamber, and I am getting a little sick of it. It is not as though the Minister is sitting there cold turkey. I referred to the Minister in another place giving incorrect answers. I subsequently referred to these clauses so I cannot be accused of being unfair to the Minister, the adviser, or the Minister in another place.

However, they have been used and twisted in such a way as to mislead this Chamber and I do not think it should be misled. I am getting extremely angry with the Minister's trying not to give an answer. I am not blaming the Minister because we have said time and time again that it is a very involved Bill. However, it is overstretching the long bow to say that section 56(1) gives people the power to go into forestry operations when it refers only to pollution.

I hope the Minister will discuss it with the people involved, even if we suspend proceedings for five or six minutes, until she gets the right answers. So far the answers have been pretty inaccurate and I believe this Chamber deserves better than that.

Hon. KAY HALLAHAN: I think this Chamber deserves a better act than that put on by Hon. Sandy Lewis. It was a disgusting act. This Chamber has not been misled and if the honourable member were dinkum at all, I draw his attention to section 56. Perhaps the honourable member can possibly understand my point and go back to look at the definition of "pollution" in the Bill, which states—

> "pollution" means direct or indirect alteration of the environment—
>
> (a) to its detriment or degradation;

Under that definition matters can therefore be legitimately referred. I would like the honourable member to take back his accusations about this Chamber or his being misled.

Hon. A. A. LEWIS: I will not. Let us take it from there. I refer to the extract the Minister read out with regard to the definition of "pollution". Where does it state that anyone can interfere with forestry practice? Will the Minister debate with me whether clear felling is

to the detriment or degradation of the environment? Let us be dinkum about it. The Minister wants me to withdraw; I think she should withdraw because she does not understand it. She is using every opportunity to try to get off the hook. I will get very annoyed.

I am not blaming the Minister at all; I do not believe she should be expected to know.

I refer now to a letter written to me by the Forest Products Association of Western Australia. I did not intend to read it until later but I think the Minister might want to know what the people dealing with the business end of this matter think.

The letter from the Forest Products Association reads—

> The Forest Products Association supports the submissions of the Confederation of Western Australian Industry in relation to this new legislation.

I think they are a bit silly about that, but still! The letter continues—

> The Association view is that there is no necessity for an additional enforcement agency when every lawful activity is already covered by legislation and regulation, and the inspectors are already in place.
>
> The Forest Products Industry, for example, works under the Timber Industry Regulation Act which oversees standards of operations. The Mining Act, the Shops and Factories Act, the Clean Air Act, the Noise Abatement Act, the Traffic Act, the Rights in Water and Irrigation Act, the Soil and Land Conservation Act and many others relating to the use of the environment are in place and so are the inspection services.
>
> We consider that the E.P.A. is the environmental watchdog with its major task being to ensure that all industry regulations from mining to entertainment through to the laws governing personal activities are in place to avoid abuse of the environment. The role of enforcement should remain in the hands of the existing agencies provided, of course, that these agencies perform their role effectively and cost efficiently.

The Minister can go on quoting various things for as long as she likes. She said, quite rightly, that we will be judged out there. The Minister will be judged out there, and I, having handled the Bill in this Chamber, will be judged out there. Having made a specific attempt in my second reading speech to get the answers by saying it was not in the present Act—one has to stretch a very long bow to find it in the present Act—so that the Minister can come back with a sufficient answer, we are now still getting the same answers given by the Minister in another place.

The National Party has said it is not worried very much about the change in the use of land. I am sure electors in the seat of Warren will be pleased to hear about that. I will talk about the agricultural side of it. Applications on the agricultural side, such as for a piggery or an access road causing dust, may be handled in a heavy-handed way. I am sure they would not be under the present Minister, but we do not know how long the present Minister will be there. He was in Health for a while, but was kicked out of that, and now he has Environment. The environment was pretty important when this Government came to power. The Premier looked after it—he would not even let Dave Evans do so. But it is going downhill rapidly at the moment. It is a bit like education in the Tonkin Government; it started with Jack Tonkin looking after it, but finished up with Tommy Evans, way down the list. That is what this Government thinks of the environment; it pushs it off to junior Ministers.

Can the Minister tell me why the Environmental Protection Authority should have the right to stop Hon. John Caldwell's neighbour from putting a road in, or saying that he cannot keep pigs? That is what this Bill will allow. I hope I am wrong, and I hope the Minister will point out where I am wrong. If she says the EPA will not take any notice, I ask why we need much of the stuff she has been arguing for throughout the debate on this clause.

A further question I have relates to the social surroundings and the environmental feeling about Casuarina, where the Minister for Prisons intends to build a prison. Earlier this year there was a little huff and puff about some land being taken out of Manjimup and Nannup. The Minister handling the Bill said, "But it can't be taken. The shires must know that that is going to be put into a reserve, because it was in the systems report." How do we stand with Casuarina and the prison? That is also in the System 6 report. What are the social implications for Casuarina? Is it a fact that the Labor Party has all the votes around there so it does not matter; that the EPA will say to the Minister, "Our advice is that you do not put a prison there", and the Minister will say, "Look,

we cannot lose the seat, so politically we will just drop it there"? Is that the realistic version of it? The Minister must tell me how Casuarina will be handled under this Bill, and how rural lands, piggeries, and roads passing through properties will be handled.

I believe the Chamber deserves an answer, because it is no good going on with the sort of answer given on this Bill in another place. That does not tell the Chamber the whole truth and nothing but the truth, as I have proved already this evening.

I hope the Minister will try to answer the question, or say she will not answer. If the Minister will not answer it, then we must get up and talk on it. I believe that I deserve the courtesy of some sort of answer to the question I have posed.

Hon. KAY HALLAHAN: The thing that needs to be made clear in relation to what Hon. Sandy Lewis has been saying is that if a matter is referred to the Environmetal Protection Authority, it will make decisions on that matter—be it Hon. John Caldwell's driveway, whether he keeps pigs, or something of an entirely different nature. After assessment by the EPA of that matter, advice will go to the Minister, who will make the decisions.

I do not think I need to remind members that under the Westminster system of Government a Minister bears responsibility for the decisions he or she makes. Nothing needs to be made clearer than that; that is what relates to this.

I could restate the points I made, to the effect that any change in land use that would be considered to have a significant effect on the environment would be a matter to be assessed by the EPA. That does refer mainly to Government operations. I will go through the same points again, such as the State forests being cleared for mining or agriculture. During the planning of this Bill industry representatives raised the view that Government actions should be subject to the same treatment as for all other sections of the community. That seems a fair enough thing to the Minister, and he therefore has included that in the Bill. It would be my view, too, to support that clause relating to the proposal on page 6 of the Bill.

Amendment put and negatived.

Hon. A. A. LEWIS: I move an amendment—

> Page 6, line 24—To insert after "utility" the following—
>
> but does not include the Town Planning Appeal Tribunal established under the *Town Planning and Development Act 1928* or any other person or body prescribed for the purposes of this definition.

This amendment is brought forward at the suggestion of the Law Society. I have given the Minister the letter in which the society suggests that the amendment is a sensible one, and I am sure the Minister will not oppose it.

Hon. KAY HALLAHAN: The definition of decision making authority does need to include the Minister for Town Planning as that Minister may at some time act as a proponent, for example, in relation to town planning schemes. The Parliamentary Draftsman has advised that the Town Planning Appeal Tribunal is not a public authority in the sense given in the definition. For those reasons I would ask members not to support the amendment.

Hon. A. A. LEWIS: I have been in this place for a fairly long time, and Crown Law and the Law Society have had their arguments. I would back the Law Society; it has a fairly good record of telling us in Government or Opposition what is right and wrong with certain legislation. I must admit that the Crown Law Department and the Parliamentary Draftsman, without speaking detrimentally about them, seem to have made a fair number of blues since I have been here, and we have had to fix them on subsequent occasions. However, if the Minister is giving an assurance that she is prepared to cast aside the Law Society's advice on this matter I will accept it because, as the Minister said, she has to wear it! I seek leave to withdraw the amendment knowing that the Government is prepared to back Crown Law against the Law Society.

Amendment, by leave, withdrawn.

Hon. A. A. LEWIS: I move an amendment—

> Page 7, lines 28 to 31—To delete subclause (2).

Can the Minister tell me why the Chamber of Commerce's amendment which went a little further than mine by adding the words, "but does not extend to the economic factors other than those affected by trade as defined in this Act" was not accepted?

Hon. KAY HALLAHAN: That was not accepted because the spirit of the Bill is to try to balance the various factors. For that reason, subclause (2) is consistent with the definition of environment and does not add to it. The judgment was made to take it to that point and not add the last few words.

Hon. A. A. LEWIS: So be it! The Government has to wear it. I seek leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Hon. A. A. LEWIS: I move an amendment—

Page 8, line 10—To insert before "interferes" the following—

unreasonably

I think this is self-explanatory; I hope the Minister will accept it.

Hon. KAY HALLAHAN: I recommend to the Committee that it not accept the amendment on the basis that the word "unreasonable" appears in the first line in subclause (3) on page 8, and it would be redundant to insert it again. I know that one organisation proposed inserting it in the clause twice, but the Minister gave the matter due consideration, and as the word "unreasonable" already appears in the Bill, decided that it adds nothing to insert it twice.

Hon. A. A. LEWIS: I take issue with the Minister. Subclause (3) states—

(3) For the purposes of this Act, noise shall be taken to be unreasonable if—

(a) it is emitted otherwise than—

(i) in accordance with prescribed conditions or in prescribed circumstances;

(ii) in accordance with this Act or with any requirement or permission, by whatever name called, made or given thereunder; or

(iii) in an emergency.

and interferes, directly or indirectly, with the health, welfare, convenience, comfort or amenity of any person in any premises;

I believe the word "unreasonable" should be inserted to give the necessary emphasis to the end part of the clause. The first part of the clause deals with the emission of noise, not with health, welfare and convenience, and I believe that is extremely important. If we are dinkum about health, welfare, and safety in the workplace, the word "unreasonable" should be inserted to emphasise that we are dealing with people and not with noise.

Hon. KAY HALLAHAN: I take the point the honourable member is making, but for the purposes of this Bill noise shall be taken to be unreasonable if it interferes. The word "unreasonable" in the first line covers the whole clause quite adequately. I accept the member's concern and commend him for it but nevertheless I think the clause is covered by the first use of the word.

Hon. A. A. LEWIS: For the purpose of this Bill noise shall be taken to be unreasonable if it is emitted otherwise than in certain circumstances and interferes directly or indirectly with the health, welfare, and comfort of any persons.

I am not going to push my amendment but I point out that a number of organisations would like it included in the legislation. The Government is going against the advice of the Chamber of Mines. As long as the Minister is happy with my amendment not being included in the legislation, I will be happy to withdraw it.

Amendment, by leave, withdrawn.

Clause put and passed.

Clauses 4 and 5 put and passed.

Clause 6: Power of Minister or Authority to exempt—

Hon. A. A. LEWIS: I seek the Minister's advice about the statement made by the Conservation Council that the ministerial powers of exemption are broad powers and open to abuse. I ask the reason the Government has decided to include this clause.

Hon. KAY HALLAHAN: We come back again to the fact that there was a balancing of interests. It is exempted under the current Act and under the Noise Abatement Act. A judgment had to be made during the consultative process about whether this should be included in the Bill. The Government had to produce a Bill which was acceptable to all people concerned. It was in that spirit that the Minister chose not to include the position of the Conservation Council.

Clause put and passed.

Clause 7: Continuation and composition of Environmental Protection Authority—

Hon. A. A. LEWIS: The Western Australian Chamber of Commerce and Industry is concerned about the membership of the authority. Subclause (2) states that the members of the authority will be appointed on account of their

interest in, and their experience of, matters affecting the environment generally.

The chamber has requested that consideration be given to the appointment of two members with the necessary expertise. The Chamber of Mines contends that the objectives of the authority prescribed by the Bill can be best achieved by appointing a balance between conservation interests and the membership of the authority. If constraints are placed on the authority, it is possible for there to be an imbalance in the composition of the authority. I believe these are justifiable comments, and I wonder how the Government intends to handle these issues if the Bill is passed.

Hon. KAY HALLAHAN: Hon. A. A. Lewis is making a point about the balance of the EPA, and it is a significant issue. The Bill states that members will be appointed by the Minister on account of their interest in, and experience of, matters affecting the environment generally. It will be up to the judgment of the Minister to appoint people with credibility who will make judgments that will make this legislation viable in our community, and who will not create problems for us all. It will be up to the Minister to make those sorts of judgments that will bring a balance to the EPA. It will be a matter of concern to any group involved in environmental matters to see that the authority is balanced in order that it can negotiate with any interest group.

As Hon. A. A. Lewis has said, the Minister will be left holding the baby if the body is not suitably balanced, does not make suitably balanced decisions, and does not give suitably balanced advice to the Minister. The Minister will have to live with the results of this Bill.

I think we all have an appreciation of any Minister who will be in that position, regardless of the party to which he belongs. It will be in his best interest to ensure it is a balanced body.

Hon. J. N. CALDWELL: The National Party is very concerned about the membership of the authority. I ask the Minister in charge of this Bill to make the Minister for Environment aware that it is no good selecting five members from the metropolitan area. They definitely need to have some experience of the country area, and perhaps one or two of the appointees could come from the rural area. I urge the Minister to think about this matter seriously and to pass on our concern to the Minister.

Hon. G. E. MASTERS: The Government intends to increase the membership of the authority from three persons to five persons. Earlier this evening the Minister said that it was better to have five persons with experience than three persons, because there is a wider range of expertise. That is not always the case. In many cases the smaller the committee the better. I could go further and say that it would be better to have 10 members on the authority because there would be a wider range of expertise.

It is a matter of judgment and balance. When we were in Government it was decided to appoint three members to the authority, but this Government has decided to increase the membership to five.

I want to reinforce the arguments put forward that it is important the membership of the EPA reflects the view of a wide section of the community. It may well be that Neil Bartholomaeus is appointed as a member.

The implications of this Bill will certainly affect business and industry as well as the farming and rural communities. A person who understands the problems of the rural sector and who is able to reflect the difficulties being experienced in the rural areas should be appointed to the authority.

I now make reference to the position of the chairman. I have very strong views on the desirability or otherwise of having the same person in the positions of Chairman of the Environmental Protection Authority and head of the department. I have experienced a situation in which that simply did not work. I suggest to the Minister that that same difficulty will again arise in the future, and I do not think it is a good thing for the departmental head to be the Chairman of the Environmental Protection Authority and to wear two hats, thus being able to choose on the day or on the hour which hat he wishes to wear.

I am particularly interested in the position of chairman with respect to the Public Service. I refer the Minister to subclause (4) on page 11 of the Bill. Will the Minister tell me whether the Chairman of the EPA—the same person who will be the permanent head of the department—will be a public servant? Having answered that, would she then explain to me how, if the Minister decides to direct the permanent head of the department as he will be able to do, he will deal with the situation if the departmental head decided that he is being addressed as the Chairman of the EPA and chooses to disregard the direction of the Minister?

Hon. KAY HALLAHAN: It seems to me that the Government and the Opposition are in favour of a small body. The Liberal Party when in Government opted for an authority consisting of three members, whereas we are opting for five members. Although our authority will still be small, the extra two members will mean that the views and experience that can be incorporated in the body will be widened.

I suppose I would have been disappointed if the honourable member had not raised the issue about the one person being Chairman of the EPA and head of the department. I am aware that when the honourable member was the Minister he separated those functions and that therefore he has very strong notions on the matter. We have had the opportunity to view the working of both models, and it is the judgment of the Government that it would be better for those functions to be carried out by one person. We envisage some problems if the functions were separated. For example, the person who is the chairman of the authority benefits from holding also the position of head of the department because of the access to staff and resources available to the head of the department. That was a strong consideration in the decision to have the one person cover both functions.

The position of chairman of the authority is a contract position, not a Public Service position. However, the person holding the position will have the powers of a permanent head of a department accorded under the Public Service Act. It is not technically a Public Service position, as it is a contract position.

Hon. G. E. MASTERS: Will this legislation prevent the holder of the positions of Chairman of the EPA and departmental head from being a public servant? It did not in the past.

Hon. KAY HALLAHAN: Under this legislation, if the person appointed to these positions wants to become a permanent public servant, he will have to resign from these positions and take up some other position as a permanent public servant.

Hon. A. A. LEWIS: Is the Minister saying that a public servant who is appointed to the position of chairman and head of the department is precluded from remaining a public servant?

Hon. KAY HALLAHAN: Clause 7(5) on page 11 states—

> An Authority member shall not be a person who is employed under and subject to the *Public Service Act 1978*.

That includes the chairman and members of the EPA, so it is quite clearly spelt out.

Hon. G. E. Masters: So the position of permanent head must be a contract position?

Hon. KAY HALLAHAN: It has to be.

Hon. A. A. LEWIS: I wonder about the financial implications. Let us say that a public servant is promoted to the position of chairman, and he has his superannuation entitlements and the like. If he has to resign, could he not be in trouble?

Hon. KAY HALLAHAN: Such a person would have to make a judgment about that. If a person who is currently a public servant applies for the position, is offered the position and accepts it, he must resign from his current position. He would have to make appropriate arrangements to cover his superannuation entitlements and whatever security he wanted to arrange.

Hon. A. A. LEWIS: I am not being vexatious, but I would like to go into the matter in some depth. The departmental head is chairman of the authority. If the departmental head takes long service leave, is his deputy then chairman of the authority?

Hon. KAY HALLAHAN: This Bill is no different from any other situation. That does not automatically happen; the authority will have its own deputy chairman.

Hon. A. A. Lewis: It comes back to the matter I was debating with the Minister.

Hon. KAY HALLAHAN: We did talk about this earlier. There will be delegated power. If the Chief Executive Officer goes on leave, the power is there. The EPA will elect its own deputy. The person with delegated powers does not automatically fill the role when the Chief Executive Officer goes on leave.

Hon. A. A. LEWIS: So there is no real liaison if the chairman leaves on long service leave or sickness leave. No-one can replace him on the authority. He delegates his power. I would like to know why we are not to have a deputy, even though he does not feature in the Bill. Surely, someone will be in charge of the department.

If the Chief Executive Officer disappears on sickness, long service leave, or a combination of both for nine months, the authority will be down to four members. We will have a situ-

ation where quorums will be difficult. Only one more person needs to go down, and we have had our chips. Would it not be a better idea to let the Deputy Chief Executive Officer take over as chairman, because we would still have liaison and the deputy would run the authority as a result?

Hon. KAY HALLAHAN: The quorum is dealt with under clause 11 on page 13, and three members are required. The Minister in another place has given consideration to the point the honourable member raised, and this is the way he envisages the two bodies working effectively. It is a bit difficult to interview someone for the position of second in charge where it might not be so clear. The position of the chairman and the head of the department is applied for, and the Minister will select someone with the skills and abilities to carry out that dual function. He might not be convinced that the person who works as a deputy to the CEO will necessarily have those skills. For that reason, he is not automatically the person who becomes the chairman in the absence of the chairman of the authority.

Hon. A. A. LEWIS: What about the administration of the Department of Conservation and Environment? Surely, if there is a Ministers' conference, someone will have to be left in charge. The Chief Executive Officer will have to have a deputy. There will have to be a system of promotion or responsibility within the department. There will need to be a second in charge within the department. Is the Minister telling me there will not be a second in charge within the department at all?

Hon. KAY HALLAHAN: The Chief Executive Officer will have to delegate his authority to someone on the staff. Someone may emerge as a second in charge.

The other point I make—and I hope it will not be erroneous and create another debate—is that under my portfolio, when someone goes on leave, the staff take it in turn to do that job so everybody gets a greater appreciation of the organisation and greater experience. I did have some trepidation on one occasion, but it did seem to work well, and that organisation seems to be quite dynamic as a result of those modern management techniques. It is certainly an option not locked into the way this matter is presented. That person is not locked into a deputy position, and there is room for flexibility.

Hon. A. A. LEWIS: Fair enough. I cannot understand anything that does not have a structured scale. That worries me. I refer to CALM, which did not have a structured scale and which we let go through this place. If the Government wants to wear it, it will.

Why is it necessary for the members to be all full-time?

Hon. KAY HALLAHAN: Again, we are looking at a situation of trying to provide for future demands. The appointments can be part-time or full-time. It allows for greater flexibility and for future demand when they can go up to being full-time. Maybe they will not start off full-time. The Bill says that three members shall be full-time or part-time. It is a flexibility that is being built into the Bill.

Hon. A. A. LEWIS: Virtually four members can be full-time and part-time, because the deputy chairman can be as well. I am not trying to be smart. If we have a chairman who does go on long service leave or sick leave, we have only a part-time deputy chairman, whereas before we had a chairman filling that role. Will it be easy to make it a full-time position for that nine months?

I would not have thought that the deputy chairman would find it so easy to take the position full-time because he would have his other interests to look after. I would think it would be a fairly impossible position for that bloke, the Deputy Chief Executive Officer, or the deputy chairman to drop everything and become a full-time chairman of the authority. Has the Government given consideration to that?

Hon. KAY HALLAHAN: Consideration has been given to that. I would like to put it in the context that we are dealing with people who have been invested with a fair amount of responsibility on behalf of the community. It would be my hope that one could negotiate on those matters. That is why the Bill has been written with some flexibility with respect to part-time and full-time members. If someone is to be appointed to the position of chairperson, one would presume that that person will not go off for nine months.

The area which is a greater problem is sick leave, where it can happen unexpectedly and room for negotiation is not so great. The deputy chairperson may become full-time. If that chairperson has a number of other commitments, the position may be reduced from full-time to two-thirds time or half-time, which will have to be accommodated.

I am sure members have been in a situation where there have been a series of unlikely scenarios, and it seems impossible for people to make those arrangements and work out what is workable.

Hon. A. A. LEWIS: I can see the Minister talking about goodwill. She has hit it on the head, because if someone goes down with a sickness and is out of the way for nine months, we will have a professorial type as deputy chairman. He would have plenty of time to give to the authority in a part-time capacity; but if the chairman became sick he would have to give up his professorial duties for the rest of the year; or perhaps someone from Alcoa may have the time.

I worry about the position of chairman. If the positions of chairman and deputy chairman were full-time, and there were three part-time members, one would know the deputy chairman would be full-time. I am sure the Minister can understand what I am talking about. Does she have any way around the problem?

Hon. KAY HALLAHAN: It may well be the Minister will appoint a full-time chairman and a full-time deputy chairman. I appreciate the member spelling out these conundrums. My view would be, if someone became really ill and was off for nine months he may have to resign. Perhaps someone will make a decision whether to resign so that there can be another appointment for the job. Life is like that. There are no guarantees for any of us. One does one's best to see that work is carried out effectively. People in those positions will arrive at arrangements to see work which needs to be done is done effectively and efficiently by people with a range of expertise in the area.

Hon. A. A. LEWIS: If I had suggested that solution to the Minsiter, the ALP Government would have howled me down. I am glad the Minister made the suggestion, because I would not dare to.

The Minister believes we need to make provision for three other members to be full-time or part-time.

Hon. Kay Hallahan: I think that is a good feature of it.

Hon. A. A. LEWIS: That is all right. The Minister would not consider making the deputy chairman full-time and have one part-time?

Hon. Kay Hallahan: That reduces flexibility. If the position needs to be full-time that person will be full-time.

Clause put and passed.

Clause 8: Independence of Authority and Chairman—

Hon. A. A. LEWIS: I shall not waste time on this clause. There is absolutely no way whatsoever that the independence of the authority and the chairman can be argued. We can argue the dividing line for hour after hour. Hon. Gordon Masters argues one case and the Minister another. I have not even mentioned it on my amendment sheet because I believe it is a matter of philosophy. Hon. Gordon Masters divided the Chamber previously and I think I opposed him.

Hon. G. E. Masters: You did.

Hon. G. E. MASTERS: When we were in Government and I was a Minister we were fairly thumped over the head with accusations that we were not environmentally concerned, or that we wanted development above everything else, and therefore we had some extreme environmentalists who were politically rather than environmentally involved.

I recall bringing in a piece of legislation. Hon. Sandy Lewis is correct, he and at least one other member opposed what I was trying to do, and that was clearly to separate the EPA from the department. Even with those efforts we were still accused of interfering with the EPA and attempting to direct it. That was not the case at all.

In those days Professor Bert Mayne was the chairman, and a very fine fellow he was. Anyone who knows him would appreciate that no-one could tell him what to do and what not to do. He made a great contribution to this State, as did other members of the EPA.

We had a separation of the EPA from the department, and I maintain that we should not return to the old scene of having the EPA and the department as one. I have no doubt that the Minister of the day, in directing the departmental head, will be directing the chairman of the EPA, because he is the same person. There is no way to make a separation. What we did was to make three people step aside with no direction from the Minister. That is a philosophical argument.

We have experienced both scenes. I am not accusing the Minister of telling untruths, but the Minister in another place almost certainly has in mind a particular person he wants to put in that position. Perhaps that person will do the job very well. This Bill may be constructed to put Mr Carbon in that position. I have no criticism of that. The day will come when perhaps the physical separation of the department and

the EPA will be seen to be of greater benefit. The Government is returning to an era for which we were strongly criticised and charged with attempting to influence the EPA in its decisions.

I have no doubt, as Hon. Sandy Lewis says, that this legislation will enable the Minister to a certain extent to direct the EPA, which will not have the independence it has enjoyed up to this time as a result of the changes being made.

Certain clauses indicate clearly that the Minister has enormous authority. Again this is a philosphical argument. We are of one view and the Government of another. I think it has a long way to go. I am sorry that those who criticised us in the old days have seen fit to keep their mouths shut this time. Once again I suggest it was a political move rather than a desire to further the environmental cause.

Clause put and passed.

Clauses 9 and 10 put and passed.

Clause 11: Meetings of Authority—

Hon. A. A. LEWIS: I move an amendment—

> Page 13, line 7—To insert after "Authority" the following—
>
> by giving reasonable notice of the time and place for such meeting to each of the Authority members

I think this is self-explanatory, and I trust that the Minister will accept it or give reasons why she will not.

Hon. KAY HALLAHAN: The amendment should not be accepted because it is normal meeting procedure that this process be carried out. We are getting into the nuts and bolts of things to an incredible depth with this amendment when we all have a knowledge of what are reasonable meeting processes, and one would expect the sorts of people appointed would have a good knowledge of meeting procedures. I would be disturbed if they did not. The member has an unnecessary concern on this point, and for that reason his amendment should not be accepted.

Hon. MARGARET McALEER: The amendment is not unreasonable in the light of subclause (2) which provides that at a meeting of the authority any three members will form a quorum. It will be possible for a meeting to go ahead without the chairman or his deputy. Without any formal provision for adequate notice of a meeting to be given, this situation could occur. A quorum of three is not really good enough for this authority. The amendment should be accepted.

Hon. C. J. BELL: I have had experience as a part-time member of a statutory authority, and I am concerned that there is no provision here for adequate notice of a meeting to be given. It is not always possible for a part-time member to be able to attend a meeting at 12 hours' notice because he or she will often have outside interests that prevent attendance at such a meeting. The bureaucracy often gets the job of calling these meetings, and it tends to forget that some part-time members have other responsibilities to meet.

If the Minister cannot accept the amendment moved by Hon. Sandy Lewis, she ought to consider moving an amendment herself to provide for two or three days' notice of a meeting. This provision does concern me because I can vouch for the fact that as a part-time member of a statutory authority for a number of years I could not necessarily attend meetings at short notice because of other commitments. I urge the Minister to accept the amendment.

Hon. A. A. LEWIS: I purposely did not include any reference to emergencies or notice to be given in writing of a meeting because later in the Bill reference is made to emergencies. That is why I stuck to reasonable notice, which will depend on the situation at hand. I will not slash my wrists if the Minister does not accept this amendment, although I consider it a reasonable one.

Part-time members will make for difficulties with quorums if reasonable notice of meetings is not given. I can vouch for the fact that reasonable notice of different things is important, because recently three Ministers were in my electorate and none of them advised me of the fact, despite the Premier's assurance in answer to a question that notice would be given. It is a matter of courtesy—the sort of courtesy that should be given to authority members. If the Minister is not concerned to have this courtesy extended to authority members, it does not worry me very much.

Hon. KAY HALLAHAN: I still maintain that the amendment is not necessary simply because the clause starts with the words, "The authority shall hold meetings at such times and places as it determines". It is up to the authority to negotiate when it will meet and what arrangements will be made. This adequately covers the point raised by the member in his amendment. It is not that I do not want to accommodate his amendment, it is just that I firmly believe it is adequately covered now in the legislation.

I regret that the member did not receive formal notice of my visit to his electorate, but I assumed he was aware that a Cabinet meeting was to be held there. Certainly, my office did not send him formal notice of my visit.

Hon. C. J. BELL: In referring to the first line of subclause (1), the Minister failed to take into account paragraphs (a) and (b), which provide that the chairman or the Minister may, if they wish, call a meeting of the authority. So it is not necessarily the authority alone which will be able to convene a meeting. I presume the chairman or the Minister would call a meeting only in special circumstances. The problem is that on occasion people are overtaken by the urgency of the matter and fail to consider the situation of others. I still hold the view that the amendment is reasonable.

Hon. A. A. LEWIS: I am trying to find where there are discharges and there is a certain time in which the authority has to make a decision. The Bill provides for emergency meetings to be held on five or six hours' notice. I cannot locate the precise provisions involved here.

Hon. KAY HALLAHAN: I am unsure of what Hon. A. A. Lewis had in mind, although I do not think they are matters related to the EPA from what I could understand of what he was saying. I think they are matters relating to the Chief Executive Officer's role.

Hon. A. A. Lewis: Could they be referred back to the EPA?

Hon. KAY HALLAHAN: The EPA would call its own meeting in relation to emergencies involving pollution control. This has to do with my earlier point that we need to keep the two functions separate.

A further point is that a similar provision in the existing Act has caused no hiccups of the sort outlined by members opposite tonight. I have been a member of many part-time committees, and I have always found it possible to negotiate meeting times. Considering the calibre of members we expect to appoint, I am sure they will be able to do this also, which is why I feel the amendment is not necessary.

Amendment put and negatived.

Hon. A. A. LEWIS: I move an amendment—

> Page 13, lines 10 to 12—To delete all the words after "preside".

The amendment is self-explanatory, and I trust the Government will accept it. It will add to the better running of the authority.

Hon. KAY HALLAHAN: We believe it is satisfactory that should the chairman and the deputy chairman not be present, a quorum of three could proceed and elect a chairman from the three present and so enable the meeting to progress.

This matter has been given some thought. It would only occur in emergency circumstances. The three members could be part-time members, and I think that in emergencies they should be able to transact the business of the meeting.

Hon. A. A. LEWIS: I do not believe that is correct. I think we are running into murky waters with this provision, but I will not press it.

Amendment put and negatived.

Clause put and passed.

Clause 12: Disclosure of interests by Authority members—

Hon. A. A. LEWIS: I hear a lot about vested interests and interests of local authorities. It would seem that the best organisation to make a decision would be the authority. The situation occurring under subclause (3) could be the same as that occuring here at the moment with the Deputy Chairman of this Committee deciding that I have a vested interest and that I should be barred from taking part in the debate. That is fairly rough justice.

Subclause (4) refers to such a matter being recorded in the minutes of the proceedings and the authority member, even though being allowed to take part in discussion of a matter, not being able to vote. If only three members are present at a meeting and one member is precluded from voting because of a determination of vested interest by the chairman, how can the work of the authority continue?

Hon. KAY HALLAHAN: This clause is very important because of the EPA's work. We all know that there could be considerable vested interest in many of the authority's recommendations to the Minister. If one member is precluded from voting because of a vested interest and only a quorum is present, the business of the meeting of the authority will be suspended.

The member's amendment is not acceptable because it is contrary to the basic principle that members with vested interests should not be making recommendations to the Minister, even though they can participate in the discussions.

Hon. A. A. LEWIS: An analogy would be that the Minister should not be able to vote on this clause because the Deputy Chairman (Hon. Robert Hetherington) believes she has an interest in it. So that the Government knows what it is passing, I refer it again to subclause (3) of clause 12. If I am a member of the authority, the chairman could say, "Mr Lewis, BHP is involved in this. You have shares in BHP. You will not be allowed to vote." I may say, "No, I do not have shares in BHP", but the chairman may say that he knows that I do have shares in BHP, not knowing that I may have sold them 10 days or a month before. If it is the opinion of the person presiding at a meeting of the authority that I hold such shares, I may not be able to vote. I believe that that is as rough as the Government can get. I am sure that if the Attorney General were here he would be horrified to hear that sort of thing. He would jump up and say, "Look, that is not a fair go at all", and I would agree with him. The person presiding at a meeting of the authority need not even listen to the member of the authority if he wants to say anything.

I urge the Minister to read subclause (3) and tell me how a presiding officer can have as his opinion that another person has a pecuniary interest. It is ludicrous that the presiding officer should have that sort of power. I would like the Minister's explanation as to why a presiding officer should not ask the other person about any suspected interest, after which the authority could make a decision about any pecuniary interest.

Hon. KAY HALLAHAN: Although the honourable member tries to make out that we are incorporating some form of rough justice in the Bill, the fact is that the wording is very similar to that in the current legislation.

Hon. A. A. Lewis: Where in the current legislation?

Hon. KAY HALLAHAN: I refer the member to clause 26 on page 14.

I thought the honourable member gave an excellent example with respect to his having shares in BHP when some matter relating to BHP was being considered and the chairperson had reason to believe he had those shares. However, if the shares had just been sold, I would think that the member would not be so stupid as to sit there and not say so. We are talking about adult, competent people. The subclause is a fair enough provision. It has been in existence in a very similar form without having any horrendous consequences. What is incorporated in the Bill was extracted from what has worked in practice without the awful possibilities alluded to by the honourable member. Again I make the point that we are talking about adult and responsible people who will behave in that way.

Hon. A. A. LEWIS: Obviously, I read the legislation in a way totally different from that of the Minister. Section 26 of the present Act goes through a long and detailed explanation of pecuniary interest. It is not nearly as abrupt as this provision. It also allows for ministerial considerations. I am extremely worried that the Minister considers the two provisions to be similar. If she takes the time to read section 26 of the present Act and then reads the provision in the Bill, I am sure she will see the difference. I am concerned that the Government is compounding the felony. It is extremely worrying that draftsmen write in provisions that the Minister is led to believe approximate past sections, when they do not.

Hon. MARGARET McALEER: I raise one point with respect to who keeps an eye on the chairman. There is no provision to question the interests of the chairman.

Hon. KAY HALLAHAN: Section 26 of the present Act has been contracted somewhat in the current Bill. Draftsmen were instructed to take the best out of the existing section 26 and abbreviate it.

In response to Hon. Margaret McAleer I point out that we just have to appoint people in whose integrity and ability to carry out the job we believe. If a chairperson does not have that sort of integrity, the Minister would ultimately have to become involved. However, it seems to me that we have greater independence for the chairperson in this situation. I would have thought that members would have welcomed that.

Hon. MARGARET McALEER: As three members can constitute a quorum, any one of three people in the authority could preside at a meeting. We hope that they would all be responsible, but the provision is anomalous.

Hon. A. A. LEWIS: The Minister wiped the question of Hon. Margaret McAleer under the table fairly quickly.

Hon. Kay Hallahan: Not at all.

Hon. A. A. LEWIS: Is there a provision that the chairman of the authority and the Chief Executive Officer cannot own shares in companies? Is there a provision that he has to declare to the Minister his interests in everything he owns before he starts? Four members

of the authority are covered with respect to interests, but not the chairman. I believe that the person who is to be the chairman is a very nice bloke, and I do not believe that he would do anything untoward. However, the Bill gives the chairman a fairly large scope to decide about the pecuniary interests of other people, but does not give power to anybody else to decide about the interests of the chairman.

Hon. KAY HALLAHAN: There is no requirement for the applicants for the position of chairman, on being interviewed,. to disclose interests. They will be interviewed, and there is nothing in the Bill which sets that out. However, the chairman as a member of the authority will be subjected to the same necessity to disclose pecuniary interests as any other members of the authority.

Hon. A. A. LEWIS: I refer to subclause (3). It does not say a member of the authority can call on the chairman to disclose his interests and make a decision that the chairman has a pecuniary interest. As Hon. Eric Charlton says, where is that shown?

I know he is trying to help the Minister, but I think it is about time to report progress so the Minister can find out the real answer as to how the presiding officer is checked for pecuniary interest, because there is nowhere else that the authority members can move a motion on pecuniary interests. If there is a bad apple in the barrel, something could go wrong.

Hon. KAY HALLAHAN: The chairman is regarded as any other member under the clause. Members have an obligation to disclose their pecuniary interest. Suppose a chairperson has a vested interest and it is not disclosed; at some point should that become evident, what would the member have in mind? The fact is that we have to keep in mind that we are dealing with people who take on this position knowing they are obliged to declare pecuniary interests. That will be made very clear when they are interviewed, and when they read the Bill.

Hon. A. A. LEWIS: All I am saying is that four of the people have a presiding officer, who, in his opinion, decides that a person has a pecuniary interest. I refer to the fifth member of the authority, and nobody can decide that he has a pecuniary interest. If the other four persons decide that the chairman has a pecuniary interest, it does not matter a dime.

I am not going to push this issue, but it is obvious there is a flaw in the Bill. Even Hon. Garry Kelly is following that logic—which is pretty unusual because he is a long way ahead of me—and Hon. Eric Charlton also saw the logic in it. Obviously, there is a problem. It is something that should be looked at at a future time. I believe it should be redrafted so the anomaly is cleared up.

Clause put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Objectives of Authority—

Hon. A. A. LEWIS: This clause draws attention to the fact that the body will have a management authority. I will not press the point but the prevention and abatement of pollution are both managerial functions. I have said before that this body should be one that is setting standards and not managing. It appears the Government wants to push ahead and make it a management authority. We have heard how it has complete and utter control over the Lands and Forest Commission, and others.

Clause put and passed.

Clauses 16 to 20 put and passed.

Clause 21: Authority to make annual report—

Hon. A. A. LEWIS: I would like the Minister to explain why this Bill, like many others, was not made subject to the Financial Administration and Audit Act. My proposed amendment does that.

Hon. KAY HALLAHAN: The proposed amendment is not accepted because the Financial Administration and Audit Act applies to all Acts of Parliament and to all Government departments and instrumentalities as a matter of course. There is no need to have it inserted in the Bill. It does apply.

Hon. A. A. LEWIS: Why have we spent so much time going through a series of Acts when the Attorney General, as Minister for Budget Management, put it into those Acts? Why did we go through all those Acts if it applies to all Acts?

Hon. KAY HALLAHAN: I do not know the Acts to which the honourable member is alluding, but it is a fact that that Act now does apply to Acts of Parliament and Government departments and instrumentalities. For that reason, it is like not having to be neutral. That is what the definition means here. I do not agree with it, but that is how it is.

Hon. A. A. Lewis: You are now slipping in the Interpretation Act.

Hon. KAY HALLAHAN: I am; it applies. I have checked with the Attorney General, and he cannot think of any Act which has been amended that way. The fact is that the provisions of the Financial Administration and Audit Act apply to the Bill. I think that is the important thing.

Hon. A. A. LEWIS: I draw the Minister's attention to the Acts Amendment (Financial Administration and Audit) Act which came on earlier this year. I queried this matter with the Attorney General in respect of a number of bodies. Why did we have to alter all those and yet are to do nothing with this legislation? If the Government is happy, I suppose it does not matter. If the Government comes back in a couple of months' time—

Hon. Kay Hallahan: I will apologise.

Hon. A. A. LEWIS: I am not asking the Minister to apologise. She has two gentlemen giving her advice—the Attorney General and her adviser. There would really be no need for the Minister to apologise, but the two gentlemen now assisting her might have to. However, I believe this is an area that ought to be looked at; but if the Government does not want to look at it, we must take the Minister's word and quietly go on.

Clause put and passed.

Clauses 22 to 25 put and passed.

Clause 26: Preparation and publication by Authority of draft environmental protection policies—

Hon. A. A. LEWIS: I move—

> Page 21, lines 26 to 29—To delete paragraph (e) and substitute the following—
>
> > (e) consult in respect of the draft referred to in paragraph (c) such public authorities, and make reasonable endeavours to consult in respect of that draft such persons, as appear to the Authority to be likely to be affected by that draft; and

This amendment is to make sure that consultation happens with such persons as it appears to the authority are likely to be affected by the draft. It mainly deals with public authorities.

Hon. KAY HALLAHAN: I ask the Committee not to accept this amendment because, although I agree about the need for consultation, an amendment was accepted in the other place and the matter is adequately covered in the Bill now before this Chamber.

Hon. A. A. LEWIS: I am pressing this matter only because the Local Government Association and the Country Shire Councils Association have requested that this amendment be made. It is obvious that they can be overruled, and I am not going to press the matter any further. I believe it is better here than in the draft form, and so do those bodies which represent the majority of public authorities. However, if the Government wants to override them, far be it from me to comment any further.

Amendment put and negatived.

Clause put and passed.

Clauses 27 to 29 put and passed.

Clause 30: Minister to consult public authorities and persons likely to be affected by draft environmental protection policies—

Hon. A. A. LEWIS: I move—

> Page 23, lines 16 and 17—To delete "make reasonable endeavours to consult such public authorities and persons" and substitute the following—
>
> > consult such public authorities and make reasonable endeavours to consult such persons,

I believe that this is a reasonable amendment. Again, it came from the Local Government Association and the Country Shire Councils Association. They asked for this amendment to be placed on the Notice Paper, so I commend it.

Amendment put and negatived.

Clause put and passed.

Clause 31 put and passed.

Clause 32: Reconsideration of remitted draft environmental protection policies and resubmission thereof to Minister—

Hon. A. A. LEWIS: I move—

> Page 24, lines 20 and 21—To delete "make reasonable endeavours to consult in respect of that draft policy such public authorities and persons" and substitute the following—
>
> > consult in respect of that draft policy such public authorities, and make reasonable endeavours to consult in respect of that draft policy such persons,

Once again this amendment came from the Local Government Association and the Country Shire Councils Association. I think it is self-evident that this amendment ought to be in the legislation, but I will listen to the Minister's

answer with due deference. I do not think I will press this matter very hard.

Hon. MARGARET McALEER: Before the Minister rises to reply to Hon. Sandy Lewis, I would point out that this is the same wording that the Minister has already rejected in the last two clauses. I fail to see her point. It seems to me that the amendments suggested would be more logical because a public authority can easily be consulted. It is very much in place and it is easily accessible. Anyone could get in touch with it, and there is no reason why it could not be consulted; whereas if someone wanted to consult a particular person, that person might not be available and the matter might be more difficult.

It seems quite reasonable to say that the authority should be consulted and reasonable endeavours made to consult people, because one is obviously available and the other may not be available.

Hon. KAY HALLAHAN: The Bill does precisely what Hon. Margaret McAleer wants it to do. The Bill that was introduced in the lower House was amended in a number of areas, and this is one of the clauses that was amended. Paragraph (a) (ii) refers to making reasonable endeavours to consult, in respect of a draft policy, such public authorities and persons as appear to the authority to be likely to be affected by that draft policy. I agree with Hon. Margaret McAleer about the desirability and necessity for that, and I am pleased it was added to this clause in another place. It is in the clause and the situation is adequately covered. For that reason it is not necessary to make any change, and I ask members not to support the proposed amendment.

Hon. MARGARET McALEER: Hon. Sandy Lewis has referred to local government authorities being interested in this particular amendment. It all comes down to a question of what is reasonable. When local government authorities are consulted by phone or letter, one often has to wait a considerable time for an answer.

I wonder whether the definition of "reasonable" might fall short of waiting for an answer, particularly if the period were a long one. Would the authority then say, "It is two months since we wrote to such-and-such a local government body, and it has not replied, and therefore a reasonable time has elapsed and we will go ahead"?

Hon. KAY HALLAHAN: There was some discussion about the adequacy of the term "reasonable endeavours", but legal advice is that it is adequate and covers the situation—for example, if someone is overseas and is keen to be consulted.

The Government wants this Bill to work, and that means giving people adequate time to respond and to reach a reasonable agreement, particularly among bodies such as local government authorities which play a significant part in our community.

Hon. A. A. LEWIS: Is the Government just being pig-headed and not listening to any argument? The answer to Hon. Margaret McAleer did not seem to make sense. Maybe I did not hear it all. It is a very reasonable amendment, but the Government will not listen. If the Government wishes to push ahead in that way, okay, but I urge the Minister to give the amendment a little more consideration.

Hon. KAY HALLAHAN: There is no inflexibility on the Government's part, but there is not much difference between the member's proposed amendment and the Bill before the Chamber, and that is the reason I am staying with the Bill.

Amendment put and negatived.

Clause put and passed.

Clauses 33 to 37 put and passed.

Clause 38: Referrals—

Hon. A. A. LEWIS: I move an amendment—

> Page 28, line 24—To insert after "person" the following—
>
> > who has a direct interest in, or is likely to be directly affected by, that proposal

I do not believe "any other person" is fit and proper to refer a proposal in writing to the authority. Any other person who has a direct interest in, or is likely to be affected by, that proposal, has a right to do so. This is probably the key area of the Bill because it could lead in future to a class action. I think that is unlikely, but it is a step towards class action. It is the last thing we want, and I know from discussions with many members of the Government that it is the last thing they want. I believe my amendment overcomes that problem.

Hon. G. E. MASTERS: I also am very concerned about this clause and about the whole process of environmental impact assessment. It covers a number of clauses, and I wonder whether the Minister could address the pro-

cedures which should be followed as we go through this part. The Minister said earlier that the Bill was meant to be simply followed and would set out the procedures in relation to such things as the environmental impact assessment. This part of the Bill is very complicated, and this clause deals with referrals in relation to impact assessments. Subclause (1) refers to a proposal that appears likely, if implemented, to have a significant effect on the environment, or a proposal of a prescribed class. Who decides whether a proposal will have a significant effect?

Paragraph (a) says that a proposal shall be referred in writing to the authority by a decision-making authority as soon as that proposal comes to the notice of the decision-making authority. I would assume if a proposal is put forward by an industry group and the department considers it has a significant effect, that department will report it to the authority. Where does one draw the line? Are there to be any guidelines as far as "a significant effect" is concerned, or is it to be left to the judgment of the department or the particular public servant who is handling the matter, whether a director of a department or someone else? How is the significant effect determined, and at what stage does a department receiving an application for planning, for example, decide that a matter should be referred? Does the responsible officer make a judgment that it should be referred, or are some guidelines laid down?

Hon. KAY HALLAHAN: Bulletin 38 of the Department of Conservation and Environment sets out the reason those applications will be referred to the authority. If a complaint is lodged, whether it will be referred to the EPA will be decided in accordance with bulletin 38.

Hon. G. E. MASTERS: I do not follow the Minister. I was referring to clause 38(1) which states that a proposal that appears likely, if implemented, to have a significant effect on the environment shall be referred in writing to the authority. I am not talking about the proposal being referred by any other person; I am talking about myself, as a developer, putting a proposal to a particular department. If my proposal has an effect on the environment, at what stage does the department concerned decide that it will have a significant effect on the environment and at what stage does it consider it should be referred to the EPA?

The Minister says that guidelines are set out by the Department of Conservation and Environment. Are these guidelines laid down? I do not understand at what stage a proposal will be referred to the EPA. Will it be up to the departmental head to decide that because there will be a significant effect on the environment, the proposal will be referred to the EPA?

Hon. KAY HALLAHAN: I would have thought Hon. Gordon Masters would have a greater insight into this matter, and that is the reason I did not expand on the guidelines laid down in bulletin 38. Those guidelines determine which authorities are in a position to judge whether the proposal will have a significant effect on the environment.

Hon. G. E. Masters: It is a working manual.

Hon. KAY HALLAHAN: The working manual gives the authorities a clue about whether they should refer different proposals to the EPA.

Consequent upon the passing of this Bill, the working manual will be reconsidered. It will be in a similar form to that which now exists. It appears to be a useful way in which authorities can determine whether proposals should be assessed by the EPA.

Hon. J. N. CALDWELL: I referred to this clause during the second reading debate and said that if a person did not have access to the Minister, in writing, we would be open to ridicule from the general public.

Hon. Gordon Masters asked where one draws the line in regard to this clause. If we pass this amendment guidelines will have to be drawn up because the amendment states, "who has a direct interest in, or is likely to be directly affected by, that proposal". Surely guidelines must be drawn up to show who are the people who have a direct interest in that particular point.

I suggest that the clause should not be amended. If it were left as outlined in the Bill we would be doing the right thing by the people who want this Bill passed.

Hon. C. J. BELL: The Minister has outlined that guidelines are laid down in a bulletin. My understanding is that those guidelines would be contrary to this legislation. The Bill states that any other person will have the capacity to refer a proposal to the authority.

I refer now to what took place in England. Controls were placed on the development of farm land and farmers were told that they were not able to clear the hedges surrounding their properties, which were an English tradition, and change the use of the land from pasture to cereal cropping. If an individual wanted to do that he would have to do it in a prescribed area.

Perhaps we will be faced with the prospect of the priority land use of the Leeuwin area changing from agricultural to tourism. If people did not want the aesthetics of the land to change, they would have the right to make representation to the authority under clause 38(1). That clause states that any person may cause a referral by writing to the authority. We cannot say that rules will be set up that will cut these people off at the pass. They will be told, 'Sorry boys, the Act states that, but we do not like what you are doing. It is not important and we will do it some other way."

Hon. G. E. MASTERS: I am not sure whether Hon. John Caldwell is supporting the amendment. It sounded as though he was opposing it.

We are talking about a proposal which will have a significant effect on the environment and which shall be referred in writing to the authority by a decision-making authority and may also be referred in writing to the authority by the proponent or any other person.

I will use as an example a farmer who may wish to change his farming practice from beef farming to pig farming. Under this legislation his proposal could be challenged by any person, and we have already discussed that. Surely it is reasonable to say that the challenge should be by any other person who has a direct interest in, or is likely to be directly affected by, the proposal. Surely members are not suggesting that a farmer at Bridgetown who wishes to change his farming practice can have a challenge mounted by someone who lives in Dalkeith or Floreat Park.

Hon. Kay Hallahan: Maybe his next door neighbour.

Hon. G. E. MASTERS: It could be his next door neighbour.

I am amazed that Hon. John Caldwell will oppose the amendment, which is reasonable and proper. If the right of challenge is left open to any person the Government will be open to any sort of class action that may be applied. It will enable people to challenge that farming practice. It is a perfectly reasonable proposal that people who are not involved in a proposal and who do not have a direct interest in it should not have any involvement. If we follow the environmental impact method of arriving at these assessments, we find there are areas where the Minister makes public the assessment and the public have an input.

That is the proper way to do it, not the way the Government is suggesting in clause 38(1) which refers to any person objecting at this stage. It is unreasonable, and I ask members to seriously consider the amendment, bearing in mind that there is plenty of opportunity for the public to become involved at a later stage.

Hon. KAY HALLAHAN: Suppose, for example, that some person intends changing his farm practice. It is likely that a neighbour will be aware of it and affected by it. That matter will not get to the EPA if it is not judged to have a significant effect. Even though it is true that a person can make a report, that report will be screened out in the same way as it now would be by the Department of Conservation and Environment if it is trivial or regarded as not having a significant effect. Also it must fit the guidelines set out in bulletin 38, which detail which things will have a significant effect. That also provides the method for determining whether a development will have a significant effect.

I would have expected people from the country particularly to be sensitive to this issue; and that if somebody embarks on a practice which will have a significant effect on the environment, people would endorse the EPA's looking into it. We are not talking about a minor change in farming practice; that would not get to the EPA. That is the role of the DCE as it now functions, and it will continue. It is a filtering process.

Another major point was referred to with regard to class actions. Clause 38 combines all the provisions set out under sections 54 to 56 of the present Act.

Hon. G. E. Masters: This adds more to it.

Hon. KAY HALLAHAN: It sets out procedures; it does not add a great deal.

Hon. G. E. Masters: It adds "any other person", and that is the area we are talking about.

Hon. KAY HALLAHAN: We do not need to worry about that too much. Currently no legislation exists in the entire nation whereby people can take class actions. That is one reality. The second is that on page 29, subclause 38(8) refers to a person who has been responsible for each proposal which has been referred or required to be referred, or which ought to be referred, under this proposed section.

Suppose the Minister or the department receives a number of complaints about a particular matter. There will be a referral to the EPA under the heading of one person, not a group of persons. This clause is thereby a buffer to poss-

ible class actions because it states that one person will be nominated for the concern to go forward. The other people will be notified that their concern has been received, noted, and the matter referred to the EPA. They will be informed that the matter is in hand, but they will not be sponsors of it. One name will be selected as sponsor, and that safeguards us against class actions, if that is what we want. The reality of this Bill is that it precludes class actions.

Hon. G. E. MASTERS: I have to disagree with the Minister on one point. She referred to the similarities between the proposal in clause 38 and the existing Act. I point out that there is a strengthening in the area of referrals, and the reference to any person being able to require the authority in writing to consider a certain matter will have a significant effect. For that reason we should stick to our amendment.

I am sure Hon. Sandy Lewis will make a contribution on this point, and I feel strongly that we should not lose sight of that matter.

The existing legislation has worked effectively in the past with no difficulty, and I have not heard complaints about environmental protection procedures. We were fortunate to have Mr Carbon and Mr Colin Sanders at a briefing arranged by the Minister in another place. It was pointed out that the procedures outlined in the legislation to obtain and develop an environmental impact assessment are very similar to those which exist under the current Act, but that they will be strengthened in certain areas. If the proposals are similar to those adopted in the past, why do we have to consider strengthening them and take the risk that some person with malice or for some other reason may seek to prevent a development which would be in the best interests of the community? That could allow the environmental impact assessment procedure to go around and around with objections and the like to the stage at which people would be totally frustrated. The existing procedure works effectively, and I do not think there should be further complication of a successful operation.

Hon. A. A. LEWIS: The Minister moves on to subclause (6), which has nothing to do with subclause (1).

Hon. Kay Hallahan: It has everything to do with class actions, and they have been raised twice.

Hon. A. A. LEWIS: With due deference, I disagree with the Minister. In this amendment I have referred to a person with a direct interest in, or who is likely to be directly affected by, a proposal. Some of the answers given in the other place are absolutely ridiculous. I just want to prevent any person from being able to go to the authority, however good it is. The cat is out of the bag then, is it not? If somebody from the Conservation Council goes to the EPA and makes a recommendation about the clearfelling of an area in the Pemberton region, will the EPA be able to wipe him off absolutely and completely and say that it does not think his recommendation is justified?

Hon. Kay Hallahan: Yes. That is its job.

Hon. A. A. LEWIS: The Minister has earlier had the EPA instructing CALM as to how the Lands and Forest Commission and the National Parks and Nature Conservation Authority should handle land; and she is now saying that any person can be wiped off by the authority on something as important as that. We have to get our priorities right.

I ask the Government to consider including this amendment so that we can protect those managerial departments from being unnecessarily harassed. If the Minister and the Government want to harass managerial departments, they can, but let it be stated here and now that unless the Government includes this amendment, it will be harassing those departments and allowing conditions which will make it impossible to manage our fine parks, timber reserves, and timber industry.

I estimated the other day that interference would probably cost Bunnings approximately $500 000 a year. I do not have any shares in Bunnings, but if anybody has, they should prick up their ears.

A Government member interjected.

Hon. A. A. LEWIS: I thought somebody on the frontbench said he sold his shares in Bunnings after he saw the Bill. I would do so too, if this legislation was going to go through.

I believe the Minister should give better reasons than she has given. I refer to that "any other person" and the amendment that we put on the Notice Paper. We should not roam all around the place. Clause 38(1)(b)(ii) could be the lead-in to a class action. It is not a class action, but it is a class action type of referral. It is all right for the Minister to shake her head, but she should read the clause. I implore her to read it for herself, and then to tell me whether society has the protection, under this Bill, that prevents that clause being a lead-in to a class action.

Hon. G. E. MASTERS: I am becoming concerned about the attitude of the Minister. A number of quite reasonable amendments have been put forward, and the Opposition would have expected the Minister to reject some of them; but it appears she is simply pursuing a course of action whereby she will not accept any at all, nor even consider them remotely.

This is a genuine and very important amendment, yet it appears the Minister is simply not prepared to debate once we get to a stage where she says, "I have told you enough and that is all there is to it." I think it is one of the worst examples of the lack of concern by a Minister in charge of a Bill in this Chamber. This is a very important and complicated Bill about which, for one reason or another, she may have orders to say there will be no changes whatsoever, no matter how good or responsible are the arguments put forward, and regardless of whether the legislation is all correct or partly wrong.

We have in recent times brought forward some amendments to other Bills that have proved to be correct. I urge the Minister to consider very seriously at least some of the large number of amendments we have put forward. If she has orders to refuse to accept any amendments at all, she might tell us now so that we can simply stand up and make our points. The Minister does not need to speak at all, if that is the case. I have not seen a Bill handled like this for a long time, and I urge the Minister to give us an answer.

Hon. J. M. Brown interjected.

Hon. G. E. MASTERS: I would never sit in my seat like that and not answer what are very genuine amendments. I challenge members opposite to give me one example of where I have been as unreasonable as this Minister in that regard.

Hon. J. M. Brown interjected.

Hon. G. E. MASTERS: I handled that very responsibly. Mr Chairman, I ask you whether the Minister should indicate whether she is prepared to consider any of our amendments. We will debate them in any event. Earlier, Hon. John Caldwell commented that there are 50 to 70 amendments on the Notice Paper, and that if the Liberal Party were genuine in following through those amendments it might as well have defeated the Bill at the second reading stage. Hon. John Caldwell has not been here for very long, and I draw his attention to the workers' compensation Bill which passed through this Chamber some time ago. I personally handled the Bill in a most reasonable way. Some 70 or 80 amendments were put forward, and I think I accepted 40 or 50 of them from the Opposition of the day, which was the Labor Party.

Hon. Kay Hallahan: Because they knew more about it, I suppose. They had a bit more expertise in the area, wouldn't you say?

Hon. G. E. MASTERS: I would accept that Hon. Howard Olney certainly had a very good knowledge of the legislation, but I put it to the Minister that Hon. Sandy Lewis has a very good knowledge of the environment.

Hon. Kay Hallahan: What about you?

Hon. G. E. MASTERS: I was coming to me. But certainly Hon. Sandy Lewis was not a Minister. I know a great deal about this legislation.

Some fair and reasonable amendments have been put forward, and the Government should consider them. We are not making much progress simply because of the intransigence of the Minister. She should consider this amendment very carefully, because it is one about which she could well say, "Fair enough, it is an amendment I will accept."

Hon. KAY HALLAHAN: The fact is that this amendment is strongly opposed by the Government—not moderately opposed, but strongly opposed. I want to make that quite clear. The reason for that is that one of the main thrusts of the Bill is to open up the whole question of environmental issues being debated in a reasonable way in the community, with people who have a genuine concern being able to make a complaint. It does happen under the current Bill. I hate to get back to the definition of pollution about which Hon. Sandy Lewis and I disagreed earlier, but that definition of pollution included the "detrimental degradation of the environment". Basically that is what occurs now.

I also say to Hon. Gordon Masters it is most unlikely that he would ever have seen a Bill handled as this Bill is being handled tonight because I am a new Minister in the position, and everyone has a unique way of handling Bills. We all expect it to be quite a different experience.

In addition, I resent the accusation that I have not answered seriously the amendments put forward. I have answered nearly every conceivable point, and I want it recorded in *Hansard* that I strongly resent the words of the Leader of the Opposition in this Chamber. I make that point particularly in relation to this clause because I did leap forward—and was

accused of leaping forward—to subclause (6) of this clause to make clear to members that class action was not possible. The reason I did that was that class action was referred to on two or three occasions by some members. It is included in this clause, so I leapt forward and explained, and was then accused of not giving enough information. I think that is quite a ridiculous accusation.

Hon. G. E. Masters: You should take the smile off your face—this is a serious matter.

Hon. KAY HALLAHAN: I think it is serious, too. The Leader of the Opposition's method of conducting himself in contributing to the debate on the Bill is a bit ludicrous. He may think I am ludicrous, but I think his position is ludicrous. Very serious consideration has been given to the amendments put forward. The reason the Government is being fairly clear-minded about what it wants to see in this Bill is, I repeat, that a large amount of consultation has taken place, a number of amendments were accepted in the other place, and we have very good reasons for the balance achieved in this Bill and for wanting to maintain that balance within the Bill.

I will be pleased to continue as I have been to answer the concerns expressed by members in the continued debate in this Committee.

Hon. A. A. LEWIS: I do not doubt that the Government engaged in a certain amount of consultation.

Hon. Kay Hallahan: There was a lot of consultation.

Hon. A. A. LEWIS: That is a judgment for the Minister to make, but I have the list of the people the Government consulted and I know some other bodies the Government did not list but with which it did consult. Nevertheless what fascinates me is that because of the way the Government is racing this Bill through—

Several members interjected.

Hon. A. A. LEWIS: Government members seem to think it is humorous that the Opposition's amendments, circulated to a lot of the people the Minister claims have been consulted, are amendments which those people had only one clear day to consider. Is that fair and equitable? Something is wrong if Government members think that is consultation.

The Opposition made a concerted attempt to consider this Bill and started drafting amendments to it up to a fortnight before it came to this Chamber and before it managed to get a final draft.

The Government cannot complain that it has not had a good deal of cooperation with respect to these amendments, because they were forwarded to the office of the Minister responsible for the Bill who I assume passed them on to the office of the Minister handling the Bill in this Chamber. She had the amendments as soon as we framed them. It is an insult for Government members to interject as they have. It is an appropriate time for the Minister to consider how well we have progressed. I have made every endeavour to help progress the Bill through the Chamber and at this time of the night we do not want any yahoo to upset all the good work.

Several members interjected.

The CHAIRMAN: Order! It is very near midnight and we have a long way to go. If honourable members leave Hon. Sandy Lewis to get on with his speech we might get there a lot quicker.

Hon. A. A. LEWIS: The Minister left the amendment to go on and explain why there would be no class action. Clause 6 refers to a person being responsible for a project; it does not say anything about who can submit referrals. The Minister can decide, after consulting the authority, who can submit a proposal, but he cannot under subclause (1) prevent any other person submitting a referral. Subclause (1) has nothing to do with clause 6. It stands on its own.

Secondly, if a town planning proposal is going through and the Planning Commission accepts it and sends it back to the local authority and then someone reads the local authority's minutes and refers the proposal to the EPA, does the EPA have the power to decide whether the proposal can continue? The Bill appears to give the EPA the power to do so.

Hon. C. J. BELL: Quite clearly subclause (1) provides that a proposal which might have a significant effect on the environment shall be referred to the authority by a decision-making authority or may be referred by the proponent or any other person. Subclause (2) provides that the Minister may refer the proposal to the authority. Subclause (3) provides that the authority shall, if necessary, require a decision-making authority or the proponent to refer the proposal to the authority. The clause then provides what the authority shall do if other people have made reference to the authority. It is quite clear that any other person can trigger that action, on any ground. That is our argument. The Minister tried to say that clause 6

had something to do with that first action, but it has absolutely nothing to do with it. It does not apply.

Hon. KAY HALLAHAN: I agree with Hon. Sandy Lewis that the clause stands on its own. But we then have the dilemma raised by Hon. Gordon Masters and Hon. Sandy Lewis of a referral being made by any other person, and this relates to class actions. That is why I referred to clause 6. The two are not linked until we get to class actions when we look at "any other person". Then we start to see that that leads us into the possibility of class actions. This is when clause 6 becomes relevant.

Only one person can make a referral. A group of people is precluded from making a referral under this Bill.

Hon. A. A. Lewis: That is why it is not a class action.

Hon. KAY HALLAHAN: That is right. I agree with Hon. Sandy Lewis that the clause stands on its own. It is in the Bill because we want to open up environmental issues. People can make reference to the EPA. The Department of Conservation and Environment will continue its role of filtering and expediting, and the EPA, after a matter has been referred to it and it has made a decision that a proposal could have a significant effect on the environment, will do an assessment and provide advice to the Minister.

It really is fairly logical. I have some difficulty grasping the concern that has been expressed. I do not want to appear short-tempered in any way, and I am happy to explain anything which seems obscure.

Hon. A. A. LEWIS: I thank the Minister; I know she is genuine, but she has to realise that we are, too.

Hon. Kay Hallahan: I accept that.

Hon. A. A. LEWIS: In my comments originally I said it was a foot in the door for a class-type action. It allows people who have very little if anything to do with a proposal to take action. It would be like my interfering with a matter in Hon. Tom Stephens' electorate, for example Bungle Bungle, and complaining about the management plan and referring it to the EPA. I would be fairly hurt if the EPA wiped me off and said, "You know nothing about it and you should not be making a reference; we will take no notice of you." I think that is what the Minister is trying to tell us the EPA would say. What would it say to Dr Francis Smith who has great knowledge of national parks and such matters? I do not think the EPA or the Minister will be able to wipe off people quite as easily as the Minister thinks.

My amendment would help the Minister by allowing only those people who are directly affected by a proposition to be involved. I urge the Minister to reconsider and to accept the amendment because it will save successive Governments a great deal of trouble. We should not go past this clause without accepting some proviso as to who is allowed to go to the authority, and thus to the Minister. The term "any other person" by itself is far too wide. We have to put some qualifications into the Bill.

Hon. C. J. BELL: I would like to draw an illustration of an action being taken by a person who is not happy with the aesthetics of a developmental proposal. That person has the undoubted right to refer a complaint to the authority. A person who is prepared to take that action would not be happy to be told he did not fit the guidelines. The Bill says he is entitled to refer it to the authority, and that person would be entitled to think that meant that the board of the authority would make a decision.

That could cause a substantial delay even though the authority may say it is an insignificant matter and dismiss the reference. Nevertheless, there is a substantial and improper inconvenience in that sort of reference. That is why Hon. Sandy Lewis' proposal defines more clearly the people who ought to be able to make a reference.

The Minister spoke earlier of next door neighbours who are probably the most directly concerned if someone plans to do something detrimental. The next door neighbour has a vested interest because he is directly affected. This catch-all phrase "any other person" causes me great concern. I ask the Minister to say how that person cannot get a reference considered and insist upon it being considered by the authority.

Hon. KAY HALLAHAN: In relation to the point about Bungle Bungle, if the concern was judged to be frivolous the matter would not go forward for further assessment by the EPA. That is what the Department of Conservation and Environment is involved in most of the time. This clause will not cause the department much more heartache in dealing with inquiries from the public than it does now. Part of its job now is to filter and expedite.

In regard to the point raised by Hon. Colin Bell, the matter would have to be determined to have a significant effect on the environment. It may be of great concern to him, but other

people have a right to live and do what they want in the community. As far as the guidelines are concerned the point he raised does not constitute a significant effect. A person would be counselled that his complaint did not constitute a significant effect, and that is part of the work of the Department of Conservation and Environment. I am told that a lot of its time is taken up in providing environmental advice to the community, much of it in relation to pollution matters.

Members of the Opposition want to narrow down the number of people who can make a complaint or express a concern. That is where we are philosophically opposed; we as a Government want to open that up. The amendment would screen out many people who have a great deal of expertise but no real interest in the matter. We are saying that a person who has a concern has a right to express it. Mechanisms are laid down which help the department to deal with the matter and advise where it regards a matter as having a significant effect on the environment. If it does not have such an effect, no-one can take the matter further. If it does, it goes to the EPA for assessment.

Hon. A. A. LEWIS: Most problems are caused by my reading of the member for Welshpool's speech in another place. He referred to the Vasse Highway at Pemberton and the cutting of trees along that stretch of highway. The local government authority held consultations with the department and everybody else involved in that matter and the Minister made a complete ass of himself by going public without knowing the facts. The number of trees to be cut down was decreased from 132 to 12. The member for Welshpool implied in his speech that that matter could have been referred to the EPA. Nobody in the other place denied it and he was allowed to get away with it. I believe that the Chamber should accept my amendment.

Amendment put and a division taken with the following result—

Ayes 11

Hon. C. J. Bell	Hon. N. F. Moore
Hon. Max Evans	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. A. A. Lewis	Hon. D. J. Wordsworth
Hon. P. H. Lockyer	Hon. Margaret McAleer
Hon. G. E. Masters	*(Teller)*

Noes 16

Hon. J. M. Berinson	Hon. Tom Helm
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. T. G. Butler	Hon. B. L. Jones
Hon. J. N. Caldwell	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. H. W. Gayfer	Hon. Doug Wenn
Hon. Kay Hallahan	Hon. Fred McKenzie *(Teller)*

Pairs

Ayes	Noes
Hon. W. N. Stretch	Hon. D. K. Dans
Hon. John Williams	Hon. John Halden
Hon. Tom McNeil	Hon. Mark Nevill

Amendment thus negatived.

Clause put and passed.

Clause 39: Authority to keep public records of all proposals referred to it—

Hon. A. A. LEWIS: I believe this clause goes too far. I wonder whether any register should be agreed to by the Chamber. The more that is kept on public record the more problems will have to be faced. Why does the Government need these records? I believe this is an extremely wide proposal and numerous bodies agree with me in that claim.

Hon. KAY HALLAHAN: This is a very important clause. This Bill is committed to opening up procedures of the EPA to public scrutiny. People are given information over the phone by the authority already. This clause formalises that practice but requires the authority to keep records of all the proposals referred to.

The Government believes that it is a desirable clause and that it will lead to a desirable practice. The Government is against the deletion of this clause.

Clause put and passed.

Clause 40: Assessment of proposals referred—

Hon. A. A. LEWIS: I move an amendment—

Page 31, after line 13—To insert the following paragraph—

(aa) consult such public authorities and persons as appear to the Authority to be likely to be affected by the Authority's assessment of that proposal;

My amendment is self-explanatory and has been requested by the Local Government Association and the Country Shire Councils' Association.

Hon. KAY HALLAHAN: It is the position of the Government that consultation is in place in the Bill before the Chamber, and for that reason it believes that this amendment is not necessary.

Hon. A. A. Lewis: Would the Minister advise me where that consultation process is outlined in the Bill?

Hon. KAY HALLAHAN: My advice is that the procedure is already implied and that it will form part of the administrative procedures of the legislation. The Bill implies that there will be public advertising. The Government believes that it is already covered in the Bill.

Hon. A. A. LEWIS: I disagree with the Minister. I am talking about consultation with the persons who appear to the authority to be likely to be affected by the authority's assessment of that proposal. For the purpose of assessing a proposal, one does not advertise.

The amendment will ensure that the authority consults with public authorities and persons who appear to the authority to be likely to be affected by the authority's assessment of that proposal. In other words, it is giving it wide discretionary powers to enable it to go to local authorities and to people within local authorities to decide the outcome of the proposal.

I refer again to Hon. John Caldwell's example. If he forwards a proposal to a department he should have an input into the assessment of that proposal.

I believe my amendment is a fair one, and I would like the Minister to advise in what part of the Bill this is covered because I do not think it is.

Hon. KAY HALLAHAN: It is implied in line 15, page 32, of the Bill wherein it states, "When the Authority causes any information or report to be made available for public review . . ." It is implied throughout the Bill that the necessary information will be made available to the public; and as I have mentioned it is contained also in subclause (6).

Hon. A. A. LEWIS: Subclause (6) states, "When the Authority causes any information or report to be made available for public review under subsection (4) . . ." Subclause (2) states, "The Authority may, for the purpose of assessing a proposal under subsection (1) (b) . . ."

Subclause (6) has absolutely nothing to do with my amendment. It refers to a report being made available for public review. Copies of the report are made available by the authority and it advises what can and cannot be done in regard to assessing a proposal.

Where in the Bill does it require the authority to consult with public authorities and people who are likely to be affected by the authority's assessment of a proposal? I cannot find it anywhere in the Bill, and that is the reason I have moved the amendment. The Minister should not say that it is covered in the Bill. I am referring to the assessment of a proposal.

Hon. KAY HALLAHAN: It is often the practice of the authority to advertise procedures which are taking place. It will be covered by the administrative regulations which are implicit within the function of this Bill. All people involved will be informed of matters that are relevant to them. It permeates throughout the Bill.

I do not know whether it would make the honourable member happy if it was outlined in every clause, but it is not necessary.

Hon. A. A. LEWIS: Advertising and the other things mentioned by the Minister have nothing to do with subclause (2). Clause 40(2) states—

> (2) The Authority may, for the purposes of assessing a proposal under subsection (1)(b)—
>
> (a) require any person to provide it with such information as is specified in that requirement;
>
> (b) require the proponent to undertake an environmental review and to report thereon to the Authority; or
>
> (c) with the approval of the Minister and subject to section 42, conduct a public inquiry in such manner as it sees fit or appoint a committee consisting of—
>
> (i) Authority members;
>
> (ii) Authority members and persons other than Authority members; or
>
> (iii) persons other than Authority members,
>
> to conduct a public inquiry and report to the Authority on its findings on the public inquiry,
>
> or take any 2 or all 3 of the courses of action set out in paragraphs (a) to (c) and may make such other investigations and inquiries as it thinks fit.

The Opposition is asking the Government to consult with public authorities and persons who will be affected by the authority's assessment of a proposal. Paragraph (c) of subclause (2) provides for the setting up of a public in-

quiry. The process will be short-circuited if the authority goes to a public authority or to certain persons with the knowledge that a proponent has to undertake an environmental review.

All we are trying to do is make it easier for the authority to get an answer, so that it can consult. We can have all the directions in the world, but they will not be useful if we have none of the consultation. If the Government knocks back this amendment, there is something queer in the State of Denmark, because this amendment would speed up the process. It would make the authority's goal easier, and it would make the Minister's job easier. There are no devious connections in it. Anyone who reads the amendment can see that it is designed to help the Minister and the authority carry out their duties. I wish the Minister could tell me where this is catered for elsewhere in the Bill, because so far we have not been told.

Hon. KAY HALLAHAN: I detect a sense of frustration in the words of Hon. Sandy Lewis. The procedure he wants is implied in the practices. We can give an undertaking that the procedure will appear in the administrative procedures which do precisely what the honourable member wants without unnecessary duplication in the Bill. What he wants is already implied within the practices of the authority. When the administrative procedures are drawn up, we can certainly ensure that they include his suggestion, clearly spelt out along the lines of his amendment.

Hon. A. A. LEWIS: That sounds fair enough, but is it fair? Everything else in the assessment is laid down in the Bill. Why do we not leave the setting up of those committees as provided in clause 40(2)(c) to the administrative procedures? Why does the Government want to put this amendment in the administrative procedures? Why would it not put clause 40(2)(b)—the requirement that the component undertake an environmental review and to report thereon to the authority—in the administrative procedures rather than the legislation? The course the Minister is taking is the wrong course. I know that Ministers do not like to accept amendments, but this amendment is a very plain, sensible amendment.

I thank the Minister for her assurance that the terms of the amendment will go into the working arrangements, which I presume will be tabled in the House so that we can disallow them if they are not good enough. I am extremely worried that a portion of the assessment procedures have been put in the Bill, while others have been put into regulations. I cannot understand the reason for it.

Hon. KAY HALLAHAN: With respect to administrative procedures, I refer the honourable member to clause 122. The administrative procedures that I have referred to in responding to the honourable member set out how the authority examines referred proposals. The member's amendment would fit very comfortably within those administrative procedures. I am prepared to give an undertaking to see that the amendment is included under those administrative procedures, where they will fit well with the role that is set down for the procedures.

Hon. A. A. Lewis: I am to assume that they were not there before?

Hon. KAY HALLAHAN: The administrative procedures will be drawn up consequent upon the passing of this Bill. The honourable member will be in a box seat to get the terms of his amendment included.

Hon. A. A. LEWIS: I thank the Minister for putting me in the box seat. I thought that I had probably been in the hot seat all night, but I will accept her assurance. I believe that the provision set out in my amendment should have gone into this clause. I leave it at that.

Amendment put and negatived.

Hon. A. A. LEWIS: I move an amendment—

> Page 32, lines 5 to 10—To delete the lines and substitute the following—
>
> (5) If—
>
> (a) any information referred to in subsection (4)(a); or
>
> (b) any report referred to in subsection (4)(b), contains any confidential information.

The amendment is self-explanatory. If the amendment were adopted, clause 40(5) would read better than at present.

Hon. KAY HALLAHAN: The amendment is not accepted, on the ground that the present wording of subclause (5) adequately covers what it is intended that the amendment cover. The clause with respect to confidentiality of matters referred to the EPA was amended in the lower House at the request of the Confederation of Western Australian Industry, and the confederation is satisfied with the amendment. That group would be one of the groups that would be most analytical about this provision. Because the subclause adequately covers the situation, I ask the Committee not to accept the amendment before it.

Hon. A. A. LEWIS: It appears that the Chamber of Mines wants this further amendment. Just because it was altered in the other place does not mean that it is right. The Minister should give a further explanation of why the wording is not acceptable.

Hon. KAY HALLAHAN: The issue of confidentiality is a matter of concern. We can both quote bodies which are or are not satisfied with subclause (5), but I am advised that significant bodies are satisfied with it. For that reason, it would seem unnecessary for this Chamber to amend a provision that has already been amended to accommodate the concerns expressed by the honourable member. I am not saying that because the amendment was made in the lower House, that makes it right.

I am simply saying the matter has been given attention and has been adequately covered. That is why I am suggesting we do not amend it further.

Amendment put and negatived.

Clause put and passed.

Clause 41: Decision-making authority to await authorization by Minister—

Hon. A. A. LEWIS: I move an amendment—

Page 33, line 18—To insert before "shall" the following—

> may make a decision that could have the effect of preventing the proposal from being, or not allowing the proposal to be, implemented, and where it does so, shall cause notice in writing of that decision to be given to the Authority, but

The amendment is self-explanatory, and obviously the Government will not accept it. However, I believe it is better wording and I will push it no further.

Hon. KAY HALLAHAN: With due deference to Hon. Sandy Lewis, I am advised that the Parliamentary Counsel considers that this amendment could be very confusing and he cannot see how it adds to anything already in this clause. For this reason the Government suggests that the amendment not be supported.

Amendment put and negatived.

Further consideration of clause 41, and consideration of clauses 42 to 99 postponed, on motion by Hon. A. A. Lewis.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon. Kay Hallahan (Minister for Community Services).

(Continued on page 4708.)

WESTERN AUSTRALIAN EXIM CORPORATION BILL

Receipt and First Reading

Bill introduced, on motion by Hon. J. M. Berinson (Attorney General), and read a first time.

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [12.50 a.m.]: I move—

That the Bill be now read a second time.

This Bill is an important piece of legislation for three reasons. It continues the rationalisation of Government services to which this Government is committed, extends the concept of combining public and private sector business approaches for the State's benefit, and brings the operations of a Government-owned public company under parliamentary scrutiny.

The rationalisation of Government services will come about through the amalgamation of the operations of the Western Australian Overseas Projects Authority and Exim Corporation Ltd. The amalgamation will reduce the overlap which has developed between their activities, achieve economies of scale in their operations, and reduce the costs associated with two administrative structures. The Government is committed to structural change and improvement in the Public Service, and rationalisation programmes like this one are an integral part of that process.

The second important aspect of this legislation is the further development of the Government's commitment to applying private sector skills and procedures to the public sector. The success of the Western Australian Development Corporation has demonstrated how well the private-sector approach can generate revenue for the taxpayers without imposing any burden on the private sector.

This Bill creates a new corporation which will have its primary emphasis on trade, whether in goods, services, or increased investment. The new corporation will incorporate the assets, obligations, and activities of the bodies which it amalgamates. While being owned by the Government, the corporation will have its own board of directors who will have a duty to run the corporation along commercial lines. The overall objectives of the corporation will

be the development of the State and an increase in economic activity, primarily through an expansion in the international trade in goods, services, and the facilitation of investment in the State.

As a marketing corporation the new organisation will have the financial powers necessary to assist in its activities. It will be able to raise its own finance, enter into joint venture and subsidiary arrangements, act as an agent, and cooperate in the provision of technical and advisory services. The corporation will complement existing marketing companies, concentrating on these activities where it can utilise the Government connection to establish trading opportunities.

The corporation will aim to maximise the opportunities for Western Australian involvement and be able to offer performance guarantees which will assist in the establishment of new trading opportunities.

Importantly, the new corporation will not displace private enterprise or compete with the commercial sector on an unequal footing. The corporation will be required to pay all Government taxes, fees, and charges. Both income tax and sales tax will be levied, but as a State corporation these will be paid into Consolidated Revenue rather than to the Commonwealth Government. The legislation requires the board of directors to pay dividends on profits following consultation with the Treasurer.

The third significant aspect of this legislation is the increase in public accountability which will take place. At present Exim Corporation Limited is set up as a public company, and although the shares are held on behalf of the State, the company has a prime responsibility to its shareholders and not to Parliament.

Under this legislation, the new corporation will be brought under parliamentary control and scrutiny. The corporation will be subject to the Financial Administration and Audit Act, and its affairs will require reports to Parliament by the Auditor General. The corporation will be subject to ministerial direction and to financial constraints imposed by the Treasurer. There have been views expressed in this Parliament by members who believe such constraints and requirements are necessary. This legislation directly addresses those views.

Turning now to the provisions of the Bill, the objective is clearly set out in clause 5 whereby the corporation is empowered to promote development of the State and facilitate economic expansion, particularly through overseas trade. The corporation will continue the activities of the organisations it replaces, following review and appropriate rationalisation.

The detailed functions of the corporation are set out in clause 5(4). These emphasise provision of financial resources, encouragement of economic expansion, and provision of professional services to overseas projects.

The activities of the Western Australian Overseas Project Authority are continued with provision for the transfer of all assets, liabilities, rights, and obligations to the new corporation. Under a transfer scheme to be approved by the Treasurer—clause 7—the operations, assets, and liabilities of WA Exim Corporation Ltd are to be taken over by the corporation.

In the exercise of its functions, the corporation will have normal commercial powers—clause 9. These are necessary to enable the corporation to operate in a highly competitive overseas market and to give it the flexibility to adapt to future change. To ensure that the corporation does not compete unfairly with existing marketing organisations, the corporation shall pay all local government rates and charges and all taxes, fees, and charges imposed by the Government—clause 9(2).

The board of directors—clause 10—will include the corporation's managing director and will have the power to delegate authority and appoint committees. The employees of the Western Australian Overseas Projects Authority and Exim Corporation Ltd will become employees of the new corporation immediately on proclamation, on the same terms and conditions as those existing previously. The transitional arrangements protect the employees' rights and continuity of employment.

Should the corporation wish to employ expertise from the Public Service, such as on overseas technical service projects, the employer is to be reimbursed at commercial rates for such service. This ensures that the important principle of commercial neutrality inherent in the legislation is maintained.

As mentioned earlier, the corporation will be subject to the provisions of the Financial Administration and Audit Act 1985—clause 18. However, many of the provisions in that Act are designed for State Government departments and hence the number of provisions applying to the corporation have been reduced. This will ensure it is not burdened with administrative expenses which would make it difficult to compete with the private sector.

Nonetheless, although the provisions have been reduced, the corporation will still be subject to scrutiny by the Auditor General and a report on its activities will be presented to Parliament.

Payment of income tax is covered in clause 21. Tax is to be assessed using the normal income tax provisions, but will be payable to the State rather than the Commonwealth.

For profits made by the corporation, the board is instructed to pay a dividend—clause 22—following consultation with the Treasurer.

Moneys borrowed by the corporation—clause 25—are subject to a limit imposed in the legislation as well as any other limits set by the Treasurer. The Treasurer's limit is necessary to ensure the State meets its obligations under the Commonwealth Loan Council.

Clause 26 permits the corporation to offer financial guarantees within a prescribed aggregate limit.

The State may also guarantee the performance by the corporation where this will assist its business operation. Such guarantee is a charge on the corporation's assets—clause 27—and provision is made for the charging of a fee to be paid by the corporation to the Consolidated Revenue Fund.

The corporation is to have an authorised capital of $30 million—clause 30—although initially only $7 million is to be issued and taken up by the State. Dividends on the issued capital are to be paid in accordance with commercial practice—clause 30(11). The board is responsible for the management of the corporation and is expected to operate like a public company. To reinforce the commercial nature of the corporation, the provisions of the Companies Code covering the duties, liabilities, and offences for directors and employees are detailed in the legislation—Part V.

Regulation-making powers—clause 38—are necessary to cover the prescribed dates in the Bill and to ensure that all written laws can be applied to the directors and staff of the corporation.

Clauses 39, 40, and 41 cover the arrangements for transfer of the Western Australian Overseas Projects Authority and Exim Corporation Ltd to the new corporation, while clause 43 provides for a review of this legislation in five years.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Max Evans.

ACTS AMENDMENT (PENALTIES FOR CONTEMPT OF COURT) BILL

Returned

Bill returned from the Assembly without amendment.

ENVIRONMENTAL PROTECTION BILL

In Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon. Robert Hetherington) in the Chair; Hon. Kay Hallahan (Minister for Community Services) in charge of the Bill.

Progress was reported after further consideration of clause 41, and consideration of clauses 42 to 99 was postponed.

Clause 100: Lodging of appeals in respect of levels of assessment of, and reports on, proposals and conditions or procedures attached thereto—

Hon. A. A. LEWIS: Mr Deputy Chairman, if you and the Minister concur, the quickest way to handle this would be to call clauses 100 to 110 the appeal provisions of the Bill and deal with them cognately. If we start playing around and amending some parts of a clause, it will greatly affect other parts of the appeal provisions. We have written the whole of the appeal provisions into our amendment. I seek your guidance and the Minister's concurrence in handling it that way.

The DEPUTY CHAIRMAN: I suggest to the committee that we vote on clause 100. If the clause is defeated, the member should move his subsequent amendments; if it is not defeated, there is little point in his moving the subsequent amendments, and that we debate all the clauses simultaneously.

Hon. A. A. LEWIS: I know the Minister in another place suggested that the method used for appeals under this Bill should be those of the Town Planning Appeal Tribunal system. Together with the fact that the Law Society of Western Australia has suggested to the Opposition that the appeal provisions do not fit in with the guidelines for appeal provisions set out by the Law Society we decided on the rather large job of totally rewriting the appeal provisions of this Bill. We have done so, and believe that ours is a far better method of handling appeals than that presently in the Bill.

We suggest that members support both the Law Society and the Minister himself, because the Minister in another place made several references to the need for an appeal provision

such as that set up under the Town Planning Appeal Tribunal.

The Law Society's letter of yesterday's date, which I made available to the Minister last evening, points out that the Law Society believed this was a far better system than the one presently in the Bill. I do not think I need to read out the entire letter for the sake of the Committee, because I am debating this with the Minister and she has seen it. However, I believe the Chamber should consider and adopt the new appeal system.

The key parts of the letter from the Law Society read as follows—

> The Minister for the Environment and the EPA should, if they are honest, find considerable merit in the proposed Amendment so far as it relates to appeals considering:
>
> 1. The Minister for the Environment and the EPA officers on a number of occasions have asserted that they initially had preferred the idea of the appeals under the Environmental legislation being to the Town Planning Appeal Tribunal. They claim that they abandoned that idea because with the current review of the planning legislation, there was some doubt as to the form the Town Planning Appeal Tribunal would take after the completion of the Review. The proposed amendments to the appeal provisions overcome those problems by avoiding the naming of the Town Planning Appeal Tribunal as the alternative appeals body under the Environmental legislation, but nevertheless defining the constitution and procedures of the proposed Environmental Protection Appeal Tribunal in terms sufficiently similar to the Town Planning Appeal Tribunal to enable the latter Tribunal to perform the function of the former to the extent desired.
> 2. Another merit of the proposed Amendment is that it retains almost intact the provisions of the Bill for the Ministerial appeal option.

I will not read any more. I believe the Committee understands what the Opposition is trying to do, and that if the Government is dinkum on this subject it should accept these amendments on appeals, and we should then be able to bring debate on this long and protracted Bill to a speedy conclusion.

Hon. KAY HALLAHAN: This is a pretty critical part of the Bill, and I think we have been wise to move forward to debate clause 100. The Government is strongly of the opinion that the Bill ought to stand as printed.

The reason is that in establishing this Bill we are hoping to allow greater public participation; and the whole Bill sets out procedures for that. The last thing we want to add to these procedures is a judicial system. I thought that earlier in the debate Hon. Sandy Lewis and Hon. Vic Ferry were saying that at all costs they did not want to see an environmental court established, but my concern is that the amendment would provide precisely that. If that were the case we would see escalating costs and inordinate time delays, the result of an adversarial structure being placed in the Bill, when what we are hoping for is to have appeals against the Minister's decision handled perhaps by way of using an existing system such as the Town Planning Appeals Tribunal.

Were that tribunal to be overloaded with its own work, the Minister would be obliged to set up an appeals system. Nevertheless he is hoping to avoid that and hoping to use an existing appeal system. In this way we could use a structure already in place, which would be an economical move. It would be a far less costly business than setting up an environmental appeals tribunal, as proposed in the amendment.

The other interesting point is that I am advised that the Confederation of Western Australian Industry and the Chamber of Mines of WA are concerned about the amendment because the last thing they want is to be bogged down in a judicial process. We would all be aware that the judicial process involves an adversarial situation, which is the last thing that town planners and proponents want to be bedevilled by.

I ask members to support the clause as it is printed and to defeat the amendment.

Hon. A. A. LEWIS: All night I have heard the Minister telling us how the Government has weighed up the balance of the proposals. When I have suggested that the Confederation of Western Australian Industry and the Chamber of Mines of WA approved of certain amendments, she has said that the Government has had to weigh up the balance. That is exactly what the Opposition did with this appeals tribunal.

The Minister spoke about the cost of setting up an environmental appeals tribunal, but what about the cost to a proponent if his proposal is delayed? The Minister is talking about the cost to Government departments.

Hon. Kay Hallahan: The cost to everyone involved.

Hon. A. A. LEWIS: I disagree. Does she really believe that in the town planning field the Town Planning Appeals Tribunal is a costly mechanism.

Hon. Kay Hallahan: I haven't said that.

Hon. A. A. LEWIS: So the Minister accepts that it is a reasonable avenue of appeal. Why then would an environmental appeals tribunal not be a reasonable avenue of appeal? Why should it be a great cost when the Minister admits that the Town Planning Appeals Tribunal is not? Town planning appeals go about 17:1 to the Minister rather than the tribunal. I cannot see where a huge cost would result with an environmental tribunal.

Hon. KAY HALLAHAN: I reiterate that the Government is seeking to avoid a complex mechanism. I would move with some caution on a proposal from the Law Society, mainly because it would involve a certain amount of vested interest on its part, something which all those experienced in these matters realise involves fairly complex and very expensive procedures—in terms of time and money—for people who get caught up in the process. That is just not my opinion and experience; it is also the experience of bodies like the Confederation of Western Australian Industry and the Chamber of Mines.

I make no apology for the fact that during the debate I have referred constantly to the need for balance in this Bill. However, at certain points the Government has believed strongly that it ought to go in a certain direction, and this is one such point.

The Bill makes no reference to the Town Planning Appeals Tribunal but clause 108 provides that an appeals tribunal should consist of persons at least one of whom shall have expertise in environmental matters. We are looking at a simple but effective appeals mechanism whereas the member is proposing something with the potential to become very complex.

Hon. A. A. LEWIS: Perhaps the Attorney General could indicate whether the Law Society sent a checklist to him on 16 September 1985—over a year ago. Perhaps a member of the Standing Committee on Government Agencies could indicate whether such a checklist was sent to that committee. I would like someone to correct me if I am wrong in saying that such a checklist was sent. As I understand it, the checklist was accepted by the Government. Is the Minister saying it was not accepted by the Government?

If so, what is the reason for the checklist? It is very easy to say one disagrees with the Law Society, but it is fairly hard to justify that statement by waving one's arms around. Some basis and reason needs to be given for not accepting the checklist set down by the Law Society, and I ask the Minister to answer that question.

Hon. KAY HALLAHAN: The checklist has not been accepted in terms of this Bill as being appropriate to the appeals mechanism proposed under the Bill.

Hon. A. A. LEWIS: Is this going to be a forerunner of future Bills when the checklist will not be adopted? I wonder why people put themselves out and send such things to Government and committees when they are neglected or rejected. It seems to me the Law Society has made a genuine effort, and I would like to know why it has been rejected.

Hon. KAY HALLAHAN: I can advise the honourable member that the checklist is being considered in the context of a review of administrative procedures.

Hon. A. A. LEWIS: I thank the Minister for informing us that this Bill will be reviewed when a review is done to bring it into line with the checklist. It seems an odd way to go about it, but if that is the way the Government is going to proceed, far be it from me to complain.

Hon. KAY HALLAHAN: The efforts of bodies like the Law Society are appreciated, but the fact such bodies send the Government a checklist or a preferred way of doing things does not mean the Government will ignore them or that it will feel obliged to accept them in toto. It is certainly under consideration.

Hon. A. A. LEWIS: That is great, because as I said during the second reading debate there are many areas in this Bill in which the appeals provisions are nowhere near the checklist. It confounds me that when we are bringing in so-called guideline legislation, and the Attorney has an appeals checklist under consideration, a Minister should virtually throw it away because it does not suit him. I know that had we been in Government Hon. Joe Berinson would have given us heaps on this sort of thing. I am not as hard and tough as he is; I am just a

mild mannered young fellow, and I am not going to push the matter, but it seems to me the Government does not know which way it is going on the appeals tribunal because the Minister has indicated in another place that he obviously favours a tribunal like this. I wonder how much communication there is between the two Chambers.

Clause put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon. Robert Hetherington): Before the vote is counted, I give my vote with the Ayes.

Division resulted as follows—

Ayes 16

Hon. J. M. Berinson	Hon. Kay Hallahan
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. T. G. Butler	Hon. B. L. Jones
Hon. J. N.Caldwell	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
	Hon. Doug Wenn
Hon. John Halden	Hon. Fred McKenzie *(Teller)*
Hon. H. W. Gayfer	

Noes 11

Hon. C. J. Bell	Hon. N. F. Moore
Hon. Max Evans	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. A. A. Lewis	Hon. D. J. Wordsworth
Hon. P. H. Lockyer	Hon. Margaret McAleer *(Teller)*
Hon. G. E. Masters	

Pairs

Ayes	Noes
Hon. D. K. Dans	Hon. W. N. Stretch
Hon. Tom Helm	Hon. John Williams
Hon. Mark Nevill	Hon. Tom McNeil

Clause thus passed.

Clauses 101 to 110 put and passed.

Postponed clauses—

Clauses 41 and 42 put and passed.

Clause 43: Power of Minister in relation to assessment by Authority of proposals—

Hon. A. A. LEWIS: I move an amendment—

Page 34, line 16—To delete "more fully or more publicly or both"

This amendment allows flexibility up or down. The Minister could decide that he did not want a greater assessment. It allows him the flexibility to assess a lesser figure, and I commend the amendment.

Hon. KAY HALLAHAN: The amendment is opposed. If it were accepted it would restrict any further assessment of a proposal. The provision is a necessary part of the Bill as it relates to the appeal provisions. The Minister may, after hearing an appeal, consider that a proposal requires further assessment and therefore request the EPA to undertake such an assessment. To deny this provision would render certain sections of the appeal provisions useless.

Hon. A. A. LEWIS: All the proposal does is delete those words. It allows the Minister far more flexibility, and I want the Minister to tell me what the words "more fully or more publicly or both" do to the effect of the Bill.

Hon. KAY HALLAHAN: I can only restate what I said earlier, that it allows for a further assessment of the proposal. It relates to clause 100. Is the member in any doubt about that?

Hon. A. A. LEWIS: My only doubt is about this clause. If my amendment is accepted the Minister can direct that the proposal be done in whatever way he or she thinks fit. The clause as it stands limits that power to higher assessments and makes the proposal more expensive.

Hon. KAY HALLAHAN: It is a question of giving the Minister power to request the EPA to do more in the way of assessments. I am not too sure why the member wants to limit that power, because I would have thought that was desirable.

Hon. A. A. Lewis: Where does it limit it?

Hon. KAY HALLAHAN: The member is removing the Minister's ability to do that, as I understand it. The member wants to take away the proposal for a more full or more public assessment. The clause should stand as printed.

Hon. GARRY KELLY: If the amendment were accepted, the Minister would be able to direct the EPA to do less than it would otherwise do. The only direction the Minister can give the EPA is to conduct a more full or more public inquiry. The amendment would allow the Minister to direct the EPA to do a lesser inquiry than it would otherwise do, and that would compromise the independence of the EPA.

Hon. A. A. LEWIS: I disagree with Hon. Garry Kelly. As I understand the clause, the authority cannot make the decision; it only recommends to the Minister. The authority may say to the Minister, "This has been going on for two weeks and it does not need a full assessment. We advise you that the proposal is good enough as it is to go ahead."

It again short-circuits the process. The Government is hell-bent on making things difficult. The clause will allow the Minister to consult with the authority. The Minister could then say, "I have consulted with the authority and I have directed it to assess this proposal at

an x-level. I thought previously that the waste going into the Blackwood River was at an x-level. I now find, after the proponent has put forward his case, that these figures are wrong and having consulted with the authority I can now direct it to make a lesser assessment of the proposal." The amendment will allow for human error to be corrected without having to go through a huge amount of administrative red tape.

Hon. KAY HALLAHAN: I am concerned about this amendment. The honourable member said that the authority could be directed by the Minister to assess a proposal at an x-level. The Government is determined to avoid compromising the independence of the authority, and that is the reason for the inclusion of this clause in the Bill. It will allow the Minister to make a request for a fuller assessment. The amendment would be counter-productive to what the Government proposes.

Hon. Sandy Lewis referred to wrong figures being given; and in such an instance the proposal would have to be referred back to the EPA in order that it can review the proposal in light of the new information. The Government cannot accept the amendment.

Hon. A. A. LEWIS: The Minister has agreed to my proposal.

Hon. Kay Hallahan: Have I?

Hon. A. A. LEWIS: When the proposal is reassessed, we are dealing with the powers of the Minister. The Minister said that the authority would reassess the proposal to decide whether the figures are incorrect. Where in the blazes does it go? Is the advice given to the Minister? The Minister can either accept or reject the advice. Under my amendment the Minister can handle this matter in whatever way he wants.

Hon. Kay Hallahan: We do not want to do that.

Hon. A. A. LEWIS: On the one hand the Minister is saying that the EPA will give the Minister advice and that the Minister will make the decision, but on the other hand she is saying that the Government is not prepared to allow the Minister to make the decisions.

Hon. Garry Kelly: He cannot degrade the quality of the advice he receives.

Hon. A. A. LEWIS: Hon. Garry Kelly is not following my train of thought.

If a mistake has been made, the Minister should be able to say, "We have made a mistake. Let us look at Hon. Graham Edwards' proposal to ascertain what we should have done if we had been given the correct figures." After consulting the authority, the Minister may direct the authority to take a different tack. Surely that is the Minister's job. If the Government is telling me that it is not the Minister's job, I am worried about it.

Clause 38 states—

> (1) A proposal that appears likely, if implemented, to have a significant effect on the environment, or a proposal of a prescribed class—
>
> (a) shall be referred in writing to the Authority by a decision-making authority as soon as that proposal comes to the notice of the decision-making authority; . . .

If the decision-making authority refers such a proposal to the EPA and finds that it has made a mistake, will the Minister explain how it will get out of that situation? The Minister has no outlet to short-circuit that proposal, and I believe that he should have.

As the Minister suggested, we may have a difference in philosophies. However, it is an administrative thing and it would be extremely handy for the Minister to have that power in his armour when he is dealing with the environment.

Hon. KAY HALLAHAN: I do not know whether it is a difference in philosophies, but the Government certainly does not want the Minister to direct the quality or level of the assessment which the EPA will undertake. In the sorts of situations the honourable member has mentioned, I guess the Minister can withdraw the referral he has made. That would be one way out for him.

Hon. A. A. Lewis: I do not think he can.

Hon. KAY HALLAHAN: The decision-making authority can.

Hon. A. A. Lewis: The decision-making authority can apply to withdraw it?

Hon. KAY HALLAHAN: Absolutely.

Hon. A. A. Lewis: I do not know whether the clause allows it to do that.

Hon. KAY HALLAHAN: Yes, it does.

Hon. A. A. Lewis: I do not think it does.

Hon. KAY HALLAHAN: It is consequent upon clause 101.

Hon. A. A. Lewis: It is not consequent to that at all.

Hon. KAY HALLAHAN: As I read the Bill, it is consequent upon clause 101 (1) (a) and (b).

Hon. A. A. Lewis: That has nothing to do with an appeal.

Hon. KAY HALLAHAN: That is one of the differences we have. We do not want the Minister giving informal directions to the EPA. I can see that Hon. Sandy Lewis is frowning in frustration, and perhaps he has good reason.

Hon. A. A. Lewis: It is confusion.

Hon. KAY HALLAHAN: The Government does not want the Minister to introduce to the EPA that level of assessment. It will be counterproductive—

Hon. Garry Kelly: Unless it is a superior assessment.

Hon. KAY HALLAHAN: —to what the Government is hoping to achieve by this Bill. An independent authority will give the best advice available to the Minister and to the Government.

It seems reasonable to give the Minister the power to ask for fuller assessments. If the Minister were given the power to make directions, that would be an attractive power. However, we do not believe that that is the sort of Bill we want to have.

Hon. A. A. LEWIS: The Minister in another place said that he would make the decisions and wear them, and that the EPA would merely give him advice. The reference to clause 101, with due deference to the Minister, is completely misleading because it talks about the powers of the Minister in respect of appeals lodged under clause 100. We are talking about clause 43 which concerns the power of the Minister in relation to assessment of proposals by the authority. How can the Minister link that up with an appeal provision? It just cannot be linked with such a provision. This one refers to proposals referred to the Minister by clause 38.

Hon. KAY HALLAHAN: If someone appeals under clause 100, the Minister can refer the matter back for this further assessment under clause 43, and that is actually mentioned in line 27 on page 84. It is even included in clause 101, to which I referred.

Hon. A. A. Lewis: I am looking at it, but it does not ring true.

Hon. KAY HALLAHAN: Clause 101 provides that when an appeal is lodged under proposed section 100, the Minister may remit the proposal concerned to the authority for further assessment or reassessment and for that purpose make a direction under clause 43. That seems to be a reasonable way to go.

Hon. A. A. LEWIS: I will not delay the Chamber any longer. I am sure that it is not right. I just let the amendment go forward and leave it at that.

Amendment put and negatived.

Clause put and passed.

Clause 44: Report by Authority—

Hon. A. A. LEWIS: I move—

> Page 35, after line 12—To insert the following subclause—
>
> (2a) A report prepared under subsection (1) or (2) shall not contain any confidential information.

The amendment is self-explanatory and it ought to be accepted.

Amendment put and negatived.

Hon. A. A. LEWIS: I move—

> Page 35, lines 25 to 28—To delete the lines and substitute the following—
>
> (iii) the proponent; and
>
> (iv) if the proposal to which that report relates was referred to the Authority under section 38(1)(b)(ii), the person who so referred the proposal.

Amendment put and negatived.

Clause put and passed.

Clause 45 put and passed.

Clause 46: Amendment of conditions and procedures—

Hon. A. A. LEWIS: I move—

> Page 38, line 3—To insert after "changed" the following—
>
> and shall, on being requested by any relevant decision-making authority to consider whether any conditions or procedures agreed or decided upon under section 45 should be changed,

I think that the amendment is self-explanatory. I hope that this time the Minister will give me the courtesy of a reply.

Hon. KAY HALLAHAN: As Hon. Sandy Lewis has requested a response, I am happy to—

Hon. J. M. Berinson: Advise him that the amendment is not acceptable?

Hon. KAY HALLAHAN: Contrary to the advice that I am getting from my left, I advise the honourable member that the Government is not prepared to accept the amendment because it could constitute another avenue of appeal for the proponent and we would open the

door for proponents to have conditions changed whenever they saw fit. It is our belief that that would create a dangerous precedent. For that reason, we remain fairly resolute about not accepting the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 47 put and passed.

Clause 48: Control of implementation of proposals—

Hon. A. A. LEWIS: I move the following amendments—

Page 40, line 13—To insert after the semi-colon the following—

and

Page 40, line 15—To delete "; or" and substitute a comma.

Page 40, lines 16 to 18—To delete the lines.

Page 40, after line 19—To insert the following subclauses—

(3a) Where, in relation to a proposal, the Minister is not satisfied with any relevant monitoring conducted, any relevant exercise of power, or any relevant report made or omitted to be made under subsection (2), he shall—

(a) if the decision-making authority referred to in subsection (2) is not another Minister, exercise one or more of the powers set out in subsection (4); or

(b) if the decision-making authority referred to in subsection (2) is another Minister, consult that Minister and, if possible, agree with him as to the proper conduct of the relevant monitoring, exercise of the relevant power or making of the relevant report.

(3b) If the Minister and the other Minister referred to in paragraph (b) of subsection (3a) cannot agree on any of the matters referred to in that paragraph, the Minister shall refer the matter or matters to the Governor for his decision and the decision of the Governor on that matter or those matters shall be final and without appeal.

Hon. KAY HALLAHAN: The amendments are opposed because it is considered very important that the Minister for Environment have the final say in matters relating to environmental protection. Subclause 48(3) outlines the procedures necessary to ensure that agreed conditions are conformed to and that adequate monitoring is conducted during the course of any proposal.

I stress that subclause 48(3) is a fail-safe clause and can be used only when all other avenues have failed. It would weaken the Bill if the clause were amended and the Minister for Environment would not have the authority in matters which are having a significant effect on the environment.

Does the honourable member wish to respond or is he prepared to accept the wisdom of that?

Hon. A. A. LEWIS: I am not prepared to accept that the Minister for Environment is the most important bloke in Cabinet. In effect, the Minister for Community Services is telling me that if any other Minister, even the Premier, wanted to do something and the Minister for Environment wanted to stop that proposal, he could do so.

It is fascinating that the Minister tells me that she is dinkum. I would like her to put on the record that the Minister for Environment is more important than anybody else in Cabinet.

Hon. KAY HALLAHAN: The comments I shall make are possibly not those that Hon. Sandy Lewis said he wanted on the record. The Minister will work in consultation with other Ministers, for example, the Minister for Minerals and Energy, in those areas.

When a problem arises because some conditions have not been complied with in environmental matters, this must be referred to the Minister for Environment. From our point of view that is fair and unambiguous; that is what we are talking about. The Minister for Environment may not be the most important Minister in Cabinet, but in environmental matters he is.

Hon. A. A. LEWIS: So, he can hold up any proposal he wishes. Some Ministers for Environment from both sides have been very difficult people

Hon. G. E. Masters: He is not talking about me.

Hon. A. A. LEWIS: Yes, I am because the Leader of the Opposition was most difficult as Minister for Conservation and the Environment. The most approachable Minister is the present Premier because he is a realist. This Bill would not have been introduced under him. He would have checked it and made sure

that these horrific clauses were not included in the Bill. It is no use the ALP trying to deny it. The Premier would have made sure of those things.

I can envisage a young, progressive Minister trying to climb the ladder proposing these sorts of things, but I cannot imagine a senior Minister wearing it for very long. The Minister has told us that the Minister for Environment must rule the roost and, as the Minister seems to have that tyranny of numbers tonight, with the help of the National Party, and the National Party will put the Minister for Environment above the Minister for Agriculture, we can follow that right through.

Amendments put and negatived.

Clause put and passed.

Clause 49: Causing pollution and noxious emissions—

Hon. A. A. LEWIS: I move the following amendments—

Page 41, line 18—To insert after "who" the following—

knowingly

Page 41, line 20—To insert after "who" the following—

knowingly

This is self-explanatory. Somebody has to commit an offence. I believe the Government should accept the amendment.

Hon. KAY HALLAHAN: I am surprised that Hon. Sandy Lewis comes forward with all these things he feels so strongly about.

Hon. A. A. Lewis: I knew the Minister felt strongly about it, but I thought you might have a bit of a run.

Hon. KAY HALLAHAN: We had a bit of a run with those procedures. The insertion of this word "knowingly" provides an excuse for any pollution activity. That is why we are concerned about it. Ignorance is not usually accepted as a defence. It is not regarded as an excuse for breaking the law.

Section 74 gives sufficient ground for defence. It is on page 64.

Hon. A. A. Lewis: I have amendments along the same lines on that, too.

Hon. KAY HALLAHAN: I ask members of the Committee to defeat the proposed amendment because it provides that excuse for any pollution activity, and that is not satisfactory.

Hon. A. A. LEWIS: How does "knowingly" provide an excuse? I cannot understand it.

Hon. E. J. Charlton: Even if you knowingly commit a speeding offence!

Hon. KAY HALLAHAN: I thought I might have misinterpreted the words of other people, but to add "knowingly" changes the meaning of that clause. If the honourable member wants to change the meaning of the clause it is no good looking at me in a befuddled way when I say it is not acceptable. It provides an excuse for committing a pollution offence. We would not be dinkum about pollution control if we allowed this amendment to go ahead.

Amendment put and negatived.

Clause put and passed.

Clauses 50 to 57 put and passed.

Clause 58: Contravention of licence conditions—

Hon. A. A. LEWIS: I move an amendment—

Page 49, line 5—To insert after "condition" the following—

unless the occupier proves that he took all reasonable steps to ensure that his instructions were adhered to

I would be interested to hear if this is an excuse as well. If the occupier proves he took all reasonable steps to ensure his instructions were adhered to, I wonder why he should be liable. It appears to me unfair as it stands at the moment.

Hon. KAY HALLAHAN: Again the explanation is very similar to that I gave on the previous clause. It provides an out from a responsibility. Under our system, employers are responsible for the conduct of their employees, and that is the position in this Bill. I probably cannot put it more succinctly than this—

All occupiers are required to be responsible for the conduct of their employees, and in addition each occupier is responsible for the operation of his equipment and industry.

To allow the amendment proposed by Hon. Sandy Lewis would be to allow occupiers to ignore their responsibility for the conduct of their operations. To some extent I have sympathy for Hon. Sandy Lewis.

Hon. A. A. Lewis: So have I; we have both been sitting here all night.

Hon. Tom Stephens: It is not the two of you I am worried about; it is the rest of us.

Hon. KAY HALLAHAN: It is critical that occupiers are responsible for the conduct of their employees and the use of their equipment and machinery, with whatever discharge or

anything else there is. To provide what Hon. Sandy Lewis proposes would create an avenue to avoid responsibility for any detrimental activity. For that reason I ask members not to accept the amendment.

Hon. C. J. BELL: This clause concerns me very much. I accept the points made by the Minister. One which concerns me is the situation involving someone, not necessarily an employee. A former employee may have a grudge, and with deliberate intent he could create an offence without the consent or knowledge of the owner or occupier. If that is a corporate body it is liable to a fine of $50 000, as I understand this clause.

Farmer friends of mine are concerned about where an employee has perhaps done the wrong thing in a farming situation and has been asked to leave employment. Pesticides may have been involved. If the farmer is operating as a body corporate as opposed to an individual—and a great many farmers would be doing that—they would be liable to the penalty I have already spoken of.

I do not think there is a likelihood that the amendment moved by Hon. Sandy Lewis would let the matter out unnecessarily, because it indicates that the occupier must prove he took all reasonable steps to ensure his instruction were adhered to. It is not an all-out copout, but a concise situation to ensure that totally innocent persons are not lumbered with an offence of which they knew nothing and which they did not intend to cause. I ask the Minister to consider that when she replies to the proposed amendment.

Hon. KAY HALLAHAN: There is a defence to the point raised by Hon. Colin Bell. Clause 74 contains the defence, which would cover vexatious employees, current or past. Employers usually have insurance which will cover such a situation. Alternatively, they could take to court to recover damages any person behaving in an offending way; so there are measures to provide some defence and an equitable situation for employees against the contingency Hon. Colin Bell cited.

This clause is very closely built on section 29 of the Clean Air Act 1964, although it has been expanded from that Act to incorporate references to corporations and subsidiaries. It has been a longstanding understanding that we need that sort of provision, which is illustrated by the fact that the clause is based on a 1964 Act. I want members to see it in that light. It is not an unreasonable clause, but a necessary one in that it does provide some redress.

Amendment put and negatived.

Clause put and passed.

Clause 59: Revocation, suspension and amendment of licences by Chief Executive Officer—

Hon. A. A. LEWIS: I move an amendment—

Page 50, line 3—To delete subparagraph (iii).

I ask the Minister why, if the current business address of the licensee is unknown, this clause of the Bill provides that the Chief Executive Officer may revoke or suspend the licence.

The authority would certainly know where the business was, and it is getting to a farcical stage when the Environmental Protection Authority, which knows where the factory is and the offences that could be caused, is now asking for a power to revoke the licence because it does not have the business address, which might have changed from one post office box number to another. That is going to a ridiculous extent, and I believe the amendment should be supported.

Hon. KAY HALLAHAN: Wherever there is an occupier, that occupier must have an address; that is essential. It is a requirement within the Bill for an occupier to notify his current address. I do not want to throw in too many red herrings at this hour of the night, but in the case of the Bhopal situation in India, Union Carbide said at one stage that its address was not in India at all but in the United States. The Indian Government quickly came to terms with that, which was patently obviously a stupid thing to say.

This Bill requires that one notifies one's current address. Under the terms of the Bill the occupier must have a current address and is obliged to notify that. For that reason I ask the Committee not to support the amendment.

Hon. A. A. LEWIS: The clause does not stipulate that it should be the address of the premises. If there is something going on that is licensed, there would be a premises. The clause says "current business address".

Hon. Kay Hallahan: Yes.

Hon. A. A. LEWIS: The Minister wants it both ways. Really, if the business address changes from one box number to another, surely the Chief Executive Officer will be dealing with the plant or the factory, and with the factory manager. He will not be dealing with the current business address of the licensee. To

revoke or suspend the licence just because an owner has not notified his change of address, after an amount of money has been paid to put in plant or a business, seems a very harsh penalty. Indeed, it seems to me to be going right overboard.

Hon. KAY HALLAHAN: If people are investing and have a licence, one would presume they would be able to comply with the requirements that they do notify their change of address. It is absolutely imperative that they do. We are not talking about responsible companies and developers polluting, as a general rule; but if we get shonkie companies with activities going on in one place and their business address in another, and something does go wrong, we do not want to be dealing only with the factory manager. It is imperative, and the Bill prescribes, that the licensee is the person who must be notified. We need to know where the licensee is, even if he is not at the scene at which the pollution is taking place, so that he can be contacted quickly. That is eminently sensible, and we could get ourselves into all sorts of messes if we did not have a clear line of communication to the licensee in the case of an emergency.

Hon. A. A. LEWIS: What absolute rot. Is the Minister going to tell me that she would not go to the manager of AIS in Kwinana, if it was working, but would go to the business address of BHP in Melbourne? That is what she is saying; that she would go to Melbourne because BHP is the licensee. The person running the factory would be the manager of the plant. Whether or not BHP changed its address in Melbourne does not have very much to do with the environment. The plant manager is the person who will carry out all the negotiations and discussions. I do not accept the Minister's answer.

Hon. KAY HALLAHAN: I do not believe this item warrants a great deal more discussion, but I will add this: The licensee is responsible for the activity. One may in fact contact the factory manager or whomever is in charge, but the licensee is responsible. In the case of a big corporation, one would expect it to provide a Western Australian headquarters address as its licensee in the State.

The licensee is the person culpable under the legislation. The factory manager may be visited or dealt with when something is happening, but the licensee under the legislation is the person responsible for the activities of the corporation or company.

Amendment put and negatived.

Clause put and passed.

Clause 60: Relationship between works approvals or licences and approved policies—

Hon. A. A. LEWIS: I move an amendment—

> Page 51, line 23—To insert after "satisfied" the following—
>
> , after consultation with the occupier of the prescribed premises or the licensee, as the case requires,

This will allow for consultation before any orders are given and would be a far more satisfactory way of proceeding.

Hon. KAY HALLAHAN: The amendment is not accepted on the basis that the procedure involved is already implied in the Bill. The procedure will be incorporated in the administrative procedures, and that is where it will sit most realistically.

Amendment put and negatived.

Clause put and passed.

Clauses 61 to 68 put and passed.

Clause 69: Minister may make stop orders—

Hon. A. A. LEWIS: I move the following amendment—

> Page 59, line 27—To delete "on serving a notice under subsection (1)" and substitute the following—
>
> when the person on whom a notice under subsection (1) was served fails to comply with that notice

It seems fair that first the person must fail to comply with the order before any stop order is made.

Hon. KAY HALLAHAN: Again I recommend that the Committee not accept the amendment. I do so because the action can be taken only when a person served by a notice under subclause (1) fails to comply with it. That provision exists already in the clause, and so the amendment is superfluous.

Hon. A. A. Lewis: Where does it provide that?

Hon. KAY HALLAHAN: Subclause (1)(a).

Amendment put and negatived.

Clause put and passed.

Clause 70: Particulars of works approvals, licences and pollution abatement notices to be recorded—

Hon. A. A. LEWIS: I move an amendment—

> Page 60, lines 18 to 20—To delete subclause (2) and substitute the following—
>
> > (2) The Chief Executive Officer shall make available for public inspection under such conditions and at such places and times as are prescribed, such of the particulars recorded under subsection (1) as are prescribed.

We believe public inspection would be as adequate as publishing these works approvals and licences. We do not believe the Chief Executive Officer should have to go to the expense of publishing these matters and that people would be able to inspect them at the required times on the premises of the Department of Conservation and Environment.

Hon. KAY HALLAHAN: I do not accept the amendment. To ensure that the public have full knowledge of works approvals, licences, applications, the renewal of transfers, and pollution abatement notices, these matters should be published by way of regulations; and this is already provided for under section 53 of the Clean Air Act.

Hon. C. J. BELL: One of the things that bugs me most about public administration is the publishing of notices written in Public Service jargon which is unintelligible to the ordinary citizen. If notices are to be published, I would like an assurance that they will appear in ordinary English using ordinary locality names and substance names so that people understand exactly what is happening. I do not want to see the nonsense that is written in what seems to be standard bureaucratic form in our newspapers.

Hon. KAY HALLAHAN: I do not mind having recorded in this debate the view that notices should be published in a form that is acceptable to the average lay person in the community and that bureaucratese, or whatever we label it—a style that often confuses people—is dispensed with.

Amendment put and negatived.

Clause put and passed.

Clause 71: Environmental protection directions—

Hon. A. A. LEWIS: Instead of moving the amendment I have on the Notice Paper I seek an assurance that these gazetted areas will be tabled in the House.

Hon. KAY HALLAHAN: I can give an assurance to the honourable member that any emergency directions will be tabled in the Parliament. The amendment on the Notice Paper would have achieved that by way of regulation. I do not think it is necessary to press the amendment.

Clause put and passed.

Clause 72 put and passed.

Clause 73: Powers in respect of discharges of waste and creation of pollution—

Hon. A. A. LEWIS: I imagine the Minister will oppose the amendment I have on the Notice Paper, but I believe it is like the amendment I moved earlier relating to the word "knowingly" and another amendment which related to conditions of licence. I ask the Minister to consider this amendment, but I will not go through the process of moving it.

Hon. KAY HALLAHAN: I can give the honourable member an assurance that it is my opinion that it is already dealt with in the Bill, but it will be included in the administrative procedures.

Clause put and passed.

Clause 74: Defences to certain proceedings—

Hon. A. A. LEWIS: Again I imagine the Minister would oppose the amendment I have on Notice Paper. My amendment dealt with the result of a wilful act or omission of another person. It seems to me that certain of the Government's attitudes are pretty relentless. It will be interesting to see the Bill in operation, because if people are being disturbed or unfairly treated by the Chief Executive Officer or any of his inspectors the Government can expect to hear about it in this place.

Clause put and passed.

Clause 75 put and passed.

Clause 76: Miscellaneous offences—

Hon. A. A. LEWIS: I move an amendment—

> Page 66, lines 10 to 12—To delete subclause (3).

I point out that this clause would mean that 2,4-D would not be permitted to be sold and in many places in the State chemicals would not be allowed to be sold in particular areas. It is an offence for a person to sell a chemical

substance or fuel in any part of the State in which the use of that chemical or fuel is prohibited under this Bill. People who live in a vegetable-growing area around a regional town will not be able to spray with a certain chemical and a person in the town who sells the chemical will commit an offence. It is absolutely ridiculous.

Hon. KAY HALLAHAN: I am a bit surprised that the honourable member is moving this amendment. I know he has an affinity with the country and would not want to see any limitations on what people can do in those areas. I think perhaps a misinterpretation of the clause has caused him to move this amendment. I give the example of a sulphur-enriched fuel which might be in use and might give off emissions. I think the honourable member referred earlier to acid rain; as I understand it emissions which contain sulphur create acid rain when they mix with water.

We definitely need this provision in the Bill. One needs to be able to deal with hazardous substances at the macro level.

Hon. A. A. LEWIS: I am sorry to do this because I thought this was one amendment I was certain to win. If people are prevented from using chemicals in various areas of the State, whether in Bunbury or Perth, suppliers who have the chemicals in their warehouses in Perth will be committing an offence. Can the Minister give any justification for this clause? It has absolutely nothing to do with acid rain. It must be deleted, and we insist on it. I will divide the Chamber if the Minister does not accede to our request.

Hon. KAY HALLAHAN: I feel an obligation to make this clearer. I can see the honourable member is genuine in his desire in this regard. If particular fuels have been banned and somebody gets a cheap load and takes it somewhere to sell it we need a method to curtail that activity, and this is the clause under which it will be done. I think that is a reasonable explanation, and I ask the Committee to support the clause.

Hon. C. J. BELL: For the Minister's information I think we should look at a couple of specific examples. One would be the issue Hon. Sandy Lewis has referred to of the Geraldton region where 2,4-D is banned because of the effect spraying may have on the tomato growing industry. That situation applies to the Capel, Busselton, and Augusta-Margaret River Shires, and I would imagine the Plantagenet Shire, and possibly the others as well. A strict reading of the clause indicates to me one would not be able to sell that chemical in those shires, yet the ban on the spraying of the chemical is only partial in those areas. In the Capel Shire, and I think the Augusta-Margaret River and Plantagent Shires the ban would cover the proximity to the urban centre. It would have a substantial impact on the availability of a necessary chemical in the normal broadacre farm use.

People will need to travel to outside areas to gain access to these chemicals because they have been selectively banned to protect certain industries. There is good reason for that. It has not been necessary at this stage to ban them from sale completely. Yet it now seems mandatory under this Bill to ban them.

Hon. Kay Hallahan: That is quite right. The example the member gave relating to the banning of 2,4-D in Geraldton is the result of a case study.

Hon. E. J. Charlton: But it is all right to sell it somewhere else.

Hon. A. A. LEWIS: The Minister does not understand. The substance might be banned in Geraldton, but it is available 20 kilometres out of Geraldton. The supplier in Geraldton is therefore not able to stock it and sell it to the people living away from Geraldton.

Hon. Kay Hallahan: I agree that is the intention of the clause.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Ayes.

Division resulted as follows—

Ayes 14

Hon. C. J. Bell	Hon. P. H. Lockyer
Hon. J. N. Caldwell	Hon. G. E. Masters
Hon. E. J. Charlton	Hon. N. F. Moore
Hon. Max Evans	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. H. W. Gayfer	Hon. D. J. Wordsworth
Hon. A. A. Lewis	Hon. Margaret McAleer *(Teller)*

Noes 13

Hon. J. M. Berinson	Hon. B. L. Jones
Hon. J. M. Brown	Hon. Garry Kelly
Hon. T. G. Butler	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Kay Hallahan	Hon. Doug Wenn
Hon. Tom Helm	Hon. Fred McKenzie *(Teller)*
Hon. Robert Hetherington	

Pairs

Ayes	Noes
Hon. W. N. Stretch	Hon. D. K. Dans
Hon. John Williams	Hon. John Halden
Hon. Tom McNeil	Hon. Mark Nevill

Amendment thus passed.

Clause, as amended, put and passed.

Progress

Progress reported and leave given to sit again, on motion by Hon. Kay Hallahan (Minister for Community Services).

House adjourned at 2.58 a.m. (Wednesday)

QUESTIONS ON NOTICE

GOVERNMENT CHARGES

Concessions: Income Tax Files

622. Hon. D. J. WORDSWORTH, to the Leader of the House representing the Premier:

When a member of the public applies for a minor concession to a Government fee, is it usual for the Government to request of that person, the object of such a request being to verify if such a concession is warranted, permission to get from the Australian Taxation Department a copy of that person's taxation files?

Hon. D. K. DANS replied:

No. However, if the member has any details of this actually happening, I would be prepared to make some inquiries.

AGRICULTURE

Tractors: Fatal Accidents

624. Hon. W. N. STRETCH, to the Leader of the House representing the Minister for Industrial Relations:

(1) How many fatal accidents have been caused by overturning tractors in Western Australia since 1 January 1980?

(2) How many of those tractors were fitted with roll-over protection "cabs" or bars?

(3) What was the adjusted bare mass of each of the tractors involved in the aforementioned fatal accidents?

(4) In which municipality did each of those fatal accidents occur?

Hon. D. K. DANS replied:

(1) Two, one in 1981 and one in 1985.

(2) Nil.

(3) and (4) Approximately 2 350 kg, Boddington Shire; approximately 1 920 kg, Warren Shire.

WESTRAIL

Transportable Dwelling: Katanning

625. Hon. W. N. STRETCH, to the Leader of the House representing the Minister for Transport:

(1) What was the cost of moving Westrail's transportable dwelling from Kojonup to Katanning in or about 1984-85?

(2) Did Westrail receive any offers from any person to purchase the above-mentioned dwelling in situ at Kojonup?

(3) If so, what were the offers?

(4) Has the dwelling been occupied fully since being relocated?

(5) If not, for how many months has it been vacant?

Hon. D. K. DANS replied:

(1) $18 000.

(2) and (3) No. However, some verbal inquiries were received.

(4) Yes.

(5) Not applicable.

TRANSPORT TRUST FUND

Balance

630. Hon. W. N. STRETCH, to the Minister for Budget Management:

(1) In view of the serious concern expressed by many country shires with regard to the transport trust fund—previously the road trust fund—will the Minister explain where the balance of the fund appears in the current Budget papers?

(2) If not appearing in the papers, will the Minister present to this House a statement showing the disbursements from, additions to, and balance of the transport trust fund since its inception earlier this year?

Hon. J. M. BERINSON replied:

(1) The transport trust fund, as prescribed by section 62A of the Transport Co-ordination Act, was established from 1 July 1986. This fund does not replace the main roads trust fund maintained under section 31 of the Main Roads Act 1930.

Estimated disbursements from the transport trust fund in 1986-87 are shown in the following Budget papers—

(i) Consolidated Revenue Fund Estimates 1986-87—

	$m
Page 160 Division 85—Transport	3.0
Page 161 Division 86—Metropolitan (Perth) Passenger Transport Trust	44.5
(ii) Financial Statements 1986-87—	
Table 23 Main Roads	42.5
	90.0

(2) Transport trust fund transactions for the period 1 July 1986 to 31 October 1986 are summarised as follows—

	$000
Collection of fuel franchise levy	27 183
Disbursements—interim payment to MTT	4 000
Balance at 31 October 1986	23 183

COMMUNITY HEALTH

Carnarvon: Employees

631. Hon. P. H. LOCKYER, to the Minister for Community Services representing the Minister for Health:

(1) How many people are employed by the community health department in Carnarvon?

(2) What are their positions?

(3) How many motor vehicles are allocated to the Carnarvon department?

(4) What are the arrangements for private use?

Hon. KAY HALLAHAN replied:

(1) The community and child health services of the Health Department of WA employs 10 people in Carnarvon.

(2) Field nurses x 2

Health workers x 4

Health education officer x 1

School health nurse x 1

Child health nurse x 1

Typist x 5

(3) Five.

(4) There is no approved private use of community health vehicles by staff.

LOCAL GOVERNMENT: EXMOUTH SHIRE COUNCIL

Rates: Assistance

633. Hon. P. H. LOCKYER, to the Attorney General representing the Minister for Local Government:

What steps are being taken to assist the Exmouth Shire Council with its approach to the United States Government regarding the rating of property in Exmouth?

Hon. J. M. BERINSON replied:

The Exmouth Shire Council wrote to the Minister for Local Government and sent copies of its correspondence to a number of other interested parties in the State and Commonwealth Governments. It also sent copies to United States officials. The Minister for Local Government is unable to answer on behalf of those in other Governments.

The Minister has advised the Exmouth Shire Council that he has no funds to assist them and that the council should recover debts owing to it.

Officers from the Department of Local Government and the Department of the Premier and Cabinet are presently preparing an approach to the Commonwealth Government in support of the submission.

FISHERIES

Learmonth: Boat Facility

634. Hon. P. H. LOCKYER, to the Leader of the House representing the Minister for Transport:

(1) Has the Government abandoned the commitment given by the previous Minister for Works to build a fishing boat facility at Kailis Fisheries at Learmonth?

(2) If so, why?

Hon. D. K. DANS replied:

(1) and (2) Engineering investigations for a fishing industry facility at Learmonth have been completed. However, in view of the high cost and marginal safety aspects of a facility at

Learmonth, alternative sites are being examined.

QUESTIONS WITHOUT NOTICE

PERTH ENTERTAINMENT CENTRE

Sale

196. Hon. P. G. PENDAL, to the Minister for Budget Management:

(1) Has he had any involvement in the decision to dispose of the Perth Entertainment Centre?

(2) If so, can he say what method of disposal, if any, has been decided upon?

Hon. J. M. BERINSON replied:

(1) and (2) I have had no involvement in the preliminary consideration of that matter.

FRINGE BENEFITS TAX

State Liability

197. Hon. P. G. PENDAL, to the Minister for Budget Management:

I refer to the Estimates of Expenditure and Revenue under his department and the allocation specifically of $3.5 million for the State Government's fringe benefits tax bill.

(1) Is it correct that this assessment was made prior to the adjustment made by the Federal Government?

(2) If so, by approximately how much has the State's liability of $3.5 million been reduced in view of the Commonwealth's reappraisal?

Hon. J. M. BERINSON replied:

(1) From memory, and subject to correction, the estimate was based on the position which applied before the Commonwealth altered the guidelines.

(2) I do not have with me a figure of any change to that estimate arising from the new Commonwealth rules, and I ask the honourable member to put that part of the question on notice.

PARLIAMENTARY COMMISSIONER AMENDMENT BILL

Debate

198. Hon. P. G. PENDAL, to the Attorney General:

(1) Is it his intention to proceed in this session with the Parliamentary Commissioner Amendment Bill, which is currently No. 8 on today's Notice Paper?

(2) Given that debate was last held on this matter six weeks ago, why has it not been dealt with?

Hon. J. M. BERINSON replied:

(1) It is unlikely that any further action will be taken on the Bill in this session.

(2) The time from its introduction until now has been used to reappraise the proposal in that Bill.