



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE COUNCIL

Wednesday, 17 June 1998

Legislative Council

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

CALM MANAGEMENT PRACTICES - BRIDGETOWN-GREENBUSHES SHIRE

Petition

Hon J.A. Scott presented a petition, by delivery to the Clerk, from four persons praying that the Department of Conservation and Land Management hold a public workshop to address the impacts of logging the Hester state forest on the Bridgetown-Greenbushes community and that CALM manage the forest more in accordance with the wishes of the community.

[See paper No 1704.]

URANIUM MINING IN WESTERN AUSTRALIA

Petition

Hon Giz Watson presented a petition, by delivery to the Clerk, from 51 persons praying that the Legislative Council investigate and evaluate the acceptability of a uranium industry in this State.

[See paper No 1705.]

SCARBOROUGH SENIOR HIGH SCHOOL CLOSURE

Petition

Hon E.R.J. Dermer presented the following petition bearing the signatures of 154 persons -

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

We, the undersigned residents of Western Australia oppose the likely closure of Scarborough Senior High School. We protest that:

- . the education Minister earmarked Scarborough Senior High School last year, before the community consultation process even started, when he announced that the school should probably close.
- . the local area education planning process ignored community opinion by effectively eliminating the three options which recommended retaining Scarborough Senior High School.

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

[See paper No 1708.]

OCCUPATIONAL SAFETY AND HEALTH REGULATIONS 1996 FOR PRIMARY INDUSTRY

Review - Amendment on the Amendment to Motion

Resumed from 11 June on the following motion -

That the Occupational Safety and Health Regulations 1996 for primary industry be reviewed with the intention of developing and implementing a code of practice.

to which the following amendment was moved -

That all words after "That" in the first line of the motion be deleted and the following words be inserted -

the primary industry sector be encouraged to develop an industry code of practice for approval by the Minister for Labour Relations under section 57 of the Occupational Safety and Health Act 1984 to enhance and support compliance with the duty of care provisions of that Act and the Occupational Safety and Health Regulations 1996.

to which the following further amendment was moved -

- (1) To delete "develop" in line 1 and substitute "complete";
- (2) to delete the words "under section 57" in line 2 and substitute "meeting the objects contained in section 5"; and
- (3) to delete all words after "1984" in line 3 and substitute -

A review of regulations be undertaken so as to repeal those no longer required for compliance which currently cover the primary industry sector.

HON KEN TRAVERS (North Metropolitan) [4.05 pm]: When last debating this issue I was developing an argument about how this Government treats occupational health and safety and what would be the effect of this motion if it were carried. I was comparing occupational health and safety in the farming industry to the hospitality industry and the complete mess facing people in Western Australia over the smoking issue. I was endeavouring to highlight the lack of commitment by this Government to the principles underlying occupational health and safety. The implementation of a code of conduct and amendment to the regulations would be the wrong path to take. Members on this side of the House said that it would be appropriate to add a code of conduct to the regulations rather than subtract from them. If regulations must be amended it should be because they either stand or fall on their own merit.

The level of uncertainty created in the hospitality industry should not be repeated in the farming industry. No-one has any idea about the requirements and expectations in the hospitality industry in the general sense of a duty of care provision. As members will be aware, the Minister for Labour Relations introduced regulations in the hospitality industry banning smoking in workplaces while the rest of government was implementing working parties to develop guidelines or, for want of a better term, a code of conduct.

Those guidelines progressed and the regulations were implemented. Confusion reigned in the area and the Government advised it would consider changes. The Minister for Labour Relations reminded everyone they still had their duty of care. Those regulations have not yet come to light. However, it is fair to say that the end result is a product of confusion, and workers' health and safety are at risk.

Regulations exist for the farming industry and a code of conduct has been proposed. However, it has been suggested that as a result of that code of conduct, some of those regulations should be unwound. That would create complete disarray and confusion in the industry. The regulations must be amended in their own right, not as part of a code of conduct. That is the key to the amendment moved by Hon Bruce Donaldson and the reason I disagree with it and that we should support Hon Tom Helm's position.

Hon Tom Helm's position is that we put in place the Occupational Safety and Health Regulations and that they should stay there and be a constant in the process. People should know that they exist and that they exist because we believe they are the minimum requirements. Any attempt to change them should be based on its own merits and not as a result of a code of conduct. A code of conduct should help add to the safety of workers in a particular industry. The whole issue of certainty is crucial to employers and employees. Any attempt to change the regulations would be a complete disaster for the farming industry and for occupational health and safety and how it is viewed. We would probably see a whole range of other industries approaching the Government.

Already in Western Australia the mining industry has its own sets of regulations for occupational health and safety issues. It operates outside the framework of this legislation. We have seen the problems that has caused. I am not sure of the appropriate word because this is a sad area to be talking about owing to the loss of lives we have seen in that industry. My concern is that if we start going down that path, we could have a whole range of industries fronting up to us and asking to be able to put in place a code of conduct so that they could go back and undermine the regulations. The regulations are there to protect workers.

HON GREG SMITH (Mining and Pastoral) [4.12 pm]: I would like to clarify how the motion reads, so that I can determine whether I am talking for it or against it. I understand that the motion would read -

That the primary industry sector be encouraged to complete an industry code of practice for approval by the Hon Minister for Labour Relations meeting the objectives contained in section 5 of the *Occupational Safety and Health Act 1984*. A review of regulations be undertaken so as to repeal those no longer required for compliance which currently cover the primary industry sector.

Is that correct?

The PRESIDENT: If the amendment on the amendment is agreed to, that is correct.

Hon GREG SMITH: I will speak in favour of the amendment. The reason we have introduced this motion and want to do something about the regulations has nothing to do with the insinuations of the Opposition that we are trying to

do something sneaky or have agricultural industry employers not subject to safety requirements and not having to look after their employees. We need to try to make the regulations workable and practicable.

The current regulations are impracticable in the primary industry sector. All the breaches of the regulations involve fines. People could quite easily break the law or be open to litigation and fines without realising that they were breaching the regulations. One of the first provisions I noticed in the regulations is that every employer is required by law to make available a copy of the Occupational Safety and Health Act 1984 and the Occupational Safety and Health Regulations 1996 to any employee who asks to see them, and not only those two Acts but also a whole host of other regulations and Acts, such as the Australian Standards, the Australian/New Zealand Standards, and parts of the National Occupational Health and Safety Commission documents. I was interested to find out what the NOHSC documents were. They include the National Exposure Standards for Atmospheric Contaminants in the workplace.

I will talk about my own station as an example. If I had someone turn up at my station to work for me, to do a week's mustering or help in the sheep yards, and he said, "I want to see a copy of the Act and regulations, the Australian Standards, the Australian/New Zealand Standards and the NOHSC documents. Can you produce them?" I would have to look at him extremely blankly and say, "I'm sorry, I can't." Suddenly I would be liable to a penalty of \$2 000. The regulations state that the employer should make available, as soon as available for a person's perusal, an up to date copy of those documents. I may have copies of regulations or Acts when they first came into force and not have an up to date copy, so I would still be in breach. It is all well and good to have regulations in place but they must be capable of being applied in the workplace, especially in the pastoral industry. If somebody asked for them, it could take an employer three weeks to get them in the mail by the time he had phoned around, found out where they were and had them sent to him. That would be considered insufficient time because the job would be over and the person would be gone. Straight away the employer would find himself in hot water because he did not have those documents available.

The regulations covering manual handling relate to any activity requiring the use of force exerted by a person to lift, lower, push, pull, carry or otherwise move, hold or restrain a person, animal or object. Does that mean that if a sheep weighs X kilograms and I say to a young bloke, "Can you grab that and throw it over the fence because you missed it when you were drafting?" we have all to stand back and say that we think the sheep is over 40 kilos and the young bloke had better not lift it? That does not add up. If he runs up, grabs it, throws it over the fence and puts his back out, because we did not assess the risk properly and he has done the job, I would find myself liable to a \$25 000 fine. Make no mistake about it, with the aggressive nature of the legal fraternity, if lawyers thought there was a case, I would find myself in court and subject to litigation.

I found the fire precaution provision in the regulations amusing. If there is a risk of fire in a workplace a person who at the workplace is an employer, the main contractor or self-employed person, or a person having control of the workplace, must as far as practicable provide regularly maintained and efficient portable fire extinguishers to control any fire likely to arise from the work being done at the workplace. That is reasonable enough. He must ensure that portable fire extinguishers are located and distributed at the workplace in accordance with AS2444.

Hon Ljiljanna Ravlich: What is AS2444?

Hon GREG SMITH: I do not know. I do not have a copy of the Australian Standards with me. Being a pastoralist, I must get my copy of the standards and have a look. I may well have to have a fire extinguisher placed at each gate of the station for all I know.

Hon Ljiljanna Ravlich: If you have employees there, you should anyway. Are you saying that you do not have fire extinguishers?

Hon GREG SMITH: I have fire extinguishers and all sorts of fire fighting equipment. The regulations state that if there are any goods or materials which in the event of a fire are likely to burn with extreme rapidity, emit poisonous fumes or cause explosions and there is a risk of harm or injury to a person at the workplace resulting from the goods and materials being ignited, then a person who, in the case of a construction site - which does not apply to my example - is the main contractor, must ensure that no person smokes or introduces a naked flame into that part of the workplace. Does that mean that no-one can smoke within a certain radius of where my diesel bowser is stationed?

Hon Ljiljanna Ravlich: Does the honourable member smoke near his petrol bowser?

Hon GREG SMITH: No, I do not smoke near my petrol bowser. However, I cannot police what people are doing when I am not there even though I could ask them not to. This is a good one -

Evacuation procedures

A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that -

- (a) there is an evacuation procedure to be followed in the event of fire or other emergency at the workplace;
- (b) where practicable, the evacuation procedure is clearly and prominently displayed in the workplace;
- (c) where practicable, a diagram showing the location of exits and the position of the diagram in relation to the exits is clearly and prominently displayed at the workplace;
- (d) where practicable, the evacuation procedure is practised at the workplace at reasonable intervals;
- (e) persons at the workplace who would be required to help control or extinguish a fire at the workplace are appropriately trained and provided with appropriate protective clothing and equipment.

How would someone on a farm feel out on the header? Does a map have to be posted in the tractor saying, "If a fire starts while you are harvesting, this way is the way to get out the gate if the fire is that side of you. If it is the other side you had better go that way. When the fire starts, wear your fire protective clothing before you use your extinguisher, which is located in the box under the seat."

There is a \$25 000 penalty for not complying with those regulations.

The provision relating to lighting is one I found amusing. In the bush we are practical people. If we go out to do a job, we try to get it finished. It might be a lamb marking or something. The following appears under "Lighting" -

A person who, at a workplace -

It refers to the employer or main contractor, etc. To continue -

- must ensure that lighting for the workplace from natural or artificial sources or both -

- (a) is adequate, having regard to the nature and location of the work being done; and
- (b) without limiting regulation 3.6, is adequate for the movement of persons about the workplace.

At times we have gone to mark lambs at locations. We get a mob of sheep in and there has been a good lamb percentage. We think it will take about four hours to mark them and we should be finished around four o'clock. However, lo and behold, we find there has been a big lambing percentage and we are still at it at 6.30 pm. Because it is getting dark we put on the car headlights so that we can finish the marking and return the ewes and lambs to the paddock. Under this provision there is a \$25 000 penalty attached to that act. If we do not knock off when it gets a little dusky, leave the sheep locked in the yards and keep working -

Hon Muriel Patterson: What about the lambs?

Hon GREG SMITH: They do not matter.

Hon E.J. Charlton: Get the RSPCA.

The PRESIDENT: Order! Hon Greg Smith has the floor.

Hon GREG SMITH: If someone happens to trip over working by the car headlights and cracks open his head or breaks an arm, there is a \$25 000 fine for failing to provide adequate lighting.

Hon Ljiljanna Ravlich: Fair enough.

Hon Ken Travers: If that person tripped over?

The PRESIDENT: Order! Hon Ken Travers will get his chance in due course.

Hon GREG SMITH: I am enjoying the interjections. It shows the lack of understanding of members opposite of agricultural practices, which is why they have no seats in the agricultural area. The regulation relating to "air temperature" states -

An employer must ensure -

- (a) that work practices are arranged so that employees are protected from extremes of heat and cold.

Members like that one for Mt Magnet, do they not? In the winter we have frosts and when we go out on a motorbike it is damned cold, I assure members of that; and in the summer it is hot.

Hon E.J. Charlton: The member is not supposed to go!

Hon GREG SMITH: To continue -

- (b) if the workplace is in a building or structure that, as far as practicable, heating and cooling are provided to enable employees to work in a comfortable environment.

I wish I had known these existed when I was a shearer, because I have put in some pretty hot days out the back of Meekatharra shearing in the middle of January, I will give members the tip. The regulation relating to "water", states -

A person who, at a workplace, is the employer or main contractor must ensure that a supply of clean, cool, drinking water is provided for, and is readily accessible to, persons working at the workplace, and that the outlet is in a place -

- (a) where the water supply is unlikely to be contaminated; and

Fair enough. It continues -

- (b) other than a place in which a toilet is located.

We have not reached "Toilets" in the workplace yet. It continues -

- (2) If, at a workplace -

- (a) water is provided for use in industrial processes or for fire protection;
- (b) the water is unfit for drinking; and
- (c) it is not readily apparent that the water is unfit for drinking,

then a person who, at the workplace, is an employer or the main contractor or a person having control of the workplace must ensure that conspicuous notices are posted at points of supply clearly marked "UNFIT FOR DRINKING".

Hon E.J. Charlton: And every one of them marked.

Hon GREG SMITH: At every trough on the station. If some young bloke is a bit dry one day and he drinks the water bag dry and no other water is supplied, the employer is liable to a fine of \$10 000. I will probably get fined more because I did not have a sign at the trough telling him that the water was unfit for drinking. However, I have drunk it myself and I am quite sure that if members were out there, they too would have a drink of it.

Hon Ljiljanna Ravlich: I do not think so. If it did to me what it has done to the member, I do not think so.

Hon GREG SMITH: "Seating" is an interesting regulation.

Hon B.K. Donaldson: Maybe the member should supply a copy to the members of the House because I do not think they have looked at this.

Hon Kim Chance: That is why we support the code of conduct. That is the point of all this garbage.

Hon GREG SMITH: However, the members opposite still want the regulations in place. We want to remove the regulations that are impractical and are no longer required for compliance. The regulations state further -

Seating

If an employee's work is done from a sitting position or is of a kind that can be satisfactorily done from a sitting position then the employer must provide and maintain seating.

This is not just any seat. To continue -

- (a) that is designed having regard to the nature of the work to be performed and the characteristics of the work station;
- (b) that is strongly constructed, stable, comfortable and of suitable size and height for the employee; and
- (c) if practicable, has a backrest or is otherwise designed to provide back support.

- (2) If an employee's work is done from a standing position and the employee's work allows the employee to sit from time to time then, to the extent practicable, the employer must provide and maintain seating so that the employee may sit down for the periods when the employee is not working.

It looks like the old five gallon drum is out. I do not think we can sit on a wool bale any more when people are sitting around. Even the bales of hay that have been traditionally used would not be an adequate form of seating in the country any more. The regulations continue -

Management of vehicles and moving plant at workplaces

A person who, at a workplace, is an employer, the main contractor or a person having control of the workplace must ensure that the movement and speed of vehicles and plant at the workplace are managed in a way that minimises the risk of injury to pedestrians and persons operating vehicles.

On most pastoral properties, it is 80 or 100 kilometres around a windmill run. In many cases an employer would put someone on a motor bike or let him drive the car. Young blokes being what they are, when they get into cars and get away from the boss, they like to go a bit faster than we would approve of. However, if they go too fast, roll the car and hurt themselves, the employer is liable to a penalty of \$10 000. That is what worries me and other employers. We can be held liable for things that are beyond our control.

Hon Ken Travers: Nonsense.

Hon GREG SMITH: There are regulations here on lowering gear. I do not know whether any member here has ever pulled a windmill or column and rod; we usually put up a jib pole or use some sort of winch. There are many regulations on how it should and will be done, and penalties to be placed on people for not performing by the book. When we are doing these sorts of jobs we take all practical care. We are not trying to remove the duty of care. The regulations continue -

Portable ladders

If, at a workplace, a person uses either a single or extension ladder then the person must ensure that the ladder -

- (a) is placed so that the distance from the ladder base to the base of the support wall is about a quarter of the working length of the ladder;
- (b) located on a firm footing;
- (c) is secured into position so as to prevent slipping and sideways movement;
- (d) if being used to approach a working platform, protrudes at least one metre beyond the landing for the working platform; and
- (e) if being used at a workplace that is a construction site . . .

I do not know whether the regulations define a construction site. I do not know whether building a shed or erecting a windmill would be classified as a construction site.

Paragraph 3.26 states that if a person in a workplace uses a portable metal ladder the person must ensure that the ladder is designed and constructed in accordance with the general requirements of the Australian and New Zealand Standards and the specific requirements of those standards in relation to the type of ladder. If that person uses a portable wooden ladder the person must ensure that the ladder is designed and constructed in accordance with the general requirements of AS 1892.2 and the specific requirements of that standard in relation to the type of ladder. We use old mine ladders and I do not imagine they would conform with those standards. The good old 44-gallon drum with a piece of wood running from one drum to the other would no longer be considered a suitable platform.

Hon Norm Kelly interjected.

Hon GREG SMITH: I can assure Hon Norm Kelly that a 44-gallon drum has been considered a suitable platform in agricultural areas for a long time. Two pieces of wood running across two 44-gallon drums have been used as a suitable platform to put a tek screw in a wall or for painting something that is a bit higher than one can reach.

Hon Norm Kelly: It would be interesting to compare the compensation claims arising from the use of the specified ladder and the use of 44-gallon drums.

Hon GREG SMITH: It would be interesting. Paragraph 3.30 refers to flotation devices where a person is working

alone and states that an employer, as far as practical, must ensure that a person who works over water or other liquid at a workplace must wear a life jacket. In many cases a pump will be located by a dam. I can imagine the response from some blokes if I said to them as they were going down to the dam to shift a pump to wear a life jacket. It would be thrown straight back at me, or they would not wear it.

Paragraph 3.33 refers to standards relevant to certain protective clothing and equipment and states -

3.33. (1) If a person -

- (a) is required under any of these regulations to identify a hazard at a workplace and to assess the risk of injury or harm to a person resulting from the hazard; and
- (b) concludes from the assessment process that a risk might be reduced by any of the personal protective clothing or equipment set out in column 1 of the Table to this regulation,

then the person must ensure that the personal protective clothing or equipment is in accordance, and complies, with the relevant requirements of each Standard set out opposite the clothing or equipment in column 2 of the Table.

This is impractical. If a farm worker has a pair of garden gloves and wants to pick up something because it is hot, or has finished welding and wants to pick it up to cool it down or to see if it fits, the protective clothing is listed. I have no problems with the standards for the different safety equipment. For example, a safety helmet must comply with AS 1801; eye protection must comply to AS and NZS 1337 or 1338; the gloves must comply to AS 161. I admit that I am naive, because I do not know what that AS glove looks like, whether that is a pair of leather gloves, garden gloves or golf gloves.

Hon J.A. Scott: They stamp the standard on the gloves.

Hon GREG SMITH: An agriculture workplace is not like a construction site where workers are involved in work of a specific nature where gloves might be required. In agriculture there might be a one-off requirement for gloves in a two month period.

Hon J.A. Scott: It is not much sense wearing washing up gloves if you are welding.

Hon GREG SMITH: I referred to garden gloves. I can think of instances when we needed a pair of gloves for a task and we have run down to the house and found a pair of my wife's garden gloves. In the summer at places like Meekatharra if a spanner has been sitting out in the sun it would be too hot to pick up. Footwear must conform to AS and NZS 2210. I do not know whether that means they must be steel capped boots, Blundstone work boots or even Jenkins boots.

Hon Ljiljanna Ravlich: If you knew what you were talking about we would get somewhere.

Hon GREG SMITH: That is the point. I do not know what these standards are referring to, but on the station I have to live by these rules. I want a code of practice that is simple and practical.

Hon Ken Travers: So the code of practice should be, "Do not wear thongs"!

The PRESIDENT: Order! Hon Ken Travers has had his turn.

Hon N.F. Moore: We can be forgiven for missing it.

Hon GREG SMITH: One encouraging aspect is that if the employer provides protective clothing and the employee does not wear it he does not commit an offence. Division 3 refers to atmosphere and respiratory protection, which I found amusing.

Hon Ljiljanna Ravlich: Did the member find that more or less amusing than the other requirements?

Hon GREG SMITH: Paragraph 3.41 is headed "Supplied air respirators required for certain atmospheres", which sounds reasonable. It refers to an oxygen deficient atmosphere; an atmosphere in which the levels of toxic gases or vapours exceed the capability of an air purifying device; or a toxic atmosphere where the level of contamination is not known. Does dust in sheep yards qualify as a toxic atmosphere?

Hon J.A. Scott: No.

Hon GREG SMITH: We used to dip sheep in an arsenic based dip, and that could still be in the dust. The dust in sheep yards could well contain unknown levels of contamination. Q fever is in the dust.

Hon J.A. Scott interjected.

Hon GREG SMITH: Has the member ever been on a farm?

The PRESIDENT: Order! Hon Greg Smith will address the Chair.

Hon GREG SMITH: I spend a lot of time on farms and I know that dust in sheep yards could contain arsenic. Arsenic contamination has shown up in wool even when arsenic dips have not been used for years. The only conclusion that can be drawn is that it is still in the dust.

Hon J.A. Scott: Or there are irresponsible farming practices.

Hon GREG SMITH: It has nothing to do with irresponsible farmers. Farmers know more now than they knew years ago. If someone works in a sheep yard with too much dust, the penalty for a farmer who does not provide an employee with a respiratory apparatus is \$25 000.

Hon Ljiljanna Ravlich interjected.

Hon GREG SMITH: Would Hon Ljiljanna Ravlich like to know how many different sorts of masks are specified?

There is a filter that complies with the Australian/New Zealand Standard 1715. There is self-contained breathing apparatus, which means a type of supplied air respirator which is carried by the user. This supplies the user with respirable air from a source carried by the user. There is also a supplied air respirator.

Hon J.A. Scott: Do you know the difference?

Hon GREG SMITH: I am saying there are different sorts of breathing apparatus.

I now refer to protection in relation to holes and openings. The regulations state that -

A person who, at a workplace, is an employer, the main contractor . . . having control of the workplace must ensure that any hole or opening . . .

- (b) in a concrete floor of a building or structure at the workplace -
 - (i) has wire mesh that meets the requirements of subregulation (2); and
 - (ii) is covered with a material that is -
 - (I) strong enough to prevent persons or things entering or falling through the hole or opening; and
 - (II) securely fixed to the floor.

If there is a hole, the wire in the wire mesh referred to in subregulation 1(b)(i) must be at least 4 mm in diameter, have maximum apertures of 100 mm x 100 mm, and be embedded, at least 200 mm in the edges of the surrounding concrete. It then gives specifications about the concrete cover in different parts of the slab.

When I get back to the station I must look at the old dip. I know it is covered, but I do not know whether the cover complies with these requirements.

The PRESIDENT: Order! It is hard enough for me to hear the member's comments and, if I cannot hear, it is unfair to Hansard. The member must ensure later that the document to which he is referring is handed to Hansard, which will make it a lot easier to pick up some of those quotes. I am suggesting he does that because it is important that the quotes be accurate.

Hon GREG SMITH: I will make sure I have another one so that I have one when my employees ask for it.

Hon Bob Thomas: Hansard will give you back the copy.

Hon GREG SMITH: This is where employers start to feel as though they are treated like geese. Some time ago the FarmSafe pamphlet was produced. Many people in the agricultural and pastoral industries would have thought they were doing what was required of them, unless they then read the Occupational Safety and Health Act and the regulations. As a member of Parliament representing people in those areas, I should send those regulations to people in my electorate. I will make it my business to do that to let them know we are trying to make it possible for them to operate without their being subject to litigation if they happen to overlook one of these matters.

I looked through the regulations for the requirements for communications in remote areas. That is also a worry because it is a requirement that someone in a remote location should be able to contact help at any time. Most stations have two-way radios, but in some areas they go in and out of range. It is probable that people have fallen off motor bikes and have had to wait for someone to realise they are missing and go out to look for them. That

happens. To comply with the standard in the regulations, particularly in pastoral areas, people would need a satellite telephone to be at the disposal of every person who left the homestead.

Hon Tom Helm: Where does it say that?

Hon GREG SMITH: I will find it for Hon Tom Helm, since he would like to know. I am aware that a considerable fine is attached to non-compliance.

Hon Tom Helm: You probably misunderstood the regulation and the code of practice. You really do not need a satellite telephone.

Hon GREG SMITH: I will find it to verify that I am not being unreasonable.

The PRESIDENT: Order! Perhaps the member should look for it at a later stage.

Hon GREG SMITH: I will give Hon Tom Helm the information when I have finished speaking. It is definitely in the regulations because I read it, and it dawned on me that it is possible for people to have accidents and not be able to get in touch with anyone. If someone had an accident and could not get help immediately, and his condition deteriorated as a result of that delay, the employer could be subject to a fine for the accident in the first place and, because he was in breach of regulations, he could also find himself subject to litigation and be sued for negligence. The Thorpe case highlighted some of these problems. People recognised that something needed to be done so that if reasonable care had been taken and all efforts had been made to prevent an accident, which happened anyway, the employer would not be in breach of regulations and would not get into trouble and be charged for an accident involving his own child. There was a case a couple of years ago when a bloke was charged for an accident in which a tractor fell on him.

The people involved in agriculture could not believe what they were reading when they saw the book to which I referred earlier. For example, it states that for the protection of small children there must be an effective fence around the house and the yard. That is reasonable. It also says that septic tanks and sheep dips must be fenced off. Any caring parent would do that. However, a person can take all these steps and there may still be problems. I had a fence around the house at the station but it was difficult to keep the young bloke inside it. We ran barbed wire around the house to keep him in, because if he had gone into the bush at Mt Magnet, he might never have been found. He had a rug which he carried around, and he threw that over the barbed wire and then climbed over it.

There is another requirement that tractors must be locked up. I have a tractor but it does not have a lock. I could take the battery out. It explains how to use mechanical aids. A picket drive must be used to drive in pickets for fencing, which means that a person can no longer use an axe to hammer in a steel picket. If a person is doing a job and has an axe in the back of the ute and does not have the steel post driver, he will just use the axe to drive in the picket. We are trying to make these regulations achievable and ensure it is not a set of regulations that leave people open to litigation. The worrying part about this is that people could breach these regulations without being aware of it; the Occupational Safety and Health Regulations is not a small document.

Many people in pastoral areas at the moment are not well off. Wool growers have been almost broke for the past seven years and would employ someone only for the minimum time possible. A lot of casual labour comes and goes. It is all well and good to be inducted into the mining industry; during the induction the employee is shown what to do if he gets cyanide in his eye or on his hands and how to act on the mine site. It is confined to a certain area and the same thing occurs all the time. However, on a pastoral property or a farm, a person could be mustering for three days, doing lamb marking for another couple of days, and three or four days after that he could be stacking wool bales outside the wool shed and penning up sheep. Then after the sheep are shorn he will be dipping sheep or trimming horns on rams; after that he could be out mustering goats on a motor bike. I have not even looked at the regulations in relation to a motor bike. Anyone on a motor bike on a person's property would probably be required to wear a crash helmet. I can assure members that very few people wear crash helmets when mustering sheep. If someone working for me is on a motor bike, sitting behind a mob of sheep, that is fairly slow most of the time; but there are times when the mob will take off and that person will have to rush through the bush. If he falls off and hits his head and I have not supplied a crash helmet, I will be open to litigation.

Hon Ljiljanna Ravlich: That is fair. What is wrong with that?

Hon GREG SMITH: The member can come and muster sheep when it is 47 degrees and I will give her a crash helmet and see if she still has it on by nine o'clock in the morning. We do not want the situation where we do not have regulations; we want to establish a code of practice which recommends how a person operates and what is expected of him. We do not want a document that lawyers and those sorts of people can get out, flip through and find out what minor regulation may have been breached and then just throw the book at a person. Once a person has breached a regulation, he has been negligent and that goes without saying. I am concerned about the pastoral industry

because of the unique nature of work on those properties. It would probably do members opposite good to spend a week on a pastoral property while the shearing is done; they could realise that what a property owner is doing is not being done in a dangerous manner. Animals can be unpredictable. A person can be riding along on a motor bike and have a sheep run in front of him and he can fall off. That is the sort of thing that can happen. It is impractical for all small employers on pastoral properties to comply with the Occupational Safety and Health Regulations. We are seeking to bring in a code of practice to provide a simple outline of how people are expected to conduct their business.

I support the motion as amended by Hon Bruce Donaldson. The members of the Government who are supporting this motion are not trying to reduce the duty of care or responsibility of employers. We are trying to remove the regulations that are impractical for farming and pastoral pursuits.

Debate adjourned, on motion by Hon Norm Kelly.

VALUES IN STRATEGY ASSESSMENT (VISTA) STUDY BY WIRTHLIN GROUP

Motion Discharged from Notice Paper

HON N.D. GRIFFITHS (East Metropolitan) [4.55 pm]: I move -

That motion No. 2 be discharged from the Notice Paper.

The reason I move this motion is that the documents have been provided.

Question put and passed.

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT - LAND CONTAMINATION INQUIRY

Motion

HON LJILJANNA RAVLICH (East Metropolitan) [4.56 pm]: I move -

That the House direct the Standing Committee on Ecologically Sustainable Development to inquire into and report upon -

- (1) The extent to which land, including groundwater -
 - (a) in the metropolitan area, and
 - (b) in the non-metropolitan area,
 is contaminated by hazardous substances which pose or are likely to pose an immediate or long term hazard to human health and/or the environment.
- (2) The number and location of all sites in Western Australia that are identified as contaminated by hazardous substances.
- (3) The extent to which -
 - (a) underground storage tanks, and
 - (b) other activities,
 are a source of contamination of land, and the adequacy or otherwise of the manner by which these sources are monitored.
- (4) The extent to which there are management strategies currently in place for contaminated sites, and how they could be made more effective.
- (5) The financial, health, environmental and legal implications for future redevelopment of land that has been identified as contaminated.
- (6) The adequacy or otherwise of existing legislation to properly monitor and manage contaminated sites.
- (7) The extent to which "dumping fees" for solid and liquid waste contribute to -
 - (a) land contamination; and
 - (b) unlawful safety practices across industry sectors, particularly the building and construction industry.

- (8) The policy of the Water Corporation on providing in-fill deep sewerage in existing industrial estates and the degree to which that policy militates against desirable environmental outcomes.
- (9) The effectiveness of the Government's response to the recommendations of the 1994 Legislative Assembly's Select Committee on Metropolitan Development and Ground Water Supplies.
- (10) Any other matters relating to contaminated sites as the Committee deems necessary.

This is a serious area of concern to many Western Australians. If this motion is passed, contaminated sites in Western Australia will come under scrutiny in a very thorough and proper way by the Standing Committee on Ecologically Sustainable Development. It is an enormous problem; the extent of which is not well known. The Department of Environmental Protection estimates that there are some 1 500 contaminated sites in Western Australia, excluding rural properties. Much of the nature of the contaminating substances is not clear and we do not know what we are dealing with in many of these sites. A need exists to assess the nature of the contamination and to look at the management strategies which need considerable improvement. A cooperative and coordinated approach and further investigation is required. The Standing Committee on Ecologically Sustainable Development will make recommendations in relation to that approach. We must accept that a problem exists. The Government has accepted that because it has put out a position paper on contaminated sites. It has taken some time to do this but, nevertheless, it has been presented. The Government recognises this problem, as does the Opposition.

To address this issue effectively, a register of all the contaminated sites in Western Australia is required and I am confident that no such register exists. Given that we know that there are 1 500 contaminated sites in WA, I should be able to go to the Department of Environmental Protection or whatever department is responsible and look at a map to ascertain where these 1 500 sites are located. I should also be able to obtain information about the severity of the nature of the contaminants. We do not have that level of detail and because we do not, a comprehensive inquiry on land contamination in Western Australia is required. My motion is an extensive motion which considers the extent to which land, including groundwater, in the metropolitan and non-metropolitan areas is contaminated by hazardous substances which pose or are likely to pose an immediate or long term hazard to human health and/or the environment.

If I am successful, the committee will look at the number and location of all sites in Western Australia that are identified as being contaminated by hazardous substances. It will also look at the extent to which underground storage tanks and other activities are a source of contamination of land and the adequacy or otherwise of the manner by which these sources are monitored. I hope the committee will look into how frequently these sources of contamination are monitored by relevant government agencies, because I suspect that is not happening.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Twenty-first Report on 1998-99 Budget Estimates Hearings

Hon Muriel Patterson presented the "Twenty-first report of the Standing Committee on Estimates and Financial Operations in relation to the 1998-99 Budget Estimates Hearings", and on her motion it was resolved -

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

[See paper No 1710.]

PARLIAMENTARY SERVICES COMMITTEE

Assembly Membership

Message from the Assembly received and read notifying its membership of the Parliamentary Services Committee.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 1)

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.35 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to grant supply and to appropriate sums from the consolidated fund required for the recurrent services and purposes for the 1998-99 financial year as detailed in the consolidated fund agency information in support of the Estimates.

Total expenditure is estimated to be \$6 665 700 000, of which \$985 266 000 is permanently appropriated under Special Acts, leaving an amount of \$5 680 434 000, which is to be appropriated to the services and purposes identified in the schedule to this Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

ACTS AMENDMENT (EDUCATION LOAN SCHEME) BILL

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.36 pm]: I move -

That the Bill be now read a second time.

The Acts Amendment (Education Loan Scheme) Bill 1998 deals with arrangements for low interest loans in the education sector in Western Australia. Provision already exists for subsidised loans to be made available by Government to non-government schools, not-for-profit training providers and the University of Notre Dame to assist with the cost of various capital improvements. These loans are currently funded from the consolidated fund.

This legislation seeks to amend the Education Act 1928, the Vocational Education and Training Act 1996 and the University of Notre Dame Australia Act 1989 to enable such loans to be funded from the Western Australian Treasury Corporation or other commercial sources, rather than from the consolidated fund. The legislation also seeks to amend the University of Notre Dame Australia Act 1989 to formalise the university's powers to borrow money and to provide it with the relevant powers to mortgage property as security for loans. I stress that the Bill is not about changing the conditions under which loan funds are made available to the various institutions. These conditions will be maintained at least at the same level as are currently available. The Bill merely supports proposed changes to the source of funds under which the funding is provided. Previously the cost of the low interest loans scheme has been included in the consolidated fund budget and therefore appears as a cost to Government. This is misleading because the real cost to Government is only the cost of the subsidy component of the scheme. The Bill brings about a clearer identification of the real cost of providing low interest loans to private institutions.

The Bill is in five parts. The first part of the Bill deals with the preliminaries.

Part 2 deals with the changes required to the Education Act 1928 to accommodate the proposed funding arrangements. Currently, the Minister for Education is able to make loans available only to approved non-government schools and independent kindergartens and preschool centres from moneys appropriated by the Parliament. The Bill seeks to provide the Minister with the appropriate powers to borrow money from various sources in order to support lending to such institutions. Under the proposed amendments, the Minister will be able to borrow money from the Treasurer, the Western Australian Treasury Corporation or any other commercial sources which are able to offer competitive rates of interest.

The Bill also makes provision for the funds borrowed by the Minister and the repayments received from institutions to be credited to an operating account of the department charged with responsibility for administering the low interest loan scheme. This is currently the Department of Education Services. The proposed change is necessary in order to meet the requirements of section 15B of the Financial Administration and Audit Act 1985. Part 2 of the Bill also provides the Treasurer with discretionary power to issue guarantees on behalf of the Minister for Education as security for funds borrowed from private sources.

Corresponding clauses to those contained in this Bill relating to the Education Act 1928 are also included in the School Education Bill 1997, which is currently before the Parliament.

Part 3 of the Bill makes provision for equivalent changes to those proposed for the Education Act 1928 to be made in the Vocational Education and Training Act 1996 to support the proposed changes to the funding arrangements for not-for-profit training providers. Under this part, the approved purposes for not-for-profit training providers has been extended to include loans raised to purchase or lease plant and equipment. This is in recognition of the funding requirements of such institutions. Particularly in the case of skill centres, plant and equipment is an essential part of the operations of these centres and often it can be acquired more efficiently and with greater cost effectiveness under lease arrangements than by direct purchase.

Part 4 of the Bill makes equivalent provisions to those referred to previously for the amendment of the University of Notre Dame Australia Act 1989 in order to support the proposed changes to the funding arrangements for the University of Notre Dame. This part includes provisions which formalise the university's power to borrow money and provide it with the power to mortgage property as security for loans. Currently, the University of Notre Dame Australia Act 1989 does not contain any express provisions with respect to these matters.

A power to borrow money can be inferred from the provision in the Act which allows the Minister for Education to lend money to the university. However, no such corollary can be established regarding the creation of security interests in the property of the university; that is, the university does not have the authority to mortgage property under the Act. Part 4 of the Bill includes provisions which formalise the university's power to borrow money and provide it with the power to mortgage property as security for loans.

Part 5 of the Bill deals with various transitional arrangements. The conditions of existing loans approved under the low interest loan scheme are regulated by various sections of legislation which are to be repealed under this Bill. Part 5 of the Bill allows for the conditions of existing loans to be varied if and when required to the same extent that they could have been had the relevant sections not been repealed. This is an important provision. In the current economic climate, it is likely that lower interest rates will be available under the new borrowing arrangements than have previously been possible. It will be important to retain the capacity to review existing loans to ensure that existing borrowers are not unfairly disadvantaged in comparison with new borrowers.

Any loans advanced to institutions under the scheme during the 1997-98 financial year have been funded from an advance approved in terms of the Treasurer's Advance Authorization Act 1997. Provision has been made in the Bill for the Minister for Education and the Minister for Employment and Training to borrow money in the manner provided for in this Bill in order to repay the Treasurer's Advance.

The proposal to fund the low interest loan scheme from outside the consolidated fund provides the relevant Ministers with greater flexibility to support the borrowing requirements of non-government and non-profit educational providers. Nevertheless, Ministers will continue to require approval from the Treasurer of an annual borrowing limit to ensure that the funding of the scheme fits within the State's overall debt management strategy.

Considerable consultation has occurred with the peak non-government education bodies, including the Catholic Education Office, the Association of Independent Schools and the University of Notre Dame, and full support for the proposals has been obtained. I am sure that members on both sides of the House recognise the significant contribution that the non-government education sector makes to the education of young people in this State and will support the ongoing funding of these institutions through the changes proposed in this Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 2)

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.43 pm]: I move -

That the Bill be now read a second time.

The Bill seeks supply and appropriation from the consolidated fund for the capital services and purposes during the 1998-99 financial year as expressed in the schedule to the Bill and as detailed in the consolidated fund section headed "Agency Information in Support of the Estimates" in the 1998-99 Budget Statements.

Capital expenditure and financing transactions are estimated to total \$543 500 000, of which \$74 700 000 is permanently appropriated under special Acts, leaving an amount of \$468 800 000 which is to be appropriated to the services and purposes identified in the schedule of this Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

WESTERN AUSTRALIAN TREASURY CORPORATION AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.46 pm]: I move -

That the Bill be now read a second time.

This Bill seeks to modernise the legislative basis to the operations of the State's central borrowing authority, the Western Australian Treasury Corporation. The corporation was established in 1986 to carry out the State's central borrowing function which commenced in 1981 under the Borrowings for Authorities Act. Under its Act, the corporation borrows moneys from Australian and international capital markets and lends those moneys to state government agencies and local authorities in Western Australia. Since its formation, the corporation has established itself as a major participant in these capital markets enabling it to raise funds at the lowest possible interest rates with the savings being passed on to its client authorities.

The corporation currently manages approximately \$10b in gross debt that has been raised to provide essential infrastructure throughout the State. It also invests funds held in the public bank account and by the corporation itself. In recent times, financial markets have experienced unprecedented deregulation, which has resulted in significant changes in the way that Governments in Australia have approached their respective debt management tasks. These developments have highlighted the need for amendments to the Western Australian Treasury Corporation Act to ensure that the corporation has the flexibility to carry out its main objective of raising funds for the State and its authorities at the cheapest possible cost. These amendments follow changes that were made to the Act in 1991 to enable the corporation to manage its financial rights and obligations more effectively; to generate greater liquidity in its securities; and to give it better access to overseas markets. All these led to cheaper funding for its client authorities.

It is appropriate to review briefly the background to some of the more recent changes that sit behind the proposed amendments. For some time following its establishment as a separate corporate entity in 1986, the corporation operated as an administrative division of Treasury. However, as markets and the requirements of the State and its authorities developed and became more sophisticated, it has been necessary for the funding activities of the corporation to be seen by the market to be independent of the policy making and budgetary functions of Treasury. The corporation relocated its offices in 1994 and began to operate independently, on a day to day basis, of Treasury. However, close policy links remain with Treasury on issues such as the corporation's borrowing and lending activities, its responsibility for investing the public bank account and for providing specialist financial market advice to other public sector agencies. Many of these advisory functions are specifically in the corporation's charter under the Act.

In addition, with the commercialisation of many semi-government authorities, such as Western Power, AlintaGas, the Water Corporation, Westrail and others, the corporation has been called upon to assist these agencies in structuring their debt management activities consistent with their more commercial charter. These arrangements have in turn placed greater responsibility on the corporation. The Bill clarifies the legislative basis for these advisory activities and will enable the corporation to effectively meet the requirements of the State and its agencies in the coming years.

The corporation is currently established as a corporate sole consisting of the Under Treasurer. However, since its incorporation, successive Under Treasurers have appointed boards of management to advise them on matters of policy. Members of the corporation's board of management have assisted the Under Treasurer on a voluntary basis without any statutory obligations or responsibilities. Although this arrangement has worked well for the corporation, it is considered appropriate that the role of the board be formalised so that it is responsible and accountable for the operations of the corporation. Accordingly, the Bill repeals the provision establishing the corporation as the person "for the time being holding or acting in the office of Under Treasurer" and establishes a board of directors with commensurate functions, responsibilities and accountabilities. Specifically, the Bill proposes that the corporation's board of directors will comprise the Under Treasurer as chairperson; an officer of the Treasury nominated by the Under Treasurer as deputy chairperson; the chief executive officer of the corporation; and up to three other persons appointed as non-executive directors by the Treasurer. In view of the significant financial role of the corporation, it is considered appropriate that Treasury continue to have a leading role on the board.

The Bill will also expand the corporation's functions to provide statutory support to many of the roles corporation officers have been fulfilling for the State and its agencies. These functions are similar to those of other state central borrowing authorities and have evolved in response to growing sophistication in financial markets, and the demands this has made on the management of public sector assets and liabilities. The amendments will enable the corporation to advise on financial matters including debt management, asset management and project and structured financing; manage investments for Treasury and other government agencies; assist authorities with managing their financial exposures; and assist the State with the management of any debt raised prior to the establishment of the corporation.

Under the current Act, the term "authorities" is restricted to those with borrowing powers. However, many government departments and other public sector bodies are also involved in financial transactions such as leasing, and have sought the corporation's assistance. Accordingly, the Bill proposes to expand the definition of "authorities" to cover these bodies.

The corporation's daily involvement in financial markets through its borrowing and investment activities brings greater efficiencies to the management of the State's assets and liabilities. The corporation's role therefore, is that of the State's in-house corporate treasury, not unlike the role carried out by any other large company for its subsidiaries.

The proposed changes in the corporation's functions are intended to enable it to fulfil this role more completely by assisting agencies, where necessary, to manage their assets and liabilities more effectively.

On the assets side, the corporation's officers currently manage the investment of the public bank account under delegation authorised by the Financial Administration and Audit Act. While this arrangement ensures that the facilities and expertise of the corporation's officers are used to ensure that the funds in the public bank account are invested to achieve the highest return possible in accordance with Treasury's investment policy, the current arrangements are administratively cumbersome. The proposed consequential amendment to the Financial Administration and Audit Act will bring greater efficiency to the management of the investment of the public bank account, while ensuring that the same level of prudential control is maintained by Treasury.

It should be noted that the corporation has implemented very strict credit and risk management controls as well as comprehensive performance measures on its asset and liability management. It is extremely important from the State's point of view that similar controls and performance measures be in place with any government agency using derivatives, if the losses experienced overseas by Baring Brothers in the UK, Orange County in the USA and others are to be avoided.

These changes in the corporation's functions will enable it to use its experience and expertise in financial markets for the benefit of all public sector agencies, which will be able to approach the corporation as required.

Under the Act, the corporation currently has a two stage borrowing approval process which requires it to obtain the Governor's approval to the amount of any borrowing - section 10(3) - and the Treasurer's approval to the terms and conditions of any borrowing - section 10(2). With the establishment of a board of directors, it is appropriate for the board to have responsibility for all operational and strategic matters, including approval of the terms and conditions of any borrowing it may undertake. However, in view of the role that the corporation plays in state finance, the Bill includes a clause subjecting the corporation to appropriate borrowing limits which the Treasurer shall approve from time to time. Consistent with the amended structure of the corporation and the functions vested in the board, the Bill amends the corporation's investment powers to place this responsibility with the board.

The Bill also proposes to amend the guarantee fee provisions to place the liability for the payment of a guarantee fee on the beneficiaries of the corporation's activities; that is, the authorities to whom funds are lent rather than on the corporation as the Act now stands.

An integral part of these changes is to ensure that the corporation continues to be fully accountable for its operations. The Bill therefore introduces provisions requiring the corporation to prepare corporate planning documents, including a strategic development plan and statement of corporate intent, and make quarterly reports to the Treasurer. These provisions are similar to those of other corporatised statutory authorities. The statement of corporate intent must be tabled in Parliament annually.

In accordance with competitive neutrality principles, the Bill repeals section 7 of the principal Act exempting the corporation from all state taxes and duties. Nevertheless, it was deemed prudent to give the Treasurer the discretion to exempt the corporation from certain taxes or duties, to ensure that the corporation and the securities it issues are subject to the same taxation regime as other Australian government securities. In order to ensure that any exemptions are consistent with competitive neutrality principles, this clause includes the proviso that an exemption will be granted only if the Treasurer considers it to be in the public interest.

The Bill also proposes certain other administrative amendments to the financial provisions of the Act, including enabling the corporation to pay a dividend to the consolidated fund out of any surplus it may have at the end of the financial year.

As members can see, while the amendments propose a number of structural changes to the corporation, these changes will enable the corporation to build on the benefits it has brought to the management of debt in this State. The Bill will also provide the corporation with the necessary statutory powers to enable it to make a fuller contribution as the State's in-house corporate Treasury as well as central borrowing authority. The proposed amendments to the Act are

of major importance to the State in ensuring the continuing efficient management of public sector assets and liabilities, and I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

WESTERN AUSTRALIAN PRISON OFFICERS

Statement by Minister for Justice

HON PETER FOSS (East Metropolitan - Minister for Justice) [5.53 pm]: The functions, duties and responsibilities of prison officers in Western Australian prisons are not widely known to the general public. Prison officers operate in an environment which is alien to most people and the officers rarely get the recognition they deserve for the important duties they carry out on behalf of the community. It is important that we recognise the responsibility placed on the officers who, in order to maintain the safe and secure custody of prisoners, work in a demanding and complex environment that by its very nature can subject them to risk from the prisoners in their care.

Regardless of the offence for which a person is imprisoned, be it murder, theft or sexual assault, the treatment and level of care such people receive in prison becomes a public responsibility and it is important that we recognise the skills and work carried out by prison officers who have the task of dealing with prisoners on a daily basis.

Vulnerable and disturbed prisoners are a part of virtually every prison in the western world and the work of prison staff in providing assistance and support to these individuals is often underestimated. Prison officers work in an environment which is often stressful and it is a credit to their aptitude, training and professionalism that they are able to interact with these prisoners in a positive way.

However, it is not unusual for officers to be faced with actual or potential violence from prisoners and to subsequently find themselves subject to allegations of misconduct from a prisoner or prisoners. For reasons of justice and accountability, it is important that any such allegations be fully and properly investigated. Some allegations may be correct and sustained but it is wrong for prison officers, as a group or individually, to be prejudged purely on the basis of an allegation which, in the end, may have no substance. It is unfortunate that in some sections of our community there seems to be a general willingness to believe that officers are guilty just because the allegation has been made.

Unfortunately there is little appreciation of the level or depth of commitment by the men and women who make up the Western Australian prison service or of their proven capacity, often at some risk to themselves, to perform their duty of care to those prisoners who are most vulnerable or who put themselves at risk of self-harm.

People need to be aware that these are the same officers who time and time again are faced with actual or threatened violence against themselves or their families, verbal abuse, racial slurs and other forms of intimidation. Regardless of the provocation, they must maintain a level of restraint which is reflective of the high degree of professional conduct we have come to expect from prison officers in this State.

We must remember that the people they deal with are there because the courts have seen no alternative but to gaol them. In many cases, this is seen as essential for the protection of society. Therefore, the officers are dealing with a part of society with a greater than usual number of violent people who have little to lose.

There are numerous occasions when, through the intervention of prison officers, not only have the lives of prisoners been saved but also prisoner self-harm and injury have been minimised if not totally prevented. We would do well to reflect on how we would react to some of the difficult situations prison officers face when dealing with agitated or distressed prisoners, prisoners threatening acts of violence against another prisoner or officer and other various forms of intimidation. For example, how would we react to a threat of death from a prisoner armed with a weapon who has cut himself, is bleeding profusely and is in an agitated and distressed state?

There is no doubt that we need to recognise the responsibility placed on those men and women we employ as prison officers. The professionalism they show in the course of their duties is an example of the depth of their commitment in providing a duty of care to all prisoners and particularly to those who are vulnerable or at risk of self-harm.

Prison officers deserve recognition for the work they do and should be commended for the service they continue to provide to our community.

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

HEALTH DEPARTMENT VIDEO TAPE

Order of the Day - Statement by President

THE PRESIDENT (Hon George Cash): Order of the Day No 1 is a proposed motion to suspend standing orders to seek the tabling of a video tape from the Health Department. I have been advised by the Clerk that a document

purporting to be the transcript from video proceedings was tabled at the commencement of the House today. I refer to tabled document 1707. I understand the Minister for Finance tabled the document. I ask the Minister, is that the document referred to in Order of the Day No 1?

Hon Max Evans: I understand that it is the document referred to.

The PRESIDENT: In that case, I direct that Order of the Day No 1 be discharged on the basis that the proposed motion has already been complied with.

Hon N.F. MOORE: On a point of clarification in respect to Order of the Day No 1, I would like your advice, Mr President, in due course as to whether a motion of that nature should be contained in the Notice Paper as Order of the Day No 1. It is not an order of the day in my view; it is a motion. I seek your clarification in due course in case some member decides to use this device again. I sincerely hope that does not happen but I would be interested in having your view on the matter in case it should happen. Other standing orders relate to the capacity of Ministers of the Crown to order the Notice Paper as they deem necessary or fit.

The PRESIDENT: Given the time of the day I will not reply at this stage to the matter the Leader of the House has raised, but in due course I will comment on that matter.

REVENUE LAWS AMENDMENT (TAXATION) BILL
REVENUE LAWS AMENDMENT (ASSESSMENT) BILL

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That the Bills be debated cognately through their remaining stages.

Sitting suspended from 6.00 to 7.30 pm

Second Reading

Resumed from 10 June.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [7.33 pm]: This is the first of the budgetary Bills that the House is dealing with subsequent to the Government delivering its Budget for 1998-99 on 30 April this year. This provides a quick opportunity to put these revenue Bills in the context of that State Budget. It is a time to recall that it is the second post-election Budget for the Court-Cowan coalition Government which, rather than a social dividend for the people of Western Australia, contained additional revenue measures which will effectively increase the overall tax take of the Government.

That has been a pattern of this Government since it took office. It is all the more offensive to the Opposition after the coalition's pre-election commitment, of which it made much, that it would provide to the Western Australian community a social dividend in return for what it had construed were years of pain that characterised the early years of the Court-Cowan coalition Government.

It would be remiss of the Opposition if we did not mention the direct impact of these revenue Bills on not only the ordinary families of Western Australia - the ordinary mums and dads and the ordinary Western Australian citizens - but also other institutions in our community which will receive some tough medicine. Those institutions include industry groups and some not-for-profit organisations such as universities and educational and religious bodies. They also have some tough medicine to take as a result of these revenue Bills.

Soon after the federal Budget was delivered a newspaper cartoonist produced a cartoon image of the federal Treasurer in pigtails and a blue dress, skipping down the yellow brick road to the sunny land of Oz. In the Budget reply, the federal Leader of the Opposition drew on the analogy first developed by the cartoonist and saw on the government benches a large number of people waiting to audition for the remaining parts to support the Treasurer's Dorothy. He saw the lion without courage, the tin man without a heart, and in greatest measure the scarecrows without any brains.

Unfortunately for the people of Western Australia the analogy of this image of the yellow brick road exists here in Western Australia. The fantasy land created in that image of the Wizard of Oz is a fairytale drawn from a creative imagination. To some extent this Government's Budget draws on imagination, creating the image of wellbeing for the overall community while at the same time effectively unleashing additional pain and hardship on ordinary Western Australians.

In kindness to the Government, one must presume that it is a result of a creative imagination rather than some malevolent forces unleashed in this Government's psyche. One hopes it is an imagination that has allowed it to float

to a different land completely unaware of the problems its most recent two Budgets have caused the ordinary people of Western Australia with increased taxes and charges and cuts to our health and education infrastructure which are causing real difficulties for real people living in the real world of this society.

Only a fertile imagination, one hopes, if not malign indifference, has allowed this Government to live in the fantasy world of construing that a big government surplus of millions of dollars is a good thing while at the same time thousands of small deficits in family budgets of ordinary people cause consequent difficulties in producing funds to pay school fees and public transport and health costs - all the additional costs that impact on the ordinary lives of the citizens of Western Australia as a result of two tough and difficult Budgets.

One hopes that it is not simply a budgetary display of a psyche of indifference on the part of this Government, an indifference to the plight and needs of the community that the Government is, after all, supposed to serve. There really is a solid case to be argued that this Government is no longer in tune with the ordinary lives of the battling citizens of Western Australia who are in increasing numbers turning to the aid agencies to cope with looking after their families, feeding their children, paying school fees, and paying increased transport costs and all the other additional imposts that have come their way since this Government has been in office. It has been a State Government intent on building up the budget surplus with indifference to the just plea of the nurses of this State urging for their wages and conditions to be appropriately and adequately addressed by the Government, which has in turn responded by simply showing blind indifference and at the same time invoking the name of the Federal Government as being responsible for all the ills with which the State Government is faced, as a result of which the Government claims it is not within its grasp to settle the legitimate claims of justice for increased funds to be available to pay the nurses of Western Australia. Yet we see the same Government allocating funds for fantasies, like the \$100m government contribution to a convention centre.

Hon Simon O'Brien: What about your Government's \$400m spent on Petrochemical Industries Co Ltd at Kwinana?

The PRESIDENT: Order!

Hon TOM STEPHENS: We see the Government throw into the abyss, funds for a tunnel in Northbridge, which has had blow outs in the costs of some of its contracts, as demonstrated by the limited flow of information that the Minister for Transport has been prepared to make available to the House. All of this indifference to the community, while the Government lives in a fantasy world and argues that all is right with the world while the surplus builds, is of concern to the people of Western Australia and is certainly of concern to the Labor Opposition. We are very much in tune with the suffering of the community of Western Australia, suffering which we know could be alleviated so easily if the Government would utilise appropriately the funds available to it. Instead of building its follies to meet its ideology, the Government should make those funds available to meet the real needs of the Western Australian community. We are dealing with two revenue Bills which will contribute to the Government's capacity to engage in this type of expenditure and not contribute to a real response that will tackle the needs and interests of the Western Australian community. We see a Government being generous in some areas of its activity, such as promoting the convention centre and building the tunnel, for whoever the beneficiaries will be - principally I fear the road construction companies - while being of minimal value to the Western Australian community.

Western Australia's strong economy has been the basis upon which this Government has been able to reap opportunities for itself that in many ways are undeserved. We know that since being in office this Government has seen land tax revenue go up by some 27 per cent in real terms, stamp duty on property conveyancing go up by some 88 per cent, and stamp duty on insurance policies go up by some 109 per cent, and all this since 1992-93. Despite these increases, all the Government can tell the people of Western Australia is that they need to tighten their belts and cope with the increases. As a Labor Opposition we can fulsomely say that we endorse the comments of Dr Michael Nahan, the Director of the Institute of Public Affairs, who in his analysis of the budget speech by the Treasurer said that this Government does not have a revenue problem but it has a credibility problem. No truer word has been spoken in the analysis of the Budget.

There will be plenty of opportunities for me to comment on the overall Budget of this State Government but we are dealing at the moment with the Revenue Laws Amendment (Taxation) Bill and the Revenue Laws Amendment (Assessment) Bill. We see in these two Bills the opportunity for stamp duty and land tax to have the mechanisms that govern the operation of stamp duty and land tax adjusted. The legislation increases conveyancing duty rates by approximately 12.25 per cent. Insurance duty rates will increase by 5 to 8 per cent for general insurance, from 3 to 5 per cent for workers' compensation insurance and from 5¢ per \$100 to 8¢ per \$100 for undisclosed premium policies. Nominal stamp duty rates will increase from \$5 to \$20 for deeds and declarations and from \$2 to \$5 for duplicates. We see also in this legislation, insofar as it affects the Stamp Act and the application of the stamp duties in Western Australia, a tightening of the availability of stamp duty relief through an increase in the first home buyer provisions, whereby the \$500 stamp duty rebate threshold rises from \$85 000 to \$135 000 for land with a dwelling, from \$127 500 to \$202 000 for land with a dwelling above the twenty-sixth parallel, and from \$32 000 to \$52 000

for land. For the small business sector and home buyer stamp duty concession, we see the 1.5 per cent rate of duty threshold rising from \$85 000 to \$100 000 with a phasing out at the \$135 000 level. We are told by the Government that this concession will mean a reduction in the tax take for this Government of \$12m over a full year.

The passage of this legislation will amend the Land Act to produce a land tax scale to provide relief from the effects of increased valuations. The new scale will limit growth in collection to 5.6 per cent, with collections that would have increased by 14 per cent being left unaltered. Under the proposed new scale 56 per cent of taxpayers will receive a decrease or no increase in their land tax bill in 1998-99. Of the 44 per cent of taxpayers whose land tax bill will increase, more than 75 per cent will receive an increase of less than \$20 in 1998-99. The proportion of taxpayers whose land tax bill will increase by more than \$100 in 1998-99 falls from 11 per cent to 3.5 per cent.

The Revenue Laws Amendment (Assessment) Bill has a whole range of provisions that impact upon the application of stamp duty and land tax, and some minor amendments apply to other statutory provisions relating to the revenue laws of Western Australia. I want to focus on two key issues. The Bill has amendments to the Stamp Act which will mean that the chattels transferred with land will form part of the duty base that constitutes the application of stamp duty in Western Australia. We are told that will have a \$12m per annum positive impact on the revenue for the Government of Western Australia. Of minimal budgetary impact, it is said, will be the removal of the secondary nexus for foreign companies to ensure that stamp duty does not apply on foreign company shares traded on the overseas stock exchange or off market in another country.

We welcome the provision which provides for certain aged care instruments to be exempt as a consequence of the Aged Care Act of the Commonwealth, and for other minor administrative changes in this area which include an opportunity for change to the Rates and Charges (Rebates and Deferments) Act. That is an issue from time to time raised with many of us, no doubt, because of its impact on older residents of Western Australia. It is an amendment which allows pensioners who leave their place of residence on an indefinite basis to claim rebates on their properties. I understand currently a limit applies to this rebate and it ceases when the pensioner has not occupied the ordinary place of residence for two years. Sometimes the opportunity to remain at their residence is beyond their own control because of ill health, infirmity or frailty. Many of us would be familiar with such cases.

Hon Max Evans: We like that one, yes. We are probably infirm too.

Hon TOM STEPHENS: Yes. I think it is an appropriate amendment to the application of the revenue laws of Western Australia. If a pensioner has been in a nursing home for two years and still has their previous place of residence, in the past they have had to give up the rebate. This amendment will have the effect of deferring indefinitely or extending the opportunity for that rebate to be available.

Hon Max Evans: That is right.

Hon TOM STEPHENS: That is a positive move that deserves to be welcomed, as it is by the Labor Opposition.

We also see that chattels will be charged with duty where they constitute property transferred in conjunction with land; and where units in a private unit trust are transferred and land and chattels constitute assets of the unit trust. Where shares in a land rich company are transferred and land and chattels constitute assets of the company, chattels will not generally be charged with duty when they are transferred with a lease over land unless the assignment of the lease has value. Chattels which are excluded from liability - this is the whole point in the explanatory notes provided by the Government in reference to this Bill, upon which I am now drawing heavily, where my concerns start - are stock in trade, chattels transferred with farming land and motor vehicles where stamp duty has been paid on the transfer of a licence or which are specifically exempt from stamp duty under the third schedule to the Act.

The explanatory memorandum continues to say that avoidance measures are also inserted to ensure that chattels cannot be transferred separately when they are transferred as substantially one transaction or one series of transactions. That caused me to pay some increased attention to the Bill because within my electorate, while the farming community is significant and an important industry whose interests we like to ensure are protected, I am concerned that here is another Bill that does not apply equity in its approach to revenue measures across industry in Western Australia. This is a trend that has developed consistently since this Government has been in office. One of the first pieces of legislation passed in 1993 in the early days of the current Court-Cowan coalition Government related to the provision of tax relief under the Land Tax Act upon the transfer of farming land from one member of a family in the farming industry to other members of the family. However, the category was opened up wide to leave a very generous interpretation of those provisions so that this industry was singled out for particular attention and given exemptions from the operations of the Land Tax Act insofar as it related to the transfer of land associated with the farming community.

Hon E.J. Charlton: The Leader of the Opposition does not support that?

Hon TOM STEPHENS: This is the more important question here. Yes, within the farming community there are many people who fall into the category of battlers whose interests can be genuinely protected by government focusing on provisions such as this. However, we also know that within the farming community there are many land rich companies that are nowhere near being just family structured operations; yet, they are now protected by the provisions of the revenue laws of this State that have been introduced by this coalition Government.

Hon E.J. Charlton: Only person to person, not by trust controlled other than by the father.

Hon Max Evans: In the mining companies huge benefits have been made which involve intergeneration farm transfers.

Hon TOM STEPHENS: However, regrettably, I say to the Minister for Finance that by virtue of the provisions put into this legislation, which I will expand on later, some of those corporate restructures for the mining industry are more expensive and difficult.

Hon Max Evans: Not the ones still in, they will be exempt. This legislation relates to third parties.

Hon TOM STEPHENS: I will develop my speech and I look forward to the Minister's analysis and rebuttal of it, if it is possible to rebut. However, I make the point in this part of my speech that increasingly the Government is not displaying an approach of equity in the revenue laws of this State as it responds to the situations faced by industry in this State. For whatever reason, the farming industry is being singled out, no matter whether it is rich or poor. The people within the farming industry, whether they are sitting on massive profits or no profits, are provided constantly with exemptions from the provisions of the revenue laws of this State. In this case, I specifically refer to the Stamp Act. In a moment I will refer to the provisions of the Land Tax Act. All of this has an effect of building up a particular advantage for one sector of industry, in this case the farming industry, and ignoring the fact that there are within the mining industry many battlers, small miners and tenement holders, who are just as deserving of favourable treatment from the Government. If the Government had an interest in protecting the genuine economic needs of industry to make sure that the industry is not burdened, or individuals within the industry are not overly burdened, by the application of the revenue laws of this State, it would do better than this.

I have mentioned two industries - farming and mining. Clearly another very important industry within our State is the tourism industry. Quite regularly we will see transfers of property involving large quantities of chattels in hotels and resorts around this State where the stamp duty will land heavily on that industry and more heavily by virtue of the revenue needs of this Government which, in its efforts to build up its budget surplus, is not making an adequate effort to distribute with equity the application of the revenue laws across all sectors of industry.

One of the worst features of this is the recognition that while there are some exemptions that now apply for the farming industry - which are not to be made available to other industries - even in the notes provided by the Government we still learn that the biggest impact of this increased cost of chattels being included as dutiable items in the transfer of property in the future, will be to take funds away from ordinary families in Western Australia. I refer to the ordinary mums and dads who are involved in the processes of buying and selling homes, for whatever reason, as they move from one family home to another; or in the case too often in our society, families which have this now too regular occurrence of marital breakup which leads to selling the family home and the purchase of sometimes two smaller homes. The transfer of chattels will now involve an increased cost upon family units - or fractured family units in that case. They are then lumbered with the impost resulting from the increased revenue take of this Government's application of the impact of stamp duty on chattels in such sales. I am concerned that the Government is not adopting an equitable response to industry as it applies the revenue laws of this State. I am concerned that this impact is landing fairly and squarely upon those families that can scarcely afford the increased costs that are associated with this Bill. It is a display of a heartless Government. We know that since this Government has been in office under the guidance of the Premier and Treasurer, Richard Court, and the Minister for Finance, Hon Max Evans, members on this side of the House have time and again expressed their opposition to the types of arrangements and fiddles that, effectively, they have been making to the tax regime of Western Australia. They have been tinkering around the edges to produce benefits, often for people at the top end of town, and then facilitating changes to the revenue laws so they land more heavily on the ordinary citizens of Western Australia. I fear that is what we are seeing yet again.

During question time as recently as yesterday I asked the Minister what was the Government's estimate of the cost to revenue of the generous exemptions that are being granted to the farming community by virtue of the change in operation of these revenue laws. I was alarmed at the Minister's response, which I find easy to paraphrase. I do not have it in front of me, but I am sure that the Minister will correct me if I am wrong. The Minister's answer was that the figure was not available to the Government. I find it extraordinary that we are granting a generous exemption for this industry sector without any costing of that exemption.

Hon Max Evans: You asked for figures in the future. We know what exemptions we have forgone, but we cannot work out what we could lose in the future.

Hon TOM STEPHENS: I would appreciate if the Minister, in response to the second reading debate, would provide to the House, and through the House to the people of Western Australia, some indication of revenue lost to the State from these series of protections for the farming sector of Western Australia from those changes to the application of stamp duty and the Land Tax Act. In that way we can understand exactly what that has cost the State's revenue.

Hon Max Evans: Land tax has nothing to do with farmers; it was for non-residential commercial properties.

Hon TOM STEPHENS: The requirement to participate in this debate has been extremely educative. I do not want to display any ignorance that I may have in this area, although I am sure the Minister for Finance would be a capable tutor who can pick me up along the way if I make some mistakes of fact.

The Revenue Laws Amendment (Assessment) Bill will bring into effect amendments to the Land Tax Assessment Act. The explanatory notes illustrate for anyone who is lucky enough to get them that the current state Budget, as announced on 30 April - without any trumpeting of this provision - will remove a 50 per cent concession that applied for certain land held by universities, educational or religious bodies used or leased out for commercial, business, professional or trade purposes. The phased removal will allow a 40 per cent concession to apply in 1998-99. The Government says that the benefit to revenue will be \$0.2m in 1998-99, \$0.7m in 1999-2000 and \$1.2m in 2000-01. What an extraordinarily caddish thing for a Government to do to this sector whose institutions are battling away endeavouring to deliver educational services to the community of Western Australia - they are involved in research activities and teaching at high educational levels - as well as the religious bodies that are endeavouring to provide services to the community.

Hon Max Evans: Hon Tom Stephens is ignoring the answers to questions that were given to him.

Hon TOM STEPHENS: Maybe the Minister would like to repeat that answer now?

Hon Max Evans: No.

Hon TOM STEPHENS: I suspect I would knock the answer down as a straw answer, because it is without validity. I will develop that theme later in my contribution to this debate. It is wrongheaded for the Government and the Minister for Finance to say that the withdrawal of the concession will not adversely impact on those institutions. I hope that the heads of members behind the Minister are not full of straw like that image that I was creating from the land of Oz.

Hon Max Evans: I would be the lion with the big heart.

Hon TOM STEPHENS: The Minister for Finance would be the tin man without the heart. Unfortunately, the Minister is assisted by people of straw who do not realise the damage he is doing to institutions that can ill afford this. Members opposite are too easily persuaded by the Minister's rhetoric that these institutions will be able to pass on these imposts to their tenants. The facts do not stack up to the claims made by the Government about the withdrawal of the concession.

Another provision of the Land Tax Assessment Act that will be altered by virtue of this Bill will ensure that in future any prospect of introducing the concept of two principal places of residence for a land taxpayer will be removed as a possibility. It is an interesting development. I understand that the Government is not responding to a case at hand, although a tribunal decision has opened up the prospect of that possibility being explored. It seems that it is worth going down that path, although it needs to be watched a little. There have been times in my life as a member of Parliament - that is not currently the case - when I have had two principal places of residence. However, I am sure that people legitimately fall into that category.

Hon B.K. Donaldson: Does that include El Questro?

Hon TOM STEPHENS: I would love that opportunity. These days I am reduced to more humble circumstances and I am more typically found in the less salubrious resorts like Kooljaman at Cape Leveque on the banks of Dampier peninsula enjoying the company and pleasure of the Aboriginal community who run that resort at more bargain basement prices than the establishment that Hon Bruce Donaldson visits so frequently.

Hon B.K. Donaldson: I cannot afford to stay there.

Hon TOM STEPHENS: Also, there will be codification of the current administrative arrangements with reference to inner city rebates. The Opposition welcomes those rebates. It is clear that when a new tax is introduced or an existing tax is increased, rarely does anyone welcome it. Indeed, the case for the retention of a tax, its introduction or increase, is rarely well supported by the popularity of such a provision. The essential issue in considering any tax

is its fairness. When considering provisions changing the stamp duty and land tax provisions that apply in Western Australia, the merits of the increase begin and end with the question of equity of its application and the use to which the proceeds are to be applied.

The community genuinely accepts a community obligation to provide quality services to all citizens of Western Australia, particularly in the key areas of health, education, public transport and other public sectors. In recent years the State has had the capacity to provide many of its own services for its citizens, which services were significantly reduced as a result of the decreasing proportion of the total tax take made available to the States. This imbalance is decried by all sides of politics, and it cries out for resolution and redress. Unfortunately, that day has not yet come, but the States are still being squeezed by the Commonwealth, with grants being reduced, and the States must consistently explore different ways of increasing their taxes. This Bill is a response to that reality.

It is not the only reality; this Government has an unhealthy preoccupation with budget surplus and the allocation of funds to those projects I have mentioned. Those funds could have been money well saved and spent elsewhere if the Government had been more sensible in the application of its priorities. It has displayed wrongheadedness and wrong priorities, and it could have protected the community of Western Australia by not imposing the extra taxes in the Bills being discussed tonight. Currently, the States account for only 19.5 per cent of total general government revenue but are responsible for 42 per cent of the aggregate own purpose outlays. Meanwhile, the Commonwealth Government takes 77.1 per cent of tax revenue and spends only 54 per cent of general government expenditure. In a nutshell, the amount of tax collected by the Commonwealth increases and the amount returned to the States decreases.

Are the land tax provisions in this State landing fairly and equitably as a source of state revenue across the community of Western Australia? I believe it can be said that a good tax, if there is such a thing, has provisions that are basically certain. A good tax is one where the taxpayers are clear about their liability. We know also that a good tax is one in which the provisions are relatively simple, and the tax is not too difficult to calculate and it is equitable. Indeed, a good tax is one which has some emphasis on equity of taxation. Two types of equity should be considered in this context - vertical and horizontal equity. Horizontal equity requires that those of the same taxable capacity are taxed alike, and vertical equity requires those with higher taxable capacity to pay higher amounts of taxation.

Frequently in the Australian community the only measure of taxable capacity that is considered is income. That has been a criticism applied to the application of the provisions of Land Tax Acts in this country. It has been claimed that those with a significant landholding, particularly in the form of their principal place of residence, but with a low income, do not have the financial capacity to justify the imposition of land tax on them. It is an argument, but it is only one, and it may not be a sufficient basis upon which to determine the overall capacity of a citizen to pay tax. For example, the economist Nicholas Calder said it would be absurd to argue that a penniless beggar and a maharajah, who has no income but a fortune in jewels, both have no capacity to pay tax.

This is one issue to which the Minister for Finance should apply his mind when he fiddles with the revenue laws of this State. He tinkers regularly at the edges to provide tax protection for the wealthy sectors of the community, but shows no compunction about introducing provisions such as those in these Bills which are an impost on the ordinary citizens. Wealth comes in many forms, and when it is in a commercial asset or family residence it provides advantages that cannot be ignored in designing fair tax systems. Wealth, including the principal place of residence - I am thinking of the types of residences with which the Minister for Finance will be familiar, those in the salubrious heights of Mosman Park -

Hon Max Evans: You are talking about my next door neighbour.

Hon TOM STEPHENS: That is a good example. That property, which is a principal place of residence, is of enormous cash value, and that owner, and many others in that part of town, by virtue of their principal place of residence, have enormous wealth. That wealth is created not just by the location of the house, but because consistently in the history of Western Australia consecutive Governments have ensured that the social environment of those riverside suburbs has been protected and insulated. Their ambience and character have not been adversely affected by taking away too much public open space or putting public housing in those areas to lower property values.

Hon Max Evans: Have you seen the salt and pepper development throughout the houses?

Hon TOM STEPHENS: Not where the Minister's neighbours live. By virtue of the infrastructure that Governments have put into those areas, the overall value of those properties has been increased at taxpayers' expense.

Hon Max Evans: Come on!

Hon TOM STEPHENS: It has been.

Hon Max Evans: What a lot of garbage.

Hon TOM STEPHENS: Governments have consecutively and consistently moved into other areas. For instance, local authorities have been allowed to deny the opportunity in those areas for suburban infill.

Hon Max Evans: Buckland Hill Homeswest housing has better views than I have. You would have got in there yourself if you were smart.

Hon TOM STEPHENS: The Minister is giving the exception that still proves the rule.

Hon Max Evans: They are in my electorate, just around the corner from me.

Hon TOM STEPHENS: They are the exceptions and they prove the rule. The Minister is not telling me that Mosman Park and Peppermint Grove are full of impoverished beggars.

Hon Max Evans: We are not talking about Peppermint Grove.

Hon TOM STEPHENS: That is the view from the beautiful bedroom windows either in the Minister's house or in his neighbours' houses.

Hon B.M. Scott: You seem to know it very well, Mr Stephens.

Hon TOM STEPHENS: I drive past and look enviously because we have seen a Government that is consistently favouring that end of town. With Bills like those that are before us tonight, the Government is constantly participating in the process of looking after that end of town while delivering increased costs to the ordinary mums and dads of Western Australia. At some time the Government will be brought to book.

Hon E.J. Charlton: Where were you when your Government was in town and all the people that lived in Jutland Parade were part of your operations? No wonder you do not have a leg to stand on now.

The PRESIDENT: Order, members!

Hon TOM STEPHENS: That is a red herring if ever there was one.

Hon E.J. Charlton: It is not as big as the red herring that you have been running here for the past hour.

The PRESIDENT: Perhaps the Leader of the Opposition will address his comments to me, rather than the ministerial front bench.

Hon TOM STEPHENS: Within the Western Australian community is a concentration of wealth in that category which is made up of a small number of the very affluent who have established their wealth in that sector and have used that wealth which is concentrated in their principal places of residence to accrue other assets and develop their financial worth.

Hon Max Evans: When the Government of New South Wales decided to place a high tax on houses it got right down to the bottom level which created a lot of problems. The tax on residence is a wealth tax and is of no benefit to anyone.

Hon TOM STEPHENS: The Minister for Finance has started robbing the poor boxes of the churches of Western Australia by virtue of this Bill - we put people in gaol for that. The Minister for Finance is effectively snaffling the petty cash from the churches which would otherwise make those funds available to the welfare sector for the provision of goods and services to the people of Western Australia. Not content with allowing the Godzilla-like former Minister for Education, Senator Vanstone, to wreak havoc upon the higher education establishments of this country and take away the funds of those establishments which enable ordinary citizens to gain higher education, the Minister whips into those institutions as well and rips out their capacity to have funds available to assist them to teach in those establishments - the small pittance that was left to them by the concessions that were made available under the Land Tax Assessment Act 1976.

Members of a Government that participates in mugging the tax paying community of Western Australia should not come into this House with too much pride on their faces tonight. All I ask the Minister for Finance to do, as I asked him in question time yesterday, is to quantify these concessions that apply to the farming sector.

The New South Wales Labor Government has introduced a provision which places a land tax on a private residence where the value of that private residence is in excess of \$1m. I am not advocating that, but there are alternatives to robbing the poor and continuing to protect the rich. The alternatives include living within the Government's means and not engaging in the extravaganzas of the Minister for Transport such as building the expensive tunnel in Northbridge, or the crazy fetish of the Minister for Tourism to build a \$100m convention centre. There are alternatives which include desisting from slugging the ordinary people of Western Australia and getting back to basics and getting priorities right. The Government should not be so wrong headed about its priorities and it should start

spending the taxpayers' funds in an appropriate and sensible way. We legitimately ask whether these are appropriate responses by the Government to these questions.

When I looked at part 5 of the Revenue Laws Amendment (Assessment) Bill which contains the Stamp Act amendments, I saw that the definition of "land" refers to land other than farming land. After reading that provision in conjunction with subsequent provisions of the Bill I ask: Why will this provision, which seeks to impose a new stamp duty on the transfer of chattels, impact on industries other than the farming industry? Why is the farming industry being quarantined in this way? By virtue of the template that I apply to tax law, when I talk about what constitutes equitable tax law, it must be equitable and apply evenly over industries. This Bill singles out one industry for exemption but impacts heavily on all other sectors, in particular on the mums and dads, but also on industries other than farming.

Is there any wonder that the Association of Mining and Exploration Companies and the Chamber of Minerals and Energy are expressing concern about the continuation of a process that leaves the taxation provisions of this State in a situation where the mining sector is constantly sluggish and is treated as a bottomless pit with pockets that can be constantly robbed by the Government of Western Australia? As the Government hits it harder with its wrong priorities and by quarantining one industry, is there any doubt that the mining sector has a legitimate case to ask questions as it has in its response to us about the provisions of this Bill?

Why does the Minister for Finance continue to quarantine the farming industry, while the mining industry experiences the full impact of this provision? That is a legitimate question which the mining, tourism and all other industries are entitled to have answered. The estimate of the annual value of this change to the Government is said to be \$10m. I want the Minister to go on record and say whether that is an accurate estimate.

Hon Max Evans: That \$10m is not just the mining industry, it is all chattels.

Hon TOM STEPHENS: Would the Minister be prepared to include in this Bill a guarantee that, if the return to Government is in excess of \$10m by virtue of the provisions of this amendment, he will rebate the extra tax to the people from whom he is taking these funds?

Hon Max Evans: It will be \$12m next year; where does your balance come in then?

Hon TOM STEPHENS: It has been put to me by senior figures in industry that when the Government estimates the tax take, it is given a factor multiplied by two to assess its likely impact upon the coffers.

Hon Max Evans: By a factor of two, I am making \$5m, \$10m and so on.

Hon TOM STEPHENS: The Minister is really making \$20m, not \$10m. He is underestimating the value of this change.

Hon Max Evans: My complaint is that I am overestimating the revenue received, not underestimating.

Hon TOM STEPHENS: I look forward to either an amendment to the Bill or an undertaking by the Minister for Finance that he will pay a rebate to those taxpayers if they have to contribute more than \$10m in the coming financial year and \$12m in the year after.

Hon Max Evans: I will give you the answer now and it is no.

Hon TOM STEPHENS: The Minister for Finance has said no. That indicates that this assessment may be a vast underestimate of what will go into the coffers of this Government and be spent on its flights of fantasy rather than appropriately responding to the needs of the Western Australian community for fewer taxes of this sort that impact so heavily on the ordinary citizen. I cite an example of the application of this provision that has come from the mining industry. I shall take a small mining project from the bottom end of the mining sector - a project that might be worth only \$15m; that is, \$10m for the tenement and \$5m for plant and equipment. The industry in collaboration with its tax consultants might do a calculation pre-30 June. If an operator has a mine in that area, he might decide to rush in and sell it because from 1 July on that operator will experience significant increased taxation by virtue of the change -

Hon Max Evans: No, he will not. The person who buys it will pay the stamp duty. It has no effect at all on the person who is selling it. Get your facts straight.

Hon TOM STEPHENS: As the Minister knows, sometimes those transfers are to do with restructuring of mining operations.

Hon Max Evans: They are exempt from stamp duty. Get your facts straight. Corporate reconstructions are exempt.

Hon TOM STEPHENS: I appreciate the Minister going on record.

Hon Max Evans: I am glad to go on record.

Hon TOM STEPHENS: I draw on a comment that has come to me.

Hon Max Evans: Don't believe all they say; they have a vested interest.

Hon TOM STEPHENS: I will pass the Minister's comments back to industry.

Hon Max Evans: You may do that, please. They never wrote me a letter of thanks for the corporate reconstruction changes which have saved them about \$14m already.

Hon TOM STEPHENS: I am told that pre-30 June, the tax take will be \$420 000 for a mine of that sort. Now that chattels are to be included in the dutiable amount, from 1 July the calculation for stamp duty will be \$720 000.

Hon Max Evans: What is the value of the sale that comes up with those figures?

Hon TOM STEPHENS: The tenement is valued at \$10m and the plant and equipment at \$5m; that is, a \$15m sale of property interests. The chattels were previously exempt from stamp duty but by virtue of this provision those chattels, including mining equipment, will be dutiable. If this is an accurate estimate, is there any wonder the mining industry, particularly those in the struggling sectors, those at the bottom end of it, many of whom are battlers, who are beavering away on small -

Hon Max Evans: The ones that are being sold are not being sold to a battler. They will be sold to someone who has cash in the bank and that buyer will be better off as a result of it. It has nothing to do with battlers and nothing to do with running costs. It is merely to do with stamp duty paid on the transfer of a property.

Hon TOM STEPHENS: The Minister knows that if a battler is trying to sell his mine and suddenly the cost of the sale goes up, the buyer no longer has an incentive to pay because he cannot get the return on the asset that he would otherwise have received.

Hon Max Evans: You are talking about a mine worth \$15m. I do not think an increase of \$200 000 will change the buyer's mind. Mining is a very high risk venture in any event.

Hon TOM STEPHENS: This provision is increasing the risks.

Hon Max Evans: I do not believe we are. I can give much better examples with more risk attached. An extra \$200 000 on a \$15m deal is not a big risk. These people are in a high risk area. They might buy a mine which turns out to be worth nothing, in the same way as happened with the Rabbit Patch a few years ago.

Hon TOM STEPHENS: I hear the Minister's response. All I can say is God help the industry groups that have a Minister for Finance like this one, whose response to their legitimate concerns is what I consider to be a heartlessness that is, at least, consistent.

Hon Max Evans: After all I have done to help, and you say that!

Hon TOM STEPHENS: I will draw on the comments of my colleague the member for Eyre, the shadow spokesperson for resources development.

Hon E.J. Charlton: Are you in his camp?

Hon TOM STEPHENS: He states -

This bill damages and discriminates against the Mining Industry at a time when it is going through a period of low prices.

It also hampers and prevents the orderly rationalisation of the gold mining sector when it is clear that such rationalisation is necessary for its long term survival.

The bill proposes that for the first time stamp duty shall be assessed for payment on the sale of chattels sold in conjunction with the sale of mining tenements or real estate. In the case of mining tenements, this includes plant and equipment and vehicles excluding on road vehicles.

The removal of this historical exemption from sales tax is discriminatory as the exemption is to be retained for the farming industry.

The mining industry is an export industry which has been struggling in world markets with soft resource prices and it is hard to understand -

Hon Max Evans: The way the dollar value is going down it will give us an extra \$12m. We are laughing.

Hon TOM STEPHENS: It continues -

- why this has not been treated as favourably as the rural industries. This was especially the case as the mining industry has been subjected to a whole new set of State and Federal taxes in the last twelve months. Those new taxes include:

- A. Partial removal of the Commonwealth Diesel Fuel Rebate . . .
- B. A State Royalty on gold
- C. Commonwealth tax on the sale of mining tenements.
- D. Removal of the 25% concession on the licensing of diesel powered vehicles.

The Government contends that the new stamp duty provisions shall raise \$10m overall. Consulting accountants to the mining industry maintain that it shall raise at least \$25m with more than \$10m coming directly from the mining industry.

Hon E.J. Charlton: Throw that water over him; don't give it to him.

Hon TOM STEPHENS: This Minister for Transport is a hardhearted man! The shadow Minister then gives an example of the new stamp duty on the sale of a small mining company. I will not repeat the example because it is the same as that which I just cited to the House. It goes on -

There is no equity in this imposition . . .

The State and Federal Governments seem to think that the mining industry is some sort of bottomless pocket. The truth is that the new taxes are eroding Australia's competitive position. Although the weak Australian dollar shall buffer the industry in the short term, that shall not be the case when the currency recovers.

Hon E.J. Charlton: When will that be?

Hon TOM STEPHENS: We presume the Government will recognise the importance of the resource industry to the welfare of every Western Australian. We believe that even now the Government has the opportunity to rethink its position on this new tax, especially given that the mining industry was not consulted prior to the introduction of this legislation; in fact, it was left to scramble to try to catch up with what was going on in regard to the introduction of these laws. I will read out to members part of a letter we received today from the Chamber of Minerals and Energy of Western Australia. It states -

. . . division 4 of part V of the Bill will have the effect of making chattels dutiable where they are transferred as part of a land transfer and that this will include mining tenements. The exemptions available do not provide any specific relief to the mining industry. They do, however, provide exemptions for trading stock, motor vehicles and chattels used in farming. The Bill also contains a provision allowing the Commissioner to exempt transactions on a case by case basis, but the Chamber is unaware of any guidelines on the grounds for such exemptions.

I ask the Minister for Finance this question: What are the guidelines that cover the Commissioner for Taxation in granting exemptions on a case by case basis? The letter continues -

The industry's major concern is that this provision would render unviable some industry restructuring of the kind necessary for the rationalisation and hence continued success of the Western Australian mining industry.

Hon Max Evans: You have missed the point. Reconstructions are exempt altogether; there is no problem with them.

Hon TOM STEPHENS: I am relaying the points. All I am saying is that these are the legitimate concerns of the industry that are being articulated to us and, in turn, to the House. The industry does not resile from those concerns about some provisions in this Bill. In that context, at the end of the Minister's reply to the second reading debate, I will see whether there is an opportunity available to convince the House to do something that will give that industry the opportunity to vent and express its concerns, for the Government to respond, and then to put those claims to the test by having the departmental officers give evidence. This is a significant body whose concerns should not just be dismissed by this Government. I hope that the Government will not do that in this process.

Hon E.J. Charlton: I did not think you liked them. You have been denigrating them all your life.

Hon TOM STEPHENS: I have never denigrated the Chamber of Minerals and Energy, although I have not always agreed with it. When it has expressed concerns, on this occasion, the Government -

Hon E.J. Charlton: You are a man for all seasons.

Hon Max Evans: That is quite right.

Hon TOM STEPHENS: I will give an example given to me of the impost created by these changes on a recent joint acquisition. I will not rattle off the name of this company. I do not know whether the Minister will go off and cause that company harm.

Hon Max Evans: No, I will not do that.

Hon TOM STEPHENS: If the chattels exemption had not been available, the company would have paid an extra \$200 000 in stamp duty. A 4.5 per cent impost on previously exempt chattels is particularly significant when the purchaser is a small company, and it has the potential to affect industry restructuring.

Another issue requiring consideration is that of a possible overall revenue effect from a less efficient minerals industry due to a lack of necessary industry restructuring. The chamber asks for a more solid assurance from the Government about its concerns in this regard. One of the concerns raised with us is the impact of this provision, whereby there is a fear that this Bill could have the effect of capturing land rich companies, companies that were previously exempt, by virtue of the inclusion of chattels in the assessment of the -

Hon Max Evans: They have already been advised that that is not the case.

Hon TOM STEPHENS: I take the opportunity to tell the Minister what I have received and provide him with the opportunity to respond for the purposes of the record so that there is no doubt that this Bill is not intended to have the effect that the mining industry feared it would have as it started to come up to speed with the Bill, not having the advantage of consultation with the Government prior to being alerted to it, principally by the Opposition. I received a letter from the Commissioner of State Revenue on this issue today, and I appreciate his prompt response. The letter is addressed to me in my capacity as the Leader of the Opposition, and states -

Further to our telephone discussion today, I confirm that the amendments to the Stamp Act proposed in the above Bill do not operate in a way to make mining companies which currently do not fall within the operation of Part 111BA of the Act (the land rich provisions) subject to duty at conveyance rates due to the inclusion of chattels in the duty base.

I understand this was a primary concern of the Chamber of Minerals & Energy of Western Australia Inc. raised by them in a meeting held yesterday involving both Treasury and State Revenue Department officers.

It was indicated to the Chamber that the amendments proposed in the above Bill do not affect what constitutes a "land rich company" for the purposes of the Act.

What the proposed amendments do seek to achieve is to ensure that the chattels of a company, once it has been determined to be "land rich", are brought to duty of conveyance duty rates rather than marketable security duty rates. Such a treatment is consistent with the treatment of chattels which are directly conveyed, rather than being conveyed through a transfer of shares in the "land rich company" structure in which they are held.

To reiterate, in no way do the proposed amendments operate to put in a "land and chattel rich" company concept.

I am sure the mining industry welcomes that written assurance. It would take some comfort if the Government provided a solid assurance by virtue of the Minister's response on this question.

I go to another area - the origin of the 1976 Act and one of the provisions contained in it. This Act was introduced by the then Premier, Sir Charles Court, on 1 April 1976. It had within it a number of issues which led me to ask questions of the Minister for Finance. The then Premier said -

The average cost of assessing and collecting all of our taxes in 1974-75, including land taxes, was 1.38c per tax dollar. The costs ranged from 0.07c in the dollar for pay-roll tax to 9.82c for land taxes.

The high costs for the assessment and collection of land taxes arise mainly from the existing complex legislation, the manual recording and assessing procedures and the semi-manual accounting system.

Can the Minister tell the House what is the comparative cost for raising the various forms of state revenue in Western Australia?

Hon Max Evans: I will tell you why his costs were too high on land tax. He did not take any advice from me. I told him to stop putting in annual land tax returns - it is a waste of time - and to just do any adjustments. Eventually after

three years he admitted that I was right and then the costs went down. I will show you the letter at another time. I was just a businessman telling him how to suck eggs.

Hon TOM STEPHENS: I applaud the Minister and I hope that he will be able to respond to that issue.

Hon Max Evans: I will tell you something.

Hon TOM STEPHENS: I am interested as to the cost of raising this revenue for the State.

Hon Max Evans: The more I put up the revenue, the less the unit cost is, so my figures look better from your point of view.

Hon TOM STEPHENS: I am not advocating the Minister go down that path. I think the taxpayers of Western Australia are entitled to know what is the cost.

Hon Max Evans: The tobacco taxes were marvellous; the unit cost came right down.

Hon TOM STEPHENS: Another part of the speech introducing the Land Tax Act of 1976 that I want to draw to the attention of the Minister is, and I quote again -

It is for this reason that it is proposed that vacant land held by charitable bodies for investment and development purposes shall be subject to tax.

At the moment there is no intention to change that provision. I continue -

However, it is proposed to defer levying tax on this particular class of land until the 1st July, 1978.

The Government extended the courtesy of providing a deferment of two years at that time to those charitable bodies. I draw some comparison with the lack of consideration that the current Government is showing to charitable -

Hon Max Evans interjected.

Hon TOM STEPHENS: But the Government is hitting them straightaway, in the first year. The Bill is introduced only now and it takes effect on 1 July. I am sure the Minister for Finance would be offended if his funds were eroded in this way at short notice by factors beyond his control.

Hon Max Evans: The Federal Government does it every year in the Grants Commission, so I am quite used to it.

Hon TOM STEPHENS: The Minister protested loudly then. Is it any wonder that these charitable bodies, universities, and educational bodies should protest now? They experienced the courtesy of the previous Premier Court when there was at least some delay in the introduction of this cost by two years. The Government is whacking it to them now, certainly phased in over three years, but it comes into effect from 1 July. Premier Charles Court in 1976 said -

However, if the body sells the land without having used it for the purposes for which it was reserved, land tax will be payable for the previous five years, or back to the 1st July, 1976, whichever is the shorter period.

I ask the Minister another question: Is that same provision still intact within the provisions of the Land Tax Act and is it backdated for just five years, or has it been altered in the meantime?

Hon Max Evans: No.

Hon TOM STEPHENS: People raised a concern with me about whether the Bill impacts upon that issue. It clearly does not within the Bill. I wanted to ensure the Act had not been changed since 1976. The Premier of the day said -

...the rate of tax to be levied on land which has been developed and leased by charitable bodies.

Currently, tax is payable by these bodies on the leased land, such as the sites of office buildings, flats and the like, at the improved rate but with a maximum of 1.1c in the dollar. I should mention that the scale provided for improved land rises to a maximum of 2.4c in the dollar.

Hon Max Evans: It is only 2.4 now.

Hon TOM STEPHENS: He further said -

It is proposed in the new legislation that land leased by these bodies will be taxed at half of the normal rate. This will mean that in some cases the tax will increase slightly but in other cases it will fall. At the same time it is proposed that charitable bodies such as tertiary educational institutions, which lease land for commercial purposes, shall be subject to concessional rates of tax.

Hon Max Evans: Because in those days when you had a commercial lease, you could not pass the land tax to the tenant; that came in years later. In those days, the charitable institution had to pick up the extra 50 per cent land tax.

Hon TOM STEPHENS: I will complete my quote of Sir Charles Court and then respond to the Minister for Finance -

Currently they are exempt but as from the 1st July, 1976, they are to be taxed in the same way as are properties owned by other bodies which qualify under the definition of "charitable bodies".

I will not draw any more on the comments of the then Premier, Sir Charles Court, other than to say this: It is ironic that some 22 years later that Premier's son removes this provision and the protection that these establishments had. I put a question the Minister for Finance yesterday and obtained some information in reference to the effect of this removal of concession. The tax officers indicated that by the year 2000-01, the extra intake will be just be \$1.2m.

A case has been put to me by many groups in this sector - universities, and religious and educational bodies - none of which was consulted by the Government in the consideration of withdrawing the concession. I have consulted institution after institution, body after body, and organisation after organisation since the introduction of this legislation last week. I faxed them the provision and I have received commentary from them outlining their concerns. As an example, I received a copy of a letter from the Wesley Mission in Perth addressed to the Premier and dated 17 June. The letter reads -

The Property Committee of Wesley Mission, Perth is deeply disturbed at the proposal being placed before Parliament today: the Revenue Laws Amendment (Assessment) Bill for 1998. The proposed removal of the current concession for land tax on properties owned by Wesley Mission has serious effects on our finances. More importantly it makes serious inroads into our ability to provide caring programs and support to the most disadvantaged people in our community.

The argument for removal of the concessions is presumably based on the view that organisation can pass on the extra land tax by way of increased charge. We have to inform you that this is not entirely the case and our tenancies exist on a very fine balance. Should tenants be charged extra land tax as an additional cost they will argue for a decrease in rentals - such is the delicate nature of their business. This is true for many small businesses which make up tenancies for Wesley and Trinity Churches and the Uniting Church Synod.

We calculate that the removal of the concession will cost Wesley Mission \$12,500 per year. This will reduce the funds that are used to provide those essential welfare and community services that address crucial needs in people.

It is indeed yet another nail in the coffin of our ability to maintain our present level of services to the community many of which are undertaken in co-operation with Government.

Might we say, with respect, that this matter has not been thought through with regard to its ramifications on organisations such as ours. Indeed, the proposed \$1.2 million increased revenue seems a very small amount when placed against the support and goodwill that churches like ours offer to the community. We fear that the appreciation and support of government is seriously in question when we see such a Bill being proposed. We therefore earnestly request you to consider the effects of such cancellation of the concession and its implications for Wesley Mission, Perth.

I checked to see what sorts of services are provided by Wesley Mission. I have here the mission's annual report for 1997. The mission endeavours to do decent things in the community. It is a member of the non-profit sector of the community, and its services include the Tranby day centre, credit care, the volunteer program, a residential program, emergency relief, health care, "take time"; Wesley housing, canteen, life education, people in harmony. It offers a range of services to the community.

If the Government is after a miserly \$1.2m, why go after such organisations? This is why I accused the Government of getting into the churches' poor boxes and knocking off the petty cash. The Government is diminishing the capacity of good institutions to provide services within our community. This impost could not come at a worse time because Federal and State Governments are increasingly withdrawing their services to people in need. The coalition Government is increasingly removing or reducing its services to the poor. At the same time, those people are calling on the churches and other organisations for assistance, but the Government wants to diminish the organisations' capacity to deliver those vital services.

I have a letter from the Perth diocese of the Anglican Church of Australia. This legislation will place a huge impost on this church. This church hopes to be able to pass the impost on to the tenants, but the Government gives scant regard to the fact that small business will be affected in this way.

Hon Max Evans: They must pay the same land tax as the people across the road.

Hon TOM STEPHENS: If it was good enough for the then Premier, Mr Court, to introduce this in 1976 -

Hon Max Evans: In 1976 the impost was not passed on to the tenants. The landlord took it on himself.

Hon TOM STEPHENS: I have extracts from other letters. There will be an impact of \$138 000 on another church group. That group states that this cost will significantly restrict the social welfare services provided by that church.

Hon E.J. Charlton: What church is that?

Hon TOM STEPHENS: I am not at liberty to disclose that. I am simply giving an example. The Minister for Finance can simply check the figures, because the records are available to him.

Hon Max Evans: If I do not know what church it is, I cannot check. I do not want to check anyway.

Hon TOM STEPHENS: About 19 institutions across the State will be affected by this legislation. The Minister will know which institutions they are.

Hon E.J. Charlton: You named the other two churches!

Hon TOM STEPHENS: I am not at liberty to disclose this one. This impost will cost one organisation \$138 000.

Hon Max Evans: It sounds like UWA.

Hon TOM STEPHENS: Those concerns unfortunately have not been addressed by the Minister's assurances.

The organisation to which I refer now, fortunately, will not be injured by these provisions. However, if the Government plans to head in this direction, people have every reason to be concerned. I have been informed that this organisation owns six freehold properties in Perth, in the general inner city region. Three properties are used for direct human service delivery purposes; one is an "op shop", and it has two strata units which are used as transitional housing for clients at the women's refuge who pay a rent for that accommodation. The six properties are 100 per cent exempt from land tax. Therefore they will not be adversely affected by the provisions of this Bill. However, if a Bill next year begins to remove the exemption from the application of the Land Tax Act, the Government must consider the consequences.

Hon Max Evans: I will not do that. You know that.

Hon TOM STEPHENS: I hope that the Minister for Finance will give categorical assurances. The organisation has stated that a change in the exempt status would be a significant blow to its financial viability. Both services that use the properties currently run at a deficit. I am told that the government contracts with Family and Children's Services do not provide sufficient funds to meet current operating expenditure. The op shop is one of four run by the organisation to raise funds to partly meet the deficit. The other three shops are leased. The op shop is operated by voluntary labour. The initial impost of land tax would probably result in the closure of the shop, because its margin for surplus is quite small. Even though a land tax might be quite small it could easily push the organisation into non-viability, and result in a loss even greater than the tax. A land tax on the other properties would be disastrous. The organisation would need to approach the funding department to offset the additional cost, as the organisation knows only too well that compensation packages never work.

It appears that the Government is determined to impose this additional impost on this sector. This legislation should not pass quietly through this Parliament, because these provisions will be imposed on a sector which can ill afford it. I want the Minister to understand that I will make sure that the entire sector understands what the Minister is doing on this occasion.

Hon Max Evans interjected.

The PRESIDENT: Order! Debate on this legislation is being dragged out due to the interjections.

Hon TOM STEPHENS: I am determined to make sure that this sector understands what is being done to those organisations, by stealth. Those organisations were not consulted. Many of them were not even aware that this was about to happen. They set their budgets, then received their land tax assessments, and they realised the concession had been removed. Some organisations are now responding to the points made by the Minister for Finance.

The Minister assumes that a concession will not significantly impact on universities and other educational and religious bodies. His conclusion is based on false assumptions; as a result, his conclusion is false. The concession has been withdrawn without consultation. The provision has been slipped into the Bill without any real prospect of those adversely affected organisations receiving any warning. We are aware of the number of organisations involved.

One organisation will pay \$500 000 in one financial year. The Government is attacking the social fabric of the community and is withdrawing more support from government services. These organisations are endeavouring to hold together the social fabric by their charitable works on behalf of the community, but they will lose that opportunity due to the provisions in these revenue Bills which attack them. Just as the effect of that government policy lands on those churches, they are now hit with this double whammy and the loss of the concession. Minister, last year the Government -

The PRESIDENT: The member is not speaking to the Minister; he is speaking through the Chair.

Hon TOM STEPHENS: Last year the Government imposed upon the University of Western Australia liability for payroll tax increases when the superannuation arrangements of the universities were included in the relevant provisions. That is on the record as costing UWA \$500 000 each financial year.

Hon Max Evans interjected.

Hon TOM STEPHENS: However the Minister responds, the net result is that last year it cost the university \$500 000 in increased taxes and it will cost the same amount this year. This Government has promised a social dividend, yet we are witnessing the diminishing capacity of universities to deliver higher education and research activities to the community of Western Australia. "Wrong" say the Minister for Finance and the Government. The Minister says that these institutions can pass on the full cost of the lost concession to the tenants. The affected sector states that blithe disregard is being shown for the impact of this increased cost on the small businesses occupying many of these tenancies. Blithe disregard is also being shown for the ordinary mums and dads who purchase the goods and services provided by those small tenants.

The Government is ignoring the fact that these investments are often in residential tenancies. I hope that the Minister recognises there is a statutory prohibition on that being passed on to residential tenants.

Hon Max Evans: It is not normally passed on.

Hon TOM STEPHENS: It cannot be passed on. As I understand the residential tendencies legislation -

Hon Max Evans: I will not argue that.

Hon TOM STEPHENS: As a result it cannot be passed on directly as a variable. While it cannot be passed on as a variable, inevitably owners of the properties conduct rent reviews. Some people will be locked into long leases with rent reviews every three years. What about the tenant who signed a lease on 29 April this year? It will be three years before a rent review will be undertaken if the lease does not have the variable provision in reference to land tax, and residential tenancies cannot have that provision. I appreciate that the Minister acknowledges that is the case.

Universities often provide student accommodation in the suburbs surrounding their establishments. They get an economic return but they will not enjoy the land tax concession that was available until now.

The Government is ignoring the commercial reality facing landlords with city properties. Many institutional investment portfolios are not fully tenanted because the commercial occupancy rate in the city is about 12 per cent. These institutions are the hardest hit and they cannot redevelop their properties to make them more attractive to the higher end of the market. These properties often have occupancy rates of less than 50 per cent. This land tax is not easily transferred at that rate of occupancy. It does not work that way. That is why I am upset. The institutions are also upset by the Minister's saying it will be passed on. It will not.

As the Minister knows, I may be deficient in my understanding of the application of tax and stamp duty laws. However, I have a heart, and I get upset when I see something that impacts on the community in this way. I might not have the accounting and educational background to deal with this, but I can use my good sense to advise the Minister to pull back. Why do this to this sector? It is a stupid provision which will impact adversely on the community and cause unnecessary pain for minimum gain.

Some institutions are not able to redevelop their properties to attract the higher end of the market. Indeed, the rent increases that will result from the passage of this Bill and the cancelled concession will place in jeopardy the plans of some institutions and they will no longer be able to maintain their property investments. Property investments have provided these institutions with the opportunity to subsidise their community activities by making available inexpensive office rentals and shop fronts for many worthwhile community service providers. I acknowledge that these groups have commercial properties that they wish to lease. However, they often have scattered throughout their partly rented buildings, groups which provide community services and which pay no rent. The cancellation of this concession will impact very significantly on that sector. If this small clause were whipped out of the Bill the Government would do the community of Western Australia a good service.

Rent reviews on many of these properties will be available only in two or three years when the leases can be rewritten to incorporate the impost of this lost concession. In the meantime, the increased government tax take must be absorbed by the institutions. They are trying to hold together the social fabric that is under attack from so many other programs implemented by this Government. The social glue is so easily melting in our society and these religious and charitable institutions and universities are desperately trying to provide support. They could make great use of the \$1.2m.

Current commercial practice is often, but not always, to pass a variable from the landlord or owner to the tenant. A gap does apply. Perhaps the landlord is an institution that owns a number of properties. The cumulative total is a higher cash value and therefore attracts a higher rate of land tax. As the Minister for Finance knows, that landlord cannot pass on that higher rate to the tenant. Let us be honest about what is being done. Those institutions cannot pass on the full cost of the impost; they can pass on only the impact as though they were the owner of a single property. The Government is hurting people who can ill afford it.

This sector is expressing a legitimate concern. It has had scant opportunity to express that concern until now. Up to half the full cost of this cancelled concession could land on those institutions, which can ill afford to lose it. These institutions do not distribute their profits among shareholders; they distribute services to the community, and the Government is slugging them for that. They put their assets, investments and returns at the disposal of the community. The Government is getting into the poor boxes -

Hon Max Evans: Universities do not have poor boxes; the churches do.

Hon TOM STEPHENS: This is an extension of the poor boxes and the Government has its hand in those boxes.

In making a quick amendment to this Bill, the Minister would do the community of Western Australia a service. However, the Government will take away the paltry tax concession which was introduced and consolidated by the current Treasurer's father. That is a pity.

I am reaching the conclusion of my remarks on this Bill. I await with great interest the response from the Minister for Finance to the various questions I raise. I want to ensure that I have completed that series of questions. I ask the Minister again: Will he give some estimate of the expected revenue from the proposed change to remove the current exemptions for chattels conveyed within mining tenements from the stamp duty base? What is the average value of chattels conveyed with mining tenements?

Hon Max Evans: We would not know that. They have been charged tax on that.

The PRESIDENT: Order! These are technically Committee questions. Clearly the Leader of the Opposition wants them responded to in reply to the second reading. It is not a Committee debate yet.

Hon TOM STEPHENS: No, Mr President, but the answers may lead to the need for an exhaustive Committee debate. I respond through you, Mr President, to the Minister for Finance. He told the House that the Government has assessed the value of the new impost to the revenue of the Western Australian Government. However, when one asks him to respond to the impact on a sector, the Minister's interjection indicates that the detail cannot be produced. Nevertheless, it has not stopped the department and the Government from producing a cash value of the change to the stamp duty laws in Western Australia of \$10m per annum. If so, what is the specific impact on the mining tenements? How has that been assessed? Presumably, somehow or other, it has been included in the calculation of \$10m. If that has not been done, perhaps the Bill requires a rebate provision if it exceeds \$10m; therefore, money can be returned to people who will lose money well in excess of the estimates given by the Government.

Why under the proposed stamp duty changes should chattels conveyed with farming land such as tractors remain exempt from the stamp duty base, while mining equipment such as off-road vehicles should no longer be exempt when conveyed with land? Will the Minister indicate how the commissioner will be guided in his use of clause 43 of the assessment Bill, which deals with the conveyance or transfer of any estate or interest, when it refers to items to be exempted? What sorts of items does the Minister intend to include in such prescription for exemption?

I conclude my remarks but indicate that I await the debate with great interest and look forward to analysing the Minister's response to see whether we need to advocate that the House take an alternative course of action to proceeding the Bill through all stages this evening.

[Resolved, that the House continue to sit beyond 10.00 pm.]

HON HELEN HODGSON (North Metropolitan) [9.15 pm]: I started these omnibus Bills as I start with most legislation; I started at the front and worked through to the back. I will deal with some of the issues Hon Tom Stephens addressed as I reach them.

As an omnibus Bill, the assessment Bill proposes to amend nine pieces of legislation regarding various assessment provisions. The second Bill deals with taxing provisions. The first Act to be dealt with in the assessment Bill is the Fuel Suppliers Licensing and Diesel Subsidies Act, which passed through this place last year when we dealt with the problems resulting from the High Court decision which affected excise duties. In the second reading debate on that measure a number of people identified concerns regarding the use of the word "subsidies" in the Act. In my speech on page 8605 of the *Hansard* of 26 November last year, I commented that calling it a subsidy could have implications for the minerals industry selling offshore and for international trade; that is, it would cause problems in General Agreement on Tariff and Trade treaties and the international marketplace. I am interested to see that on the basis of some of those comments and outcomes, we will remove the term "subsidies". That is an example of how long it has taken to catch up. The comments made in that debate have borne fruit.

The other matter associated with the Fuel Suppliers and Licensing Subsidies Act is the practical difficulties in respect of record keeping requirements. The Joint Standing Committee on Delegated Legislation has already identified some of those problems. The regulations in respect of this legislation were on the Notice Paper to be debated by this place before the motion was withdrawn last week. I understand that the matters of concern to the committee are addressed in the legislation. Basically, we have a problem with the regulations, which were modelled on other record keeping schemes which have been found in practice to be unworkable and often inappropriate in this situation.

For example, a problem arises in measuring the kilometres travelled in farm vehicles which do not have instruments to measure kilometres. It creates some practical problems. It is appropriate to allow sufficient flexibility to tailor the regulations to cover such situations.

I have some concerns about the mechanism adopted in the legislation before us. One of the fundamental principles of taxation is certainty. The mechanism says that taxpayers must comply with the commissioner's direction. I would be concerned if an inspector were speaking to a taxpayer in the bush and told the taxpayer that his records are okay: Could that be construed to be a direction if difficulties arise in the future? I have signalled my intention on the Notice Paper to move an amendment to ensure that such directions be in writing. I understand that that will not create too many problems for the State Revenue Department.

The second piece of legislation I considered was the amendments to the Land Tax Assessment Act. Land tax is an unpopular tax at times because of the inevitable impact of bracket creep. Second only to income tax, land tax is affected by the increasing values of properties in boom times.

It is encouraging to see that over the past few years the Government has periodically addressed the problem through two mechanisms - a valuation mechanism and adjustment of rates. The adjustment of the tax bracket in respect of land tax is a welcome move.

A fundamental issue concerning land taxes was alluded to by Hon Tom Stephens; that is, whether land taxes should be passed on to tenants through commercial tenancies. Hypothetically the question is: Who should be liable for land tax? Is it a cost of owning land or is it a cost of operating a business? The practical reality is that in most commercial situations land tax is passed on to tenants. It is in fact a cost to the businesses. In a commercial situation land tax is treated as an indirect tax. That means that the commercial tenants bear the brunt of any increase in land tax regardless of who is the landlord. If it is a commercial situation the practical reality is that the tenants pay the cost. As it is a progressive tax it affects tenants of owners who hold large amounts of land far more than tenants of owners who have only small land portfolios. The amount paid depends on the value of the total land holdings. If the Government is serious about competition in the marketplace it should ensure that the amount of land tax passed on to tenants is not measured by reference to the highest tax bracket if the owner has a large holding, or a lower tax rate if the owner has a small holding.

Hon Max Evans: You pay the basic rate and the landlord picks up the difference.

Hon HELEN HODGSON: I believe another Bill will address this matter. However, it is important to put on record that it is a practical issue with land tax.

The Bill makes a technical correction regarding tax on principal residences. Most people are used to the fact that people's homes attract taxes such as stamp duty, land tax and other taxes. However, tribunals have identified a loophole in land tax legislation that could result in people not paying tax on a property that is not their residence. An extract of comments from a recent tribunal case indicates that the present exemption does not require that the property in question be the sole or principal place of ordinary residence but that the property be used solely or principally as a place of ordinary residence. That is a technicality; however, the impact of that means that tribunals have had to decide whether someone can have more than one place of ordinary residence as opposed to what is the normal understanding of the concession; that is, it should be a sole or principal place of residence. Given we are correcting an obvious anomaly I have no problem supporting this recommendation.

However, I am concerned that application of this amendment will be retrospective. The Bill provides that any decisions made prior to the date it comes into effect will be based on the law as it is passed. As a general principle, tax laws should not be retrospective. I ask that when the Minister responds to this debate, or in Committee, he indicate whether any cases are afoot where the retrospective application will cause a problem for the taxpayer.

The Bill seeks to amend the Act in relation to the inner city residential land tax rebate. It is currently administered through an administrative arrangement rather than being included formally in the land tax legislation. It is appropriate for a tax rebate matter to be included in tax legislation. I am pleased that will be dealt with in the appropriate place. It makes the scheme far more transparent and accountable. I also note that by bringing it into the tax legislation we are confirming that it will give the same protection as other land tax measures, such as being able to request review or appeal rights or make an objection and so on. That is very important.

I should speak in favour of this scheme because I notice from the map attached to the explanatory memorandum that all of it is in my electorate of North Metropolitan Region. I must support anything that will assist people living in that area. The scheme is intended to assist people who live in residential units which are single houses, flats or other self-contained areas which incorporate cooking and bathing facilities and are intended for long term residential use. According to the explanatory notes the units within buildings offering institutional care, such as hospitals or temporary accommodation such as motels, hostels and holiday apartments, are not included. That is from the notes to the application form under the old scheme and is incorporated in the explanatory memorandum. However, that must be translated into legal provisions.

When I looked at the Bill a couple of things leapt out at me: First, nursing homes, educational institutions and hospitals, etc, on the face of it did not appear to be covered by the rebate scheme. On examining the detail of the land tax legislation as a whole they are covered by broad exemptions. That is not a major problem. The other problem I have is the breadth of the drafting for the holiday home exclusion. My reading of the drafting is that it could apply to property used at any time for holiday accommodation. That is obviously not the intention of the legislation. Its intention is to exclude properties such as holiday apartments. For that reason I included an amendment in the Supplementary Notice Paper to clarify the understanding of that in accordance with the explanatory memorandum and the notes given to us with this Bill.

The map is bounded by Bulwer Street, Summer Street, the river, Thomas Street and Kings Park Road. The area that is within a special zoning, the old Swan Brewery site, is not incorporated as a residential housing scheme. My understanding is that it might be turned into residential apartments. It will be interesting to see what happens if that goes ahead. The answer I received to a question on that issue in this place last week indicated it is a real prospect that apartments might be built on the old Swan Brewery site. That is not covered at the moment so we will have to see what happens in the fullness of time.

Hon Max Evans interjected.

Hon HELEN HODGSON: That is now, but if it is turned into residential apartments it could be a different story.

I note that the provision in the Bill affecting exemptions for universities and religious bodies has attracted extensive debate both here and in the other place. In response to a question yesterday the Minister indicated that it is expected to raise about \$1.2m. That does not seem to correspond with suggestions from sources to whom I have spoken. I realise how difficult it is to make these estimates and that people often use different factors when they make their calculations. However, there is a discrepancy that we must monitor to see how much is raised from that change.

Hon Tom Stephens: It is very difficult to imagine how there could be any argument over that because it is the removal of a 50 per cent concession.

Hon HELEN HODGSON: I am saying that my source estimates the impact on them will not be higher than this figure in total, but when we consider the proportion of that institution, it is expecting the impact to be higher than the Government is estimating. That is an estimate, so we will be monitoring it.

I looked at two basic issues when looking at university and religious body exemptions. One is land which is used for purposes ancillary to the operations of the institution. I would include in that student residences and hospitals for particular organisations. I note that when Hon Tom Stephens was quoting from a letter he referred to a thrift shop in one religious institution, which I do not think he specifically named. The land is used for purposes which are very closely associated with the objects of the organisation concerned. I was looking at the issue very carefully to see whether there would be any significant impact on the institutions. There are specific exemptions for a number of those areas. Residential colleges have their own specific exemption under the legislation to say that they will not be caught by land tax at all. The same applies to hospitals run by Catholic organisations. When we come to things like op shops, there is a requirement in the way the legislation is drafted that the property be used for business, commercial, professional or trade purposes. My understanding from talking to people in the university system is that

there is often some debate over whether something is being used for a business or commercial purpose. An example that was given to me is a bookshop on a campus. It is an integral part of university operations for students to be able to buy textbooks. Any profit made is channelled straight back into the university's activities. However, there is that question, and these matters tend to be resolved on a case by case basis. I suggest that a thrift shop run by the body itself would fall into that same category. I seek an assurance from the Minister that it is not intended that this legislation pick up issues such as the thrift shop which is operated by the church body and not by an external tenant. We find that when it comes to those sorts of specific issue buildings, specific exemptions do protect to some extent the organisations concerned. I note that when we are tidying up this legislation, according to my copy of the Stamp Act we are still referring to the old Western Australian Institute of Technology Act. Perhaps that could go on the list for the next omnibus Bill.

Hon Max Evans: Good on you. You are not old enough to remember it.

Hon HELEN HODGSON: I studied there. That was where I obtained my first degree.

The second type of property is off campus student housing. I understand that at least one university has a small amount of its portfolio as residential housing which is made available to students and is off campus. We must look at the commercial realities of what will happen. The university charges commercial rents that are not subsidised. The question is whether the land tax will be passed on. If the university is already charging commercial rents we must say that the cost must be absorbed by the university. There will be a real cost to the university in that situation. There is an impact on off campus student housing. I also understand that it is a relatively small part of the landholding portfolio. The university is hoping that much of the land in that category will be used at some stage for other sorts of developments. We must not close our eyes to the fact that there is an impact on the educational sector, which is already losing funds from other areas and is already struggling to manage. For every \$100 000 that is lost out of the university system, there is a large cut.

Hon Max Evans: I think that Curtin University is trying to restructure its property portfolio.

Hon HELEN HODGSON: I do not think that Curtin University has much housing off campus; it is mainly on campus. There will be cases where property is genuinely leased to tenants who are paying commercial rents. There is the issue of whether those costs can be passed on. Under most of the leases I believe that there is capacity to pass on the cost. A large amount of the cost would be absorbed in that way, but two situations have to be factored in here. One is that there are often vacancy rates where the land tax cannot be passed on. It was put to me that quite often properties owned by religious bodies and universities tend to be older properties in less attractive positions. They tend to be a bit more run down and less easy to rent. I was not given a percentage figure, but there is a vacancy rate and the land tax on those vacant properties must be picked up by the institution.

Hon Max Evans: The management committee should be looking at getting more tenants in.

Hon HELEN HODGSON: The second issue is that it is often not very attractive to tenants because of the type of property involved. It means there is a ceiling to the market rent even with the outgoings that can be passed on through the lease. The commercial realities are that the rent is slightly lower to make up for the fact that the outgoings are higher.

Hon Max Evans: That has an impact on the value of the land normally but not always.

Hon HELEN HODGSON: The estimate that I have had from a major university is that it could cost up to about \$300 000 per annum once the exemptions are totally phased out. That university has significant landholdings. I have probably identified it by now. I also understand that one or two of the religious institutions might be at a similar end of the scale. There is a real cost involved. The policy involved is the question of the competitive marketplace. People are often prepared to accept that on the basis that tenants and small business should not have a competitive advantage over each other based on who is their landlord. I also recognise the issues Hon Tom Stephens has raised. I have received some advice in respect of those issues. Yes, every less dollar hurts a university or religious institution, especially when it is suffering government funding cuts. However, the practical reality would be that those bodies have recognised that they must pick up the bill and that it is only in respect of commercial properties that they will be impacted.

Many of the functions listed by Hon Tom Stephens of the Wesley organisation would be exempted under ancillary activities as not being commercial or professional activities. The Wesley organisation will find that the outcome is not as serious as it thought, once it sees the impact of the legislation. I seek assurances from the Minister that those sorts of ancillary activities such as thrift shops would not be considered commercial enterprises.

The third Act looked at was the Rates and Charges (Rebates and Deferments) Act. The function of the changes that we are putting in that legislation is basically to remove the office of the water coordinator when it comes to sorting

out rebates for pensioners and senior citizens from the water authorities and local shire councils. I had a little difficulty following one clause through. It seemed that four categories had been reduced to three. I have discussed that with the Minister's advisers. The position is fairly clear now. However, I will probably ask to have that put on record at the Committee stage. I will discuss that with the Minister at that stage.

There is an issue I have identified in respect of the Rates and Charges (Rebates and Deferments) Act that the Australian Democrats have raised in this place before now, which is an accountability measure. When a Minister issues directions to a statutory authority, that direction should be tabled in this House within a reasonable period of time. The time line involved in issuing the direction, going through a financial year and tabling the next annual report, could be as much as 15 months. In the interests of public accountability and disclosure I will move an amendment to ensure that those directions are tabled within a reasonable period so that the public is able to see what is occurring.

The other issue under this legislation is the issue of extending these rebates to people who may previously have missed out on them, specifically a person who has an entitlement under a will but is not a life tenant or beneficiary. I have tried to think of a case where that might occur because most wills I have dealt with involve either life tenants or other beneficiaries. I accept that there is probably a situation where it has arisen, particularly as trust documents that are drafted these days seem to develop new categories as it suits the parties to find arrangements that are reasonable in their personal and tax situations. Therefore, I accept it is preferable to have the clause in.

Hon Max Evans: It has come from a real life situation. These situations have been cropping up.

Hon HELEN HODGSON: I accept the assurance that there are cases where it happens, otherwise it would not have been identified as a problem. I am happy to support that clause.

The Stamp Act is the one that has raised most discussion this evening. There are a number of issues that are straightforward. The first relates to changes to the nursing home legislation advised by the nomenclature in the new federal scheme. I have no problem with that. I may have some problems with the federal scheme but I anticipate they will be ruled out of order on relevancy. I will keep my comments for that issue and stick to the stamp legislation.

There is a change to the first home buyers legislation in which the increase in the amount is far more realistic in considering land prices these days. I do not have any problem with that.

A matter I would like to have seen addressed in the Bill, which has not been addressed, is the issue of transfer of property between same sex couples. At the moment we have provisions which allow married or de facto couples to transfer property with tax sales exemptions. I want the Government to introduce a similar provision in respect of same sex couples.

There is a technical issue in respect of trading in overseas share registers; that will not have any significant impact on revenue. It is simply a matter of place of registration and whether there should be a technical liability.

It is appropriate to raise another query with the Minister. This has been addressed in other States and the uniform stamp duty rewrite is looking at that situation. I have been keeping an eye on the uniform stamp duty rewrite and would be interested to know what our current position is in that respect. We talk to people about it but have not yet signed on to the exercise. If there is anything new on that, I would like to know.

The key issue in this debate on stamp duty has been the inclusion of chattels in the value of land transferred for stamp duty purposes. This is under the old legislation. It is technically incorrect because under the old legislation there was no reference to transfer of chattels. It is in fact goods, wares and merchandise. One of the problems with the current legislation is defining chattels to include and exclude items to bring it into that scheme. When one look at goods, wares and merchandise, one must look at what exactly we are talking about. I went back to some of my old notes and found a reference to the New South Wales Supreme Court case of *Dunn v Ericsson* which referred to when a good becomes a fixture. This is relevant when working out whether one should pay duty on something, whether it is land or a chattel. There are five key aspects to consider -

- (1) The period of time for which the chattel is to be in possession.
- (2) The degree of annexation.
- (3) Function to be served by the annexation.
- (4) What was to be done with the chattel.
- (5) The intention of the owner of the chattel.

That reference has been adopted by the Western Australian courts in various cases and used as a helpful guide to define a chattel. Prior to the issues that we are discussing, the third schedule showed that exempt items were goods,

wares, merchandise, ships and items that were interstate. This meant that it was up to the courts to interpret what was goods, wares and merchandise and what was affixed to the land. It is summed up in stamp duty ruling No 4, which says that as a rule of thumb, 4 per cent is generally acceptable in terms of what, in the normal transaction, would be considered a chattel and what would not. If one goes over 4 per cent, one must prove the reason for the increase. It says that the determination of whether an item of property can be classed as a chattel should not be based merely on the extent to which it is portable. An idea of the confusion caused due to this lack of clarity is obvious when one looks at the annexure to stamp duty ruling No 4, the list of things that are considered chattels and those that are considered dutiable property. Chattels are loose floor coverings; dutiable properties are fixed floor coverings. Chattels are refrigerators and washing machines that are not built in; dutiable properties are dishwashers, stoves, hotplates and wall ovens. Portable lamps are chattels; dutiable properties are light fittings.

One can see the practical problem. Normally, real estate agents simply say they will allocate 4 per cent of the value of the property to chattels because they cannot assess values as they do not know what is and what is not a chattel. The reality is that in most housing type transfers the impact of this will be to increase the value of the dutiable property by 4 per cent and stamp duty will be at the relevant rate. Therefore, it will depend entirely on the value of the property. However, I would say that it will not be a huge impact in most situations.

The scheme that is before us has several categories of exempt chattels. Under the third schedule there will be interstate items, trading stock and work in progress in a manufacturing context. I assume that is work that is still under the process of manufacturing; or if there are finished goods in the warehouse they would not be exempt any longer and would be dutiable. However, I would appreciate some clarification.

Hon Max Evans: It used the word "inventory" first of all.

Hon HELEN HODGSON: I will go back to the Bill and confirm that, but some types of chattels will be exempt. There is also a category for prescribing exempt chattels. One that has already been raised is goods, wares and merchandise on farming land. Separate duty is paid on a motor vehicle; and there is a list now rather than the courts interpreting the words on a case by case basis. There is a list of items that will be considered exempt chattels. There are also anti-avoidance provisions in respect of a sequence of transactions and evidencing these transactions in writing. I was intrigued to see in *Hansard* in debate in the other place a reference by the member for Joondalup at page 3420 that another member would rearrange his affairs in a lawful manner. I am aware that the member for Joondalup is a lawyer, but I think that is pretty well covered. I will be interested to talk to the member for Joondalup about possible rearrangements that would get around the anti-avoidance provisions so that they can be dealt with.

Hon Max Evans: The only advice worth taking is advice you pay for.

Hon HELEN HODGSON: I do not have any problem with the presumptions in the anti-avoidance provisions in favour of the commissioner. That is normal with tax legislation, and there is an opportunity to rebut those presumptions with respect to appeals and objection procedures. When I worked through the Bill I found that the exempt chattels and chattels between the assessment provision and anti-avoidance provisions were defined differently. There maybe a drafting reason for that, but I found that it was a little clumsy. However, that is not a major issue.

The other aspect is that of mining company issues which was raised extensively by Hon Tom Stephens. I went to the *Stamp Duty Reporter* this morning and found one page of discussion on what is goods, wares and merchandise and three pages on goods, wares and merchandise with respect to the mining industry. In 1991 *Eon Meals NL v Commissioner of State Taxation* debated whether a bore field, a bore mill, a power station and other items described as infrastructure were in fact chattels. One would have to wonder looking at the comments on what is a chattel as opposed to a fixture, whether some of these items of plant are chattels or fixtures.

The court had to look at each item to determine whether it was a chattel or a fixture. The court decided that there was no inherent quality attaching to mining equipment placed on mining land that makes it inevitable that such equipment should be regarded as personal. It said that the bore field equipment - the pumps and transformers - were chattels; the bore mill was a chattel; and, taking into account the limited life of the mine, the plant inside the shed was chattels. However, the shed and the day tank fuel line and associated pump were fixtures and the transportable shed, perimeter fence and gates, water storage pumps, which were not worth salvaging, were fixtures. Members can see the practical difficulties with which a court is faced when determining what is a chattel in the mining industry. There is no description in that publication of a similar situation in the farming industry, but I am sure it has similar issues. To leave this open-ended will continue to allow the issue to be considered on a case by case basis. Although that is the foundation for common law, it does make things confusing when one is dealing with these matters on a day to day basis.

It would be appropriate to consider the mining industry and to determine what are chattels. If we have to decide

whether there will be an exemption we need to know what it is that we are talking about. The legislation has the ability to prescribe what are exempt chattels, so that could be a route to look at the equity of what is happening in the mining industry.

An exemption for the farming industry favours one industry over another. It is appropriate to make a point that there are two schools of thought on this in tax policy. One is that neutrality means that we have a totally level playing field with everybody totally equal. The other school of thought is that grounds exist for having equity measures built in. One comment from a noted author, Dr Yun Grbich, is that distributional and social objectives must always be weighed up against social objectives. He writes -

Equity . . . may be a high priority but they are not an absolute virtue or an automatic priority in the short term and in every particular policy decision.

Every policy decision must look at whether one is deliberately trying to distort the system. A good example of where we are happy to distort the system is in respect of the popularly called sin taxes - betting, alcohol and smoking.

Hon Max Evans: All the fun taxes.

Hon HELEN HODGSON: I do not do any of those things myself, but as soon as one starts to tax those things there is a social or distributional objective. One argument is that this should be examined. I do not know that the second reading speech looks at whether there is a distributional objective. There is a line that says it will look at the rate of return in the mining industry as compared with the farming industry, but I am not convinced that is all that is needed. That issue requires some examination to decide whether there should be exclusions in an area. However, as this is a revenue Bill we should not delay it. There are probably mechanisms to ensure this is reviewed without delaying the progress on this Bill and I intend to pursue those.

There have been queries raised as to whether the chattels provisions would flow through to turn a mining industry into a land rich company or trust, as the case may be. The requirements to be affected by the land rich entity provisions are that land that is not less than \$1m and up to \$1.5m has a shading in arrangement and unencumbered value of land is more than 80 per cent of the unencumbered value of the assets of the unit trust or company. If a significant proportion of chattels were involved it would change the mix, so that the 80 per cent is breached. However, I note a technicality in the Bill in which the provisions that define a land rich company will still not refer to chattels. The tax that is payable will include chattels but the definitions are not altered by including the word chattels in the definition. I am satisfied, after speaking to State Revenue and checking that against the legislation as it is my habit to do, that is covered. Although there is still an equity issue in respect of the mining industry I do not think there needs to be any fear that it will be pushed into the land rich provisions simply on the basis of the chattels.

I have placed three amendments on the Notice Paper which we will deal with during Committee. We need to look carefully at the economic policy behind the issue of differentiating between the mining and agriculture industries. It could be that there is a case to do so, but it may turn out that there is no such case. I could make a tongue in cheek comment about the impact of national competition policy when the Government is discriminating between two different industries because I keep getting told that the Australian Democrats are interfering with national competition policy. I support the Bill.

HON M.J. CRIDDLE (Agricultural) [9.58 pm]: I recognise the Minister's work and his assistance in allowing members to negotiate with his staff to obtain an understanding that people in the bush will be pleased with.

Hon Tom Stephens: Unless you are a miner.

Hon M.J. CRIDDLE: The word "subsidies" has been removed from the Act and the Fuel Suppliers Licensing and Diesel Subsidies Bill has been introduced, which is a significant move from the point of view of our export markets. The impact of this could be immense. People often talk of subsidies in Australia, but rural industries do not have many subsidies. That goes to the heart of the Wheat Board and other industries in which we are told that our single desk seller status is a subsidy. However, when we feed that back through fuel, which may come through any of the industries that this will impact on - fishing, mining, forestry and farming - there are 17 450 certified users whose trade this will affect.

It is purely and simply reimbursement of moneys raised in the first place. People should have no illusion that it is assistance. Off-road users simply will not be taxed. As I said earlier, 17 000 off-road users and 12 200 farmers will be affected by this provision. I point out some of the mechanisms that can be put in place for the record keeping, to ensure that people do not misuse the provisions. The off-road method is purely and simply where farmers and other users can designate the vehicles on their properties and those that will be used on the roads, and they keep a logbook or come to an arrangement with the commissioner. Of course, these provisions will be put in place as a direction from the commissioner. As late as today, we were working with the commissioner to come to an arrangement that

will be suitable, particularly for people on the farms. Farmers may leave their property, whether it is to travel from one farm to another or to go to town, using diesel fuel in their vehicles. It is difficult to come to an arrangement that clearly states the facts without going through a lot of book work. It would be unacceptable to ask farmers to go through a complicated set of logbooks every time they drive out of the gate and return home. The Commonwealth has an arrangement - I am well and truly aware of it - whereby the vehicles used on the road are identified and the amount of fuel used is designated. The State has \$12m at stake on this issue, and it must make sure that everything is justified. Everybody is happy with that. Nobody wants people to misuse the method in place.

Another percentage method can be used, and I use that on my operation. An arrangement was made with the Commonwealth for a percentage to be designated of the amount of fuel used on the road and the amount used on the property. A simplified arrangement can be made for the larger users. In the agricultural sector about 80 per cent of the farmers produce 20 per cent of the production. That means 20 per cent of the producers produce 80 per cent of the grain. It is a clear indication of how big some of the users are. Whether the people with large operations be miners or farmers, they generally keep good logbooks and they can clearly identify their usage. The better users and the better farmers usually have their books in order.

I place on the record the appreciation of people in the country for the way in which the Minister has handled the negotiations between some of the users and the department. There has been much appreciation for the diesel fuel reimbursements, which could be quite an issue in the country. When this was first raised, a few people immediately said that it should not be made a complicated issue because they must already keep one set of books for the Commonwealth and they did not want to keep another set of logbooks. The first guidelines for exemption made were not acceptable in the country, but there is great appreciation from the electorate for the final arrangements.

HON M.D. NIXON (Agricultural) [10.05 pm]: I endorse the comments of Hon Murray Criddle. It is important that the word "subsidy" be removed because in this day and age Australia is a great trading nation, which supports the General Agreement on Tariffs and Trade, and it must be seen to have industries that are not subsidised. Even the return of the off-road fuel tax, which is collected first and then returned to growers, must not be seen in any way as a subsidy. Even with the current arrangement of paying minimal tax on off-road fuel, primary producers in Australia in many cases pay more for their diesel fuel than do their competitors overseas. That is particularly the case in Indonesia. It is hard to follow the situation since the meltdown in Indonesia. However, primary producers in America, which is Australia's leading competitor on world markets, pay much less for their fuel.

It would be a disaster if this legislation were interpreted as a subsidy for farmers. In reality, it is a subsidy to oil companies because of the taxing arrangements now in force, which make it easier for Governments to collect their taxes. This point must be clearly made. Hon Murray Criddle has made it clear, as did all members from the Agricultural Region, that it is essential that a less complicated method of determining the return of taxes be devised. The proposed arrangement will be satisfactory to the majority of producers.

I also thank the Minister for listening to the concerns raised and for implementing the changes.

HON MAX EVANS (North Metropolitan - Minister for Finance) [10.07 pm]: I hope that I will not take as long as Hon Tom Stephens in this debate, although I hope to respond to the issues he raised. He began by referring to the increasing revenue over the years. It is a furphy he raises all the time. Much of the increased revenue has been based on economic growth in the State. In this Government's first year of office, the only increase in taxation was in tobacco tax. Many people thanked me for that, but not Hon Tom Helm, because they hoped it would make them give up smoking. Some people did give up smoking and some did not. That increased the revenue from \$129m to \$220m in the first year.

The Government has reduced the rate of land tax five times in the past six years, and it was able to do that because annual valuations are carried out. Under the previous Government valuations were increasing rapidly in the 1980s, and land tax collections went through the roof. The Government tried to offset this by scaling the increases in over three years and then over four years. However, after four years the next valuations were done, and that produced a disaster. The Government picked up a huge increase in revenue from land tax. This Government has never received such a high rate of increases over the years because annual valuations have allowed the tax to be scaled back. The Government's revenue shows huge increases from royalties, mainly from offshore companies. However, 63 per cent is clawed back from the eastern States. The figures show gross revenue but not the net benefit to the States.

This Government is missing out on revenue received in the other States from gambling machines. It could obtain \$150m from poker machines, but it decided not to go down that path. Victoria and South Australia introduced these slot machines because the Labor Governments at the time were bankrupt, they needed money and they introduced legislation to allow this form of gambling. When the Liberal Governments took over, they received huge benefits from the revenue. The Opposition in this State supports the Government's view on these gambling machines.

Tobacco tax has been doubled, and payroll tax exemptions have been raised. This Government has never lifted the basic rate of payroll tax. The increase in revenue has been achieved as a result of the 100 000 new jobs created in the first four years of the Liberal Government. The exemption was lifted to more than \$500 000, and that was of considerable benefit to small businesses, and gave them an advantage over large businesses. Hon Helen Hodgson would probably point to competitive neutrality and say that small business should not have the benefit. That might happen one day on payroll tax, but currently there is a benefit to small firms.

Stamp duty has increased. I recall that in the 1980s the previous Government received \$100m over budget on stamp duty because of the boom in the economy. Many properties changed hands, like pass the parcel, and prices were pushed up. This Government received the benefit last year of an increase of just over 15 per cent on stamp duty on property deals. A comment was made that the estimates are conservative. I think they will be at par. The estimated figure of 15 per cent will probably be reached.

Mention was made of a convention centre, which is very dear to the heart of the Leader of the House. It will provide employment opportunities in this State, and will attract many conferences to Perth. It will have a very big impact on employment figures. The Government has all these things going for it, including the huge economic growth of the State, but it is also affected by the higher demand for schools, hospitals and so on. Also, the ageing population and the increase in the population places great economic demands on the State.

Hon Helen Hodgson raised the question of farming, and used appropriate words to describe the case on chattels; that is, the duration, imposition and annexation. She referred to how long the chattels had been on the property and how well they were attached. In a farming proposition, if there were to be stamp duty on the livestock or the machinery they could be driven down the road, and then returned once the deal had been completed and sold separately.

Hon Helen Hodgson: I referred to trading stock.

Hon MAX EVANS: All the machinery could be driven off and then brought back later. It is different for the mining companies. Hon Helen Hodgson spoke about certain court cases in which there was discussion about whether equipment was moveable or not moveable. One or two cases have gone to court. Photographs had to be supplied indicating how well attached the equipment was to big concrete blocks, and so on. At the moment the Government has given up fighting them, because of the huge legal costs involved in defending the revenue, and the judges have been deciding what is moveable and what is not moveable. The Government believes they are all part of the mining operation. The people buying those operations pay big money and they do so because they want to continue the operation. They do not want to cannibalise it; they are buying the equipment because it is part of the business they are taking over. In the old days farm sales were done on a walk in, walk out basis rather than the machinery and equipment being sold in a clearance sale beforehand. If it was a clearance sale, it would not be subject to any stamp duty.

One can only estimate the future loss of revenue from intergenerational farm transfers and corporate reconstructions. There is no knowing how many deals will be involved. The estimate for intergenerational farm transfers and corporate reconstructions was \$14m over a few years. That benefit has gone through but most of those, particularly farming, would not have done the deal if that benefit had not been there.

Most of the reconstruction of companies within a group would have gone ahead at a large financial cost, but we consider it all part of the same scheme. The mining industry has been the biggest beneficiary of corporate reconstruction. What used to happen was that five companies, A, B, C, D and E, would do the regional exploration. A and B and X, Y and Z were going into the production of gold. Three-fifths or whatever proportion, A, B and C, would be transferred to the new operation free of stamp duty and that is a big operation. When we talk about chattels, that does not come into effect; they could transfer all those to the new operation free of stamp duty. The other parties might bring in machinery or something like that or they might just bring in money. The corporate reconstruction of mining has been a big factor and is one of the main reasons we brought this in. Usually, there are two different groups; one that does the mining and one that does the exploration and production. I will return to the land tax and the university and churches in a moment.

Hon Tom Stephens: To announce your amendment.

Hon MAX EVANS: No. There has been one tribunal case about the two residences and land tax. It was perceived that if this got away, a lot more people could use it. Hon Tom Stephens might mention it during Committee, but the commission can give exemptions. There will be certain cases where people have two residences, particularly members of Parliament. Most members, with their electoral allowance, through living in the north or in the south, are fairly well off. It was tax free before 1 July 1986. Members were very well off in those days; they might not have told their friends, but it was a good benefit. Some members did live in the north, and it must have been awful in those days. Some mining people who have a freehold house in the north will be in the same situation. It was not to be

exploited by a person who spent Friday, Saturday, Sunday and Monday at Eagle Bay and Tuesday, Wednesday and Thursday in Perth. It might suit the person's lifestyle, but both properties would be very valuable.

People do not like new taxes and the impact a new tax has on them. Returning to the churches, and as I said by interjection, in 1976 - in those early days - the law precluded the passing on of taxes. At that time, the land tax was being lifted to a 50 per cent factor; a person paid nothing before and the church organisations paid that and not the tenants. At the moment, most of it is paid by tenants. I take note of the comments the member made in regard to those tenants. Some will be worse off than others and where vacancies exist, problems exist. A lot of comment has come back from the University of Western Australia. The bequest to buildings was nine million, one million, and six million shares. The total investment funds are only \$437m; \$140m of that is the long term pool, the short term pool and properties; land and buildings receiving rent was \$140m, the year before it was \$164m. The rental income received in 1997 was \$17m and in 1996 it was \$21m. Why did it drop? The university sold about \$60m worth of rental properties during the past year. It has had a very big ongoing cashflow. The university is the biggest one and one of the church organisations is the next largest. I obviously do not have the balance sheets. Given the magnitude of the university, as Hon Helen Hodgson said, it could be out of pocket by \$300 000 if it cannot avoid that extra land tax on probably vacant premises. I do not think it will have any real effect on the value of or the contribution to the education of the students at the UWA. A far bigger impact on the students today will be the loss of Asian students as paying customers.

Stamp duty regarding marital breakdowns does not affect a court order. It is similar to an estate with only a nominal stamp duty; it used to be \$5, but we are increasing it to \$20. It was just a nominal stamp duty. Beneficiaries under estate incur only a nominal stamp duty. It is a different matter if a marital breakdown has not been through the court. In that situation a stamp duty may be incurred. For an official marital breakdown, whether it be the first, second or third, only a nominal stamp duty will apply.

Hon Tom Stephens: I will keep that in mind. If we spend too much time in this place, I will need to avail myself of it.

Hon MAX EVANS: A lot of people do not realise that those nominal amounts are available to them. In 1978 an exemption for land tax was given for farming property. It is estimated that the land tax exemption on land for primary production purposes would amount to \$18m of the total of \$180m raised. Of course, at that time land value was probably much lower. Mention was also made of the family farm exemptions in conveyancing duty on intergenerational transfers introduced in January 1995. That represents \$3.5m. No estimate is available of the costs and revenues from excluding farm chattels from that measure. We could not put a figure on the amount that would be raised from the inclusion of chattels on a conveyancing basis. We could make a guess, and all economists would love to have a go at that. Perhaps I can give this explanation. A property in the Maddington shopping centre was leased from a charitable organisation, or from an organisation that paid only 50 per cent tax. As soon as it was sold, the tenants were advised that land tax would be applied at the full rate. There was a large hue and cry about that.

Hon Tom Stephens: It was the university, I suspect.

Hon MAX EVANS: That is probably part of the \$60m in the sales last year. A lot more people probably have been hurt in this regard, given that there were sales of \$60m. Those buyers will have to pay that amount straight off. There is no incremental arrangement. We could not do anything about that. From my recollection, those charitable organisations in days gone by paid the whole amount up-front. Now they can pass it on, provided the tenants can afford to pay it. I recognise there is an aggregation factor. We would all like to see a better mix on land tax. Assessing it at a particular date in the year is very hard. Other States have gone down the aggregation path when increasing the rate of land tax. We have tried to overcome that problem by dropping the rates. Many people have bought one or two houses for their superannuation. I call them self-funding retirees. They do not get much rent from those properties, but they know they will be able to sell them later at an increased value which will mean they will have financial independence and will not rely on the pension. That happens in many of the ethnic communities. Those people have been protected by the reductions in these rates. Many of the small shops in suburban areas on main roads would attract high land tax assessments, but have very little rental value. Those people have been looked after in this Bill.

Last year we received far fewer objections to land tax valuations than we did the year before. The changes have been fairly well received. We have been able to adjust the rates back. Those at the top end of the market, in particular, have been paying more. At one stage the rate was dropped back to 2.4 per cent, but now I think the top rate is only 2.1 per cent or 2.2 per cent. When we came into office the top rate applied to properties with a value of \$150 000 and above. That rate existed since 1976. We have pushed the level at which the top rate applies to \$3m. That has overcome many of the problems in the previous legislation.

This is a fair tax. It is paid by most people in commercial operations, except where vacant land is involved. In that

case, a tax deduction probably will not apply. At this stage a tax deduction applies when the land is sold. Most people who have commercial land will obtain a tax deduction; however, people with residences do not get a tax deduction. Everybody would like a tax free society, but somehow or other we must find funds to pay for hospitals and schools. There is no easy way out of it. Many of the people in my electorate send me letters regarding the financial institutions duty and the bank account debits tax. By the same token, most of those people still want their children to get free education.

Hon Ljiljanna Ravlich: They don't get free education now.

The PRESIDENT: Order! We were travelling very well until Hon Ljiljanna Ravlich returned to the Chamber.

Hon MAX EVANS: Hon Tom Stephens made mention of the Association of Mining and Exploration Companies and the Chamber of Minerals and Energy in relation to land rich companies. Hon Helen Hodgson admits that we have gone the right way in this legislation, and we have replied to Ian Satchwell and to Hon Tom Stephens.

Hon Tom Stephens: I sought a solid assurance.

Hon MAX EVANS: The proposed amendments do not affect what constitutes a land rich company for the purposes of the legislation. Once a company is termed land rich it is proposed that it pay duty at conveyance duty rates, rather than marketable security duty rates; that is, 4.25 per cent on \$500 000 against 0.64 per cent for shares. Such an application is consistent with the treatment of chattels which are directly conveyed, rather than being conveyed through a transfer of shares in the land rich company structure. I reiterate: In no way do the proposed amendments operate in a land and chattel rich company concept.

This came about in the 1980s when Alan Bond and Robert Holmes a Court were buying large properties. They would put them in \$2 companies and would pay almost no stamp duty on the transactions, notwithstanding that the company might own property worth \$50m or \$100m. By being land rich, they were avoiding that extra stamp duty on assets which at a later stage might be moved from one company to another. All States of Australia brought in a provision to address this method of avoiding the payment of stamp duty.

It is not practical to start rebating the amount, for example, above \$10m in the first year and \$12m in the second year. South Australia has a rebate on liquor sales at the cellar door. A limit is set of either \$10m or \$12m. When that figure is reached, no more rebates are given. Those who sell their stocks at the end of the year miss out badly. That is a very unfair way of dealing with this issue. However, it was a novel idea to rebate that duty back to those who had already paid it. In bad times, when the sales drop by half, these companies would be charged double to make up for what was lost. We must be fair in these things. Conversely in a good year there is a rebate. I believe the imposition of that system is most unjust, so we will keep the status quo.

Hon Tom Stephens: I reckon the number of years when you are above the anticipated tax take will be in excess of the number of years when you are down.

Hon MAX EVANS: That is quite right because the economy of this State is going very well and it gives companies the incentive to sell properties.

Earlier we talked about the effect on the mining industry as a result of these proposals. For every 1 per cent difference in the exchange rate, we get an extra \$12m. We are already up to \$60m on the basis of a 2.5 per cent royalty. We are looking at revenue of \$1b or more because companies in this industry trade in United States currency. The benefit to these companies, especially iron ore companies, is huge. We have already made a total of about \$72m on a 2.5 per cent royalty, but that does not include gold mining companies. All those companies are doing well because of the depreciated dollar value.

At this stage I do not think they can say that our approach is not good. This is probably why these companies are looking at the cost of transfers in the mining industry. Because the economy is buoyant, these companies are doing very well, particularly when taking into account the value of the Australian dollar against that of the United States dollar. That is why many of these companies will change hands. One company will take over another because it feels it can make a lot of money from doing so. These companies will not be bought so that they can be cannibalised and sold for scrap, as may have been the case in the 1930s or when the gold price was very low and companies in South Africa were selling off the plant from around the gold mines. At that stage gold was about \$32 an ounce. As a result, these companies had to start again with new plant. These companies have waited for 30 years to get to the present standard in gold mining.

I understand exactly where AMEC and the Chamber of Minerals and Energy are coming from. Corporate reconstruction has been very beneficial for those organisations. In all these areas we must pick up many of our costs to pay for hospitals and schools and to provide power, water and so on by levying taxes. There is a huge demand on government to provide these services. The Minister for Transport often refers to the number of roads that must

be built, although I know the funding for that comes from road taxes, rather than from the consolidated fund. Tasmania, of course, does not suffer these same problems as we do, but it does not have the same income as we do either.

In Committee I will comment on the exemption of thrift shops that are run by this organisation, but I will confirm that at a later stage. Good Samaritan Industries is a charitable body and as such is exempt from land tax. Virtually anybody who is in those sorts of places, thrift shops, will be exempt. I cannot think of any that would not be.

Hon Tom Stephens referred to the collection of costs. The overall figure of 8¢ per \$100 revenue collected on an accrual basis will need to be checked. A couple of years ago, Treasury looked at state taxation to bring out these figures to compare them with the other States. I did not take much notice of it. I said I would like to look at what they were doing. As with the revenue collection information system - I think that is what we call it - I think I had a big impact with the consultant I brought in and the way we set it up. That has been so successful that New South Wales will pay \$1m for the licence for that. Fujitsu is now organising a contract in other places in Australia and around the world. We are well ahead on the Year 2000 problem with the new technology. I was not worried about my state revenue with these costs. When we doubled the tobacco tax, we virtually had no increase in costs; there were only 12 or 14 wholesalers to increase the tax from \$129m to \$220m in the first year. Land tax keeps going up. Payroll tax does have extra costs because we have the inspectors going out. Thirty-two per cent of payroll tax is paid by eastern States companies. We have to keep them honest by looking at their payroll records over there. I note the member's comments about 1976; it would be interesting to compare the figure then with the dollar value of today. I have not even seen the performance indicators of this; it would not mean that much. A couple of years ago we had State Taxation with different locations: Kings Building in Hay Street was payroll tax, and land tax was down in Victoria Square; we had four or five locations. We brought them all into one location, including the Department of Land Administration in the Cloisters Building and, yes, there has been an increase in rent, there is no doubt about that, although we got a good deal at the time. We are far more efficient now than we were before. I do not know how that would come out on those figures. I could discuss that later with the Leader of the Opposition.

Hon Tom Stephens asked how many landholders we have. There are now 153 000 in Western Australia. A couple of years it was only 133 000, so it has gone right up. Something like 30 000 or 40 000 landholders are below the \$10 000 and are exempt, so it is a pretty big number. There are 180 000 blocks of land that are owned by the Government; it is a silly statistic, but it is a fact.

The assessment and collection is undertaken by a number of agencies; a lot is done by my Office of Racing and Gaming to try to split them up. It is not that easy. As an indication of collection costs of particular agencies, I refer to the 1996-97 annual report of the State Revenue Department which indicates the cost of collection per \$100 of revenue collected of 85¢ when calculated on an accrual basis.

As I said earlier when I corrected myself, the Residential Tenancies Act prevents the direct passing on of land tax to residential tenants.

Hon Tom Stephens: Is there commercial tenancy legislation that is coming through that will have the same prescription that the Government is committed to?

Hon MAX EVANS: I do not know; it has been talked about for a long time and I cannot confirm that. South Australia has it. We must have a phasing in of the options and the leases. It is not quite so simple to bring it in. It has been talked about by a lot of persons. I know the commercial world is worried about it. The rentals would have to be readjusted otherwise somebody would be put out of business.

Hon Helen Hodgson interjected.

Hon MAX EVANS: It has been talked about for a long time. A couple of years ago, back in the Labor Party's time, when there was a rapid increase in land tax which was phased in over three or four years it was quite horrific to small businesses, but that has been overcome now. We had those people in Barrack Street who were affected. One chap attacked me at a surf life saving function about his land tax. I asked, "Where is it, Colin?" He said Barrack Street. There was a Sports Locker store. I said, "I'll take any bet you like that you are paying less now than you were five years ago", and he went off his brain. I knew the guy at Sports Locker. He bought in the third year of five; he had bought at the bottom and it went up again, so he was paying more, but if he had had it for four or five years, he would have been a mile better off. This person was so much better off in Barrack Street because over five years he was still paying less than he was five years ago. That lady in King Street was the much the same; it went up and down and we readjusted it back. The valuations in King Street will kill them in the future because it has become very prime real estate; places have sold for up to \$4m in a few years.

The mining industry advised us the other day that they believe that the chattels could be about 10 to 14 per cent of the value of the sale of the mining tenement. What will affect them more than anything else is the health of the

mining economy, which at the moment is looking pretty good because of the dollar value. Even gold mining companies are getting more now in Australian dollars than they were a couple of years ago when we decided to delay the gold royalty. Those things go up and down the whole time. We as the Government must take the good with the bad. The first year we came in, we were down \$29m on revenue from royalties because the Australian dollar went up to 83¢ in the dollar and that cost us quite a bit of revenue. These days we are picking it up.

We will come back to the mining industry and what is a chattel and what is not. A large number of the mining companies are changing back. Most of the moveable plant is owned by the different contractors who do all the clearing etc, and they will not be part of the sale of the mines, but that will change with different operations. Whereas if they had vehicles, they would be paying stamp duty on the transfer, while on the purchase of the vehicle they would be exempt.

The question is, when will the prescription power for chattels exemption be used? Clause 43 of the Bill provides for a new item 2(7a) to be inserted in the third schedule. Included in this item is an ability for certain chattels to be prescribed by way of regulations to be exempt. As noted in the explanatory memorandum, it is not intended to prescribe any chattels exempt at present. The power has been inserted to provide flexibility in the future should it be considered necessary to provide an exemption for certain types of chattels. As to when such an exemption would be required, it is envisaged that the prescription power would be used only if an unforeseen anomaly arose which was considered to require an exemption. As such a regulation would be subject to disallowance, it is considered that this mechanism provides an appropriate balance of flexibility and oversight by the Parliament.

I turn my attention now to Hon Helen Hodgson, who spoke about fuel. The regulations that were debated yesterday were very badly drafted. I had nothing to do with them; but I changed them very quickly. A logbook must now be kept for trucks, wherever they may travel. That situation has been attended to. I thank Hon Murray Criddle and Hon Murray Nixon for their comments. They had another meeting with my officers tonight. Many hands-on farmers are involved, and the system must be as simple as possible. People could not understand why we need to protect our revenue. When we return money, we must be fair but not stupid. We had to work out the situation in a fair way, and I hope that we have achieved that. If any more changes are necessary, we will consider them. To most people land tax is a tax deduction. Hon Helen Hodgson referred to the retrospective operations of the amendments proposed in relation to the land tax residential exemption. That will not lead to any new assessments being raised for landowners. Moreover, no objections currently under consideration will be affected by these changes. The fear was that many people in the south west would have an advantage.

Reference was also made to inner city living. The number of people affected by this provision has dropped in the last year or so, due to the measures introduced by the Labor Government. On commercial sites, the land tax will be fairly high. It was put to me that so few people were affected, we should cut it out, but I thought that we could not know what could happen in the future.

Hon Helen Hodgson: What about the old Swan Brewery site?

Hon MAX EVANS: That is a good one. We will consider that in the future.

Some people will be advantaged or affected as inner city living increases, especially the commercial sites. East Perth will not be affected because it is urban land.

Thrift shops are exempt from these provisions, as they relate to charitable organisations. Some off-campus housing may be affected, although universities may be able to work their way around it, as hostels may be involved.

Hon Tom Stephens: They are not hostels. They are simply houses.

Hon MAX EVANS: They are blocks of flats along Broadway. Those properties are worth about \$160m. I think that Gledden Building in Perth was once a university property. I am not sure whether it still is. Some properties are run down and may be non-competitive. Hon Helen Hodgson stated that some would have an unfair advantage because people would not pay the tax in the same marketplace.

Hon Tom Stephens: It was good enough in 1976!

Hon MAX EVANS: The member is missing the point. In 1976 charities paid the entire tax. They did not pass it on to tenants, but these days they can. I do not know what the member is worrying about. He has killed his own argument.

So far, only New South Wales has enacted stamp duty legislation. We are actively working with other revenue offices on a number of issues involving potential double duty; that is, marketable securities and interjurisdictional mortgages. When all rewrite jurisdictions have enacted their legislation we will consider what we can adopt from the rest. Years ago each State had its own Companies Code. It was a nightmare for national companies trying to

keep up with it. We then tried to achieve a cooperative code. We all had the same code for one day, but on the second day Victoria changed its legislation relating to the borrowing powers of companies on their prospectus. We were then out of kilter and it was not put right until the Corporations Law was considered by the Australian Securities Commission. This has been a problem. At the moment we are considering a new administration Act which we will introduce later this year in order to streamline the administrative parts of stamp duty, payroll tax and land tax into the one piece of legislation. The others will be assessment Acts, and so on. The legislation has been drafted -

Hon Helen Hodgson: It will not be uniform. It will be internally uniform.

Hon MAX EVANS: We will improve our situation. We will not worry about the others. We have put the draft of the state administration Act to the professional bodies, and we have received some interesting comments. Members may have seen some articles in the newspaper by the Law Society in that regard.

Members commented on the inventory on trading stock, and so on. That is exempt.

Hon Helen Hodgson spoke about land rich companies. I repeat the comments made in a letter to her which indicated that the amendments proposed in the Bill do not affect what constitutes a "land rich company" for the purposes of the Act. In no way do the proposed amendments operate to put in a "land and chattel rich" company concept.

We have worked very hard to address these matters. The industry does not like some parts of this legislation. However, not a lot of money is being raised by the provisions of this legislation. We have kept the tax raising aspects of the Budget very tight this year. If a tobacco tax were available we could have picked up more from that. However, it is not available. Very few taxes are available currently. The gambling tax is locked in to the year 2001; that is, the casino's 15 per cent plus 1 per cent. The other States have brought that back to 8 per cent. We have not felt the pressure yet, but it may be felt one day. The off-course tote earns 5 per cent. The previous Government gave away the on-course tote of 5 per cent. The lotteries provide 16 per cent of the turnover to hospitals. After that, we do not have many taxes available, apart from stamp duty on mortgages and transfers of land. We have adjusted those slightly. We have tried to bring the stamp duty on insurance in line with other States, but that has not picked up a lot of revenue. It is a total of about \$70m overall, which is about 1 per cent of our total expenditure.

Our responsibility is to keep control of our revenue. We felt that some areas needed adjustment mainly because of the anomalies we saw in the system, and that gave us the opportunity to make changes, so we brought back land tax at the middle range. Many people will pay less land tax, some will pay none, and most people will pay more at the top end. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

Revenue Laws Amendment (Assessment) Bill

Referral to the Estimates and Financial Operations Committee

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.49 pm]: I move -

That part V of the Revenue Laws Amendment (Assessment) Bill be referred to the Estimates and Financial Operations Committee for consideration and report not later than Thursday, 25 June.

I raised this matter with the Minister for Finance, and I indicated that I was very keen to ensure that the mining sector had the opportunity of being fully consulted regarding its concerns about the proposed operation of the amendments to the revenue laws and the impact that will have on that sector. The sector has had the opportunity today and yesterday to consult briefly with the Government. Some of the industry's concerns have been addressed. However, the industry wishes to present its concerns about the impact of stamp duty on chattels to a standing committee of this House. That committee may be able to make recommendations to the Government on how any residual issues can be tackled.

We cannot take for granted the mining industry of this State. It is a legitimate quest of that sector to have this impost subjected to scrutiny. So often Ministers of the Crown complain about the damage done to the mining sector as a result of increased costs. It is hypocrisy then for members opposite to participate in imposing on that sector another cost as though it can go on doing so forever. This is a chance for that sector to put its point of view and to find out why that industry should be treated differently from the farming sector.

I raised this motion with the Minister and I know he is reluctant to support it. I have indicated 25 June as the reporting date, which would quickly get the matter back before the House.

HON MAX EVANS (North Metropolitan - Minister for Finance) [10.53 pm]: The Government strongly opposes

this motion. The impost on mining is very fair. Hon Helen Hodgson dealt with the difference between what is and what is not a chattel. We have had two very expensive legal cases trying to settle that. Probably without exception in the mining industry in our State these deals are done by people expecting to make more money than the previous investor. They might walk away, rationalise or amalgamate. If they are doing that they are not exempt from stamp duty; they are making a bigger cake to exploit.

The mining industry will be paying \$650m in royalties alone, and that excludes gold. That is a lot of money. We are talking about only \$10m in stamp duty and a large part of that could come from housing properties and the chattels within those properties. The amount will go up and down depending on the health of the mining industry. It is very fair. The items referred to are bolted down; they cannot be moved off for a sale. Most of the equipment on a farm can be removed. With the devalued dollar this industry is a lot wealthier than it was 12 months ago. Iron ore companies are still doing very well. Japan is a very safe market.

Hon E.J. Charlton: Native title has had a greater impact.

Hon MAX EVANS: We could do a deal. Native title is the big hindrance to the industry. The Aboriginal Legal Service has been funded to the tune of \$130m. The Government has spent \$3.5m on one native title claim. That is money we will never see again. The mining industry cannot get on and do what it wants to do. I urge the House to reject this motion. This legislation clarifies uncertainty in respect of chattels.

HON HELEN HODGSON (North Metropolitan) [10.56 pm]: As I indicated in the second reading debate, I agree that this issue must be addressed. However, it cannot be addressed and reported back on in eight days. To leave it any longer would run the risk of causing problems because part 5 of the Stamp Act cannot be implemented. That also applies to the stamp duty on chattels in respect of housing transactions and it covers the aged care exemption. It also deals with the 112GA matter, which is where a company has its register. Many other matters will not be able to be implemented by the start of the new financial year if this part is referred to the committee. I agree that it must be reviewed, but there are mechanisms to review the issue without reviewing the Bill. I will pursue those mechanisms and I hope I can secure the Government's cooperation in ensuring that the issue is discussed in some detail; that is, the issue of the economic impact of this on the mining industry vis-a-vis the farming industry. We cannot do that in a week. We would have a very cursory glance that would not provide the information we need to decide whether there would be an economic impact.

Mechanisms also exist to prescribe regulations and to exempt certain chattels if it is decided that they should be exempted for the mining industry. I will not support the motion to refer the Bill to the committee but I will support further action to ensure the issue is reviewed.

Question put and a division taken with the following result -

Ayes (12)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport

Hon E.R.J. Dermer
Hon John Halden
Hon Tom Helm

Hon Ljiljanna Ravlich
Hon J.A. Scott
Hon Tom Stephens

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

Noes (15)

Hon E.J. Charlton
Hon M.J. Criddle
Hon Max Evans
Hon Ray Halligan

Hon Helen Hodgson
Hon Barry House
Hon Norm Kelly
Hon Murray Montgomery

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

Hon Greg Smith
Hon W.N. Stretch
Hon B.K. Donaldson
(*Teller*)

Pairs

Hon Mark Nevill
Hon N.D. Griffiths
Hon Christine Sharp

Hon Derrick Tomlinson
Hon Muriel Patterson
Hon Peter Foss

Question thus negatived.

Revenue Laws Amendment (Taxation) Bill

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clauses 1 to 13 put and passed.

Title put and passed.

Revenue Laws Amendment (Assessment) Bill*Committee*

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 29 amended -

Hon HELEN HODGSON: I move -

Page 3, line 23 - To insert after the word "Commissioner's" the word "written".

As I indicated in the second reading debate, I am concerned that although direction could be interpreted to mean oral direction, the current provision will not provide sufficient protection to either revenue or the taxpayer. Inserting "written" will clarify the matter.

Hon MAX EVANS: This clause proposes to amend the Fuel Suppliers Licensing and Diesel Subsidies Act, with an ensuing title change, to allow the commissioner to issue directions for the holder of an off-road diesel user certificate to keep records, and to substantiate the off-road diesel usage. The proposed amendment seeks to require the commissioner to advise the holder in writing of the records required to be kept for the purposes of the Act. The proposed amendment is intended to ensure that the holder may rely on the written direction of the commissioner should his record keeping arrangements be reviewed by the commissioner at a later date. The amendment clarifies the form by which the directions will be required to be made. This additional requirement is implicit in the Bill because it would be difficult for the commissioner to prove in court that a holder has not kept records as directed. Nevertheless, for the purpose of achieving greater clarity with the legislation, the Government supports the change.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 6 to 10 put and passed.

Clause 11: Section 23AB inserted, consequential amendment to *Valuation of Land Act 1978* and certain retroactive regulations authorized -

Hon HELEN HODGSON: I move -

Page 8, lines 22 and 23 - To delete the words "a person is permitted to occupy for a holiday" and substitute the following -

is ordinarily used for holiday accommodation

I am concerned that the Bill as drafted does not sufficiently reflect the intention of the explanatory memorandum. It refers to a building which a person is permitted to occupy for a holiday. Although this is a technicality, a short stay could be used to deny the potential rebate. Although it might seem a little picky, the Bill deals with the other issues which we did not envisage that the tribunal would find. Therefore, it is clearer to specify the ordinary use of the building be holiday accommodation.

Hon MAX EVANS: I do not disagree with what Hon Helen Hodgson proposes. The perfect bureaucrat could go around and knock on all doors in the inner city on 30 June to see the type of persons living there. A person may be staying on holiday and would not come within that classification. It is all to be done on 30 June. The provision relates to six classes of dwelling, to which the inner city living rebate will not apply. Exclusion separates certain types of ineligible accommodation as the rebate is intended to apply only to dwellings used for long term residential use. The paragraph to be amended intends to exclude short stay holiday accommodation which cannot be classified as a hotel, motel, hostel, lodging house or boarding house under proposed section 23AB(2)(c)(i). The amendment will achieve greater clarity for the legislation. Therefore, it has the Government's support.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 12: Schedule amended -

Hon TOM STEPHENS: Briefly, regarding the provision of the schedule which impacts upon universities and religious bodies, I raise a case with the Minister to place a response on the record. This is the first time I have noticed

the new format of Bills. We have reference to "section" where "clause" previously stood on page headings. It looks like a new style of Bill. Is this permanent?

Hon Max Evans: I believe it is working well.

Hon TOM STEPHENS: I am not altogether happy with that. The Bill provides for land owned by, vested in, or held in trust for any religious body used by the owner or any other person for business, commercial use, etc. Do I correctly understand that religious bodies and hospitals which use properties for their own pursuits, business or otherwise, will continue to be exempt from land tax?

Hon MAX EVANS: If it is for their own purposes they are exempt now and will remain so.

There has been a problem with this stamp duty issue whereby all churches and hospitals were exempt from stamp duty on their lease agreements. In the private sector they were being charged stamp duty, which was a high additional cost on top of rent, food, etc. An amendment was passed a few years ago. The charitable organisations have many more exemptions than the private sector and that will remain.

Hon TOM STEPHENS: The Society of St Vincent de Paul acknowledges that it cannot get exemptions from land tax on leased premises, as the Minister will appreciate, although it is exempt from shire and water rates. The society estimates that its liabilities will be between \$48 000 and \$50 000 a year when the exemption is phased out. It strikes me that it is misreading the legislation. I hope that is the case. It would be altogether tragic if an organisation like this fitted into the category of 19 organisations that make up the \$1.2m.

Hon MAX EVANS: The society is not the owner of land; it is a tenant. The owner is responsible for the land tax and he passes it on to the tenant. The society will have to work its finances around that. That is one of the anomalies of the system. Some years ago we changed land tax so that all organisations that owned their own property paid 50 per cent of land tax, whereas those that leased from government did not. In this case the land tax assessment goes to the owner of the property.

Clause put and passed.

Clauses 13 to 15 put and passed.

Clause 16: Section 9 replaced -

Hon HELEN HODGSON: I move -

Page 18, line 24 - To insert after the word "be" the following -

- (a) laid before each House of Parliament within 14 sitting days of that House after the direction is given; and
- (b)

We have debated this matter before on the grounds of accountability and transparency and the need for the public to know what ministerial directions are given. To require them to be laid before the Houses of Parliament within 14 sitting days is a shorter time line than if we had to wait for the annual report to be lodged.

Hon MAX EVANS: I support the amendment. This has gone on for a long time. Hon Helen Hodgson is quite right, a report could be presented 17 months later. As a chartered accountant I agree with proper reporting, even if it bogs us down somewhat. In the 1980s much of this information was unavailable to be followed up and directions were not given. The more any Government is accountable, the better.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 17 to 19 put and passed.

Clause 20: Section 16 amended -

Hon HELEN HODGSON: It appears on the face of it that this amendment reduces four categories of potential applicants to three. I understand this is simply because of the removal of the office of the water coordinator. I would like that on the record so it is apparent to anyone grappling with the problem, as I was.

Hon MAX EVANS: The amendment proposed by clause 20 enables claims for the rebate of a prescribed charge for the provision of water, sewerage or drainage services to be made directly to the Minister. The existing section of the Act requires such claims be made in respect of eligible seniors to the Coordinator of Water Services, who would then

make claims for reimbursement from the Treasurer. Existing section 16 provides the manner in which claims in respect of eligible seniors and eligible pensioners are to be made.

This section provides for a distinction between the treatment accorded to the claims from eligible seniors who are not eligible pensioners. The distinction arises where eligible seniors are able to obtain a rebate in respect of water, sewerage and drainage charges at a reduced rate for eligible pensioners. The determination of eligible seniors and eligible pensioners for the purposes of the Act is set out in sections 22 and 23 of the Act.

Persons who meet the eligibility criteria set out in the section are required to register their entitlement regarding any land registered if that charge is payable on the land. Section 40 of the Act determines the concessions available to specific eligible parties. This includes the specific entitlements to eligible seniors and eligible pensioners.

The removal of the reference to the Coordinator of Water Services has caused this reference to an eligible senior who is not an eligible pensioner to no longer be necessary as the term "a registered person" encompasses the specific eligibility status of eligible pensioners and eligible seniors in sections 22 and 23. Any eligibility for specific concessions under the Act is determined by section 40.

Accordingly the proposed amendments do not alter the entitlement to concessions under the Act. All concessions provided under existing section 16 continue to operate under the proposed changes.

Clause put and passed.

Clauses 21 to 55 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and returned to the Assembly, with amendments.

Revenue Laws Amendment (Taxation) Bill

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and passed.

ADVANCE BANK (MERGER WITH ST GEORGE BANK) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [11.22 pm]: I move -

That the Bill be now read a second time.

St George Bank is a company incorporated in New South Wales and is a company within the meaning of the Corporations Law and is a company limited by shares. Before the succession day, which was 1 April 1998, Advance Bank Australia Limited was a company incorporated in New South Wales, was a company within the meaning of the Corporations Law and was a company limited by shares. Before the succession day each carried on the business of banking throughout Australia.

By letter received by St George on 18 December 1996, the Federal Treasurer consented pursuant to section 63 of the Banking Act 1959 of the Commonwealth to the amalgamation of the banking business of Advance Bank with that of St George. On 29 January 1997 St George became the beneficial owner of the whole of the ordinary issued share capital of Advance Bank and Advance Bank was required to surrender its banking licence.

The transfer of the banking business from Advance Bank to St George occurred by way of the principle of succession in law pursuant to the Bank Mergers (Advance Bank) Regulation 1998 of New South Wales.

Under the New South Wales regulation, on the succession day -

St George became the successor in law of Advance Bank and for all purposes a continuation of and the same legal entity as Advance Bank;

Advance Bank was liquidated and dissolved;

all assets of Advance Bank, wherever located, vested in, or became otherwise available for the use of, St George without the need for any conveyance, transfer, assignment or assurance and without the need for any prior notice or further Act; and

all liabilities of Advance Bank, wherever located, became liabilities of St George without the need for any prior notice or further Act.

The purpose of this Bill is to recognise the transfer of assets and liabilities in Western Australia under the principle of succession in law and the associated Advance Bank (Merger with St George Bank) (Taxing) Bill is drafted to render amounts payable to the State of Western Australia equivalent to amounts that would have been payable by way of taxes, duties and charges for which St George or Advance Bank would be liable under the law of the State if the translated assets and translated liabilities had become assets and liabilities of St George as the result of an ordinary commercial transaction rather than by operation of the New South Wales regulation.

There is no recent precedent for this specific type of legislation as recent mergers between other banks have been effected by other means. Advice from the Crown Solicitor indicates the principle of succession in law is valid and the effect of the New South Wales regulation should be recognised in Western Australia.

This legislation is consistent with the Government's objective of facilitating business efficiency within Western Australia, while not prejudicing the integrity of the State's revenue base. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

ADVANCE BANK (MERGER WITH ST GEORGE BANK) (TAXING) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [11.25 pm]: I move -

That the Bill be now read a second time.

St George Bank and Advance Bank recently merged and the assets and liabilities of Advance Bank were transferred to St George by way of the principle of succession in law pursuant to the Bank Mergers (Advance Bank) Regulation 1998 of New South Wales.

The Advance Bank (Merger with St George Bank) Bill serves to recognise this transfer of assets and liabilities by way of the principle of succession in law. The Advance Bank (Merger with St George Bank) (Taxing) Bill serves to require payment by St George to the State of Western Australia of an amount equivalent to amounts that would have been payable by way of taxes, duties and charges for which St George or Advance Bank would be liable under the law of the State if the translated assets and translated liabilities had become assets and liabilities of St George as the result of an ordinary commercial transaction rather than by operation of the New South Wales regulation.

There is no recent precedent for this specific type of legislation as recent mergers between other banks have been effected by other means. Advice from the Crown Solicitor indicates that the principle of succession in law is valid and the effect of the New South Wales regulation should be recognised in Western Australia. This legislation is consistent with the Government's objective of facilitating business efficiency within Western Australia, while not prejudicing the integrity of the State's revenue base. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.28 pm]: I move -

That the House do now adjourn.

Deaths in Custody Watch Committee - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [11.29 pm]: I am sorry that the Attorney General has been called away from the House on urgent parliamentary business. I must take this opportunity to defend the integrity of a friend of mine, Kath Mallott, who is the executive officer of the Deaths in Custody Watch Committee. The Attorney General accused her this afternoon of being less than responsible and of attacking every prison officer in this State. As she is a friend of mine, I know she is not the type of person who would do that, and neither did she do it. If we were to read *The West Australian* article of today's date, we would see that she has made a number of remarks, none of which attack prison officers. Quite frankly, we on the watch committee believe quite strongly that prison officers are doing the best they can with scant resources and the scant and flawed policy that they must follow. That must be one of the reasons that too many people are dying in custody. Too many people in this State are suffering the death penalty for offences that do not warrant the death penalty. They are not necessarily murderers, but sometimes young people who are imprisoned for their first or second offences. They are dying in custody and we as a community are not doing very much about it.

Kath Mallott has tried consistently to do what she can. She has visited prisons; she has visited Ministers of the Crown; she has gone anywhere that she can to spread the story about families who have been affected by deaths in custody. The truth of the matter - and Hon Peter Foss flies like a flag the fact that the number of black deaths in custody has reduced substantially in this State - is that the number of deaths of non-black people in custody has increased. Therefore, the deaths in custody committee has no reason to be too concerned - so he suggests by his remarks.

However, let me tie in his so-called feigned surprise that the Trades and Labor Council would play a role in the administrative nature of the watch committee. The TLC at its representative peak represents a body of unions in this State. They know clearly that we cannot identify one group of people, whether they be black or non-black, and say that it is not too bad if one sort die but it really is awful if the others die. In this case he suggests, I would say - and members can read his remarks tomorrow in *Hansard* - that the Deaths in Custody Watch Committee has no right to be concerned that non-black people are dying in our prisons.

Hon E.J. Charlton: He did not say that.

Hon TOM HELM: If I am wrong, I will take it back tomorrow. I have an uncorrected copy of *Hansard*, which I will not quote from, but if Hon Eric Charlton thinks that the Attorney General is not saying that then I will be corrected. However, he is suggesting that the TLC has no place in worrying about people who are not Aboriginals dying in custody and he is surprised that the TLC would take a role in this matter. I suppose the prison officers union is not affiliated with the TLC. However, we trade unionists have a proud record of saying that anyone who attacks another person or mistreats anyone in our society will be responded to in the same way. An attack on one is an attack on all. That is the view we take. It is a glib line, a glib cliché; however, it means something to us.

The Deaths in Custody Watch Committee is aware of that. Kath Mallott has taken all that she can from anyone on whether the implementation of the recommendations are being followed through. We have argued over a long time that there are many recommendations in the report - that cost this society a lot of money to come to those conclusions - that have not been followed through. However, the bottom line is that people are still dying. Kath Mallott may have said words that are considered inappropriate; however, I quote from an article in today's *The West Australian*. It reads in part -

Ms Mallott said she was accused at the meeting of intimidating ministry and prisons staff through constant questioning about deaths in custody.

She said ministry officials claimed the Watch committee was applying extreme pressure to the ministry over the high number of suicides and the adequacy of health services.

Our Attorney General is upset about that. Somebody dies and somebody exerts extreme pressure to find out why; not to find out why because she is very curious but to find out why so she can put things in place to try to stop these deaths occurring. Our Attorney General gets upset about that. He thinks, for some reason, that it is an attack on prison officers. It is not an attack on prison officers. In fact, one has to sympathise with prison officers for being in a situation where people want to kill themselves. I have seen the results of a suicide once and I would not want to see it again. I certainly would not want to have the job of a prison officer. There is no way Kath Mallott has ever attacked the prison officers. We have a problem with the system. There is something wrong with our system.

Hon E.J. Charlton: True.

Hon TOM HELM: We had a royal commission into the system. The royal commission was entitled the Royal Commission into Aboriginal Deaths in Custody. It produced about 300 recommendations and it is fair to say that

a lot of those recommendations were implemented. However, there are a few that some Ministers, including Ministers in the previous Labor Government, were reluctant to put into place, or they found a way of smudging the ideals. They did not listen to someone like Kath Mallott, who has been consistent in the view that if those recommendations were put in place the number of deaths in custody would be reduced.

Is that not a good aim? This lady and the people who work on the watch committee do not get paid for their efforts. It is not something we run around and do because we want a badge or to get extra money, or whatever the case may be. We do it because there is a concern. Perhaps somebody in my family - God forbid - say, my son, might be sent to gaol. If that were to occur I would want him to be in a gaol where he gets punished for his crime; I do not want him to die. That is something we should all aim for.

The Attorney General delivered this statement that we find on our desks tonight. We must remember that the people in custody are there because the courts have no alternative but to gaol them. Those are the people who are in Casuarina Prison on remand. They have gone to gaol, but not because they are guilty of anything yet - they might possibly be. They are also dying because they are in custody. Is the Attorney General suggesting by this statement that we do not need to worry too much; that even if they are proved innocent after they die, it does not matter, they should not be in custody in the first place? That is the way our society works.

The Attorney General in his usual facetious way this afternoon said that he was surprised that Kath Mallott had not been sued. Kath Mallott, I think, invites somebody to sue her. She has strength. I was going to say she has got something else, but I will not say that in this Chamber. She has the strength of her beliefs and she has had them for a long time. She is always elected as our executive officer. Why? Because she is strong in what she does and she gives 100 per cent. What she is basically on about, and the reason she needs support, are those parts of our system that say we have had enough of people dying in custody. It does not matter who they are, we have had enough. Let us take the attack away from those who try to highlight what the causes may be. We cannot prove it anyway. However, surely we have got to get the system right. We have a system that is flawed. Surely someone like Kath Mallott needs our praise and thanks for doing what she does rather than the scurrilous attack that the Attorney General made on her this afternoon which was totally uncalled for and had no basis in fact if it came from that press report.

Hon Simon O'Brien: It started from your question.

Hon Ljiljanna Ravlich: Calm down.

The PRESIDENT: Order!

Workplace Agreements - Adjournment Debate

HON KIM CHANCE (Agricultural) [11.39 pm]: Like Hon Tom Helm, I do not want to delay honourable members long. However, if there are other honourable members here who, like me, were avid fans of George Orwell, particularly in their youth, they will remember well *Animal Farm*, and *Nineteen Eighty-four*, which was a favourite of mine. One of the lines that I remember very clearly from *Nineteen Eighty-four* was the reference to the new terminology "newspeak". Newspeak was the process of converting the meaning of a word into something totally opposite. Thus, the ministry for propaganda became the truth bureau. I want to remind members of that because it will take us somewhere a little later on.

As of 1 July this year, every person transferring into the public sector in Western Australia, including nurses shifting from one health service to another, will be required to sign a workplace agreement in order to work. I want to apply newspeak to the use of the word "choice" in the second reading speech of the Workplace Agreements Bill given in this place on Tuesday, 7 September 1993. Members will remember that every person seeking employment in the public sector will be required to sign a workplace agreement. Quoting Hon Peter Foss from page 3213 -

The Government holds that only by providing workers and employers with choices and freeing them from the rigidities of the present industrial relations system will genuine opportunities for increased productivity and wealth creation occur.

It continues on the same page -

... to provide for a simpler and more efficient system; to establish a greater protection of individual rights; ... The effect of the legislation will be to provide, for the first time, a real choice for employers and employees as to the industrial relations system governing their relationship by establishing a new stream, based on workplace agreements which will sit alongside the existing award system.

I wonder for whom. The second reading speech continues -

The focus of the new system will be on the workplace and the development of a workplace culture in which employees can take an active and responsible role in directly setting their own work conditions.

It gets better, Mr President.

Hon B.K. Donaldson: They do.

Hon KIM CHANCE: Do they? Hon Bruce Donaldson can read the employer's demands cited on a contract and the choice is either to sign or not to work in that workplace. That is the meeting of minds to which Hon Peter Foss has referred.

Hon B.K. Donaldson interjected.

Hon KIM CHANCE: The member should try to get a job as a nurse.

Hon Simon O'Brien: Try getting a job on the wharf without being a member of the MUA.

Hon KIM CHANCE: I am sure that will be possible in the future, and I look forward to the time that the Amalgamated Manufacturing Workers Union will be able to cover certain employees on the wharf. The speech continues -

New employees joining a business after a collective workplace agreement has been negotiated may be covered by that collective agreement if agreed between that employer and the new employee.

Again, members should ask a nurse about that. The speech continues on page 3215 -

. . . the presence of unions at a negotiating table imposes rigidities on the scope of bargaining.

I like that one. Hence, the Government will get rid of unions. To continue -

With some specifically nominated exceptions, any employee in the public sector may become a party to a workplace agreement.

That must have meant "before 1 July 1998" when new employees must become party to a workplace agreement. These are all quotes from Hon Peter Foss' second reading speech.

Hon Ljiljanna Ravlich: Were these all in one speech?

Hon KIM CHANCE: Yes. The speech continues -

Thus the legislation is not designed to generate dissension or confrontation, or to provide opportunities for exploitation by the unscrupulous over the unwary.

This is virtually writing the recipe for the employers. To continue -

Rather the reforms contained in this and the associated Bills will establish a new and proper focus on the individual enterprise, and will enhance and strengthen the rights of free choice, free association and equal opportunity.

The lighter part of that speech aside, it raises a serious issue: Under the Interpretations Act the policy of an Act of Parliament is determined by the second reading speech; that is, a judge must rely on the second reading speech to make his final judgment on a matter in dispute. Any judge reading that second reading speech would wonder how it has been interpreted in such a manner that we can come to a situation such as this when new employees seeking to work in the public sector have one choice and one choice only: Sign the workplace agreement or do not work in the public sector.

Question put and passed.

House adjourned at 11.43 pm

QUESTIONS ON NOTICE

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

FIMISTON TAILINGS DAM

Seepage Velocities

1428. Hon GIZ WATSON to the Minister for Mines:

I refer to question on notice 889 of September 16, 1997 and part (7) of question on notice 1125 of November 11 1997 -

- (1) Is it correct that the seepage velocities beneath the surface around P26/1848 and P26/1858 is in the order of 1 to 10 metres per year?
- (2) If yes, can the Minister -
 - (a) state the page number;
 - (b) quote the specific text; and
 - (c) supply a copy of the specific page,

of the report which indicates this?

- (3) Can the Minister state whether Mr Jim Torlach has been requested by a representative from the Trades and Labour Council on the MOSHAB Prevention of Mining Facilities Taskforce to come out on sites P26/1848 and P26/1858 to thoroughly investigate and see evidence with respect to the operator of the Fimiston I and II tailings dams breaching the *Mining Act 1978* and regulations causing dangerous and unsafe working conditions?
- (4) If yes, but no visit was undertaken, why?
- (5) Will the Minister now request Mr Jim Torlach to come out on site with a representative from the Trades and Labour Council to investigate these claims?
- (6) If no, why not?

Hon N.F. MOORE replied:

- (1) From information currently available, it is not possible to categorically determine the actual seepage velocities beneath the surface around P26/1848 and P26/1858.

While the report referred to in the response to Question on Notice 889 of September 16, 1997 may provide some indication in this regard, it only refers to velocities within and beneath the Oroya tailings dam.
- (2) Not applicable
- (3) Mr Jim Torlach, the State Mining Engineer, has received such a request.
- (4) I am informed that because these allegations have been thoroughly investigated, including on-site assessments, by competent professional staff from the Department of Minerals and Energy and other agencies over a period of several years, the State Mining Engineer does not consider that any useful purpose would be served by a further surface inspection of the area.
- (5)-(6) No, for the reasons given in answer (4) above.

VERMIN PROOF FENCE, PORT KENNEDY

1515. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for the Environment:

Further to the answer given to question without notice 1118 in relation to the Ministry for Planning Department's contract worth approximately \$185 000 for the provision of vermin proof fence at Port Kennedy, can the Minister for the Environment advise -

- (1) Who was the successful tenderer?
- (2) Was a business case conducted?

- (3) Did it include a comprehensive cost benefit analysis?
- (4) If so, what did it show?
- (5) If not, why not?
- (6) What were the identified inherent risks?
- (7) What other options were considered?
- (8) Was a due diligence check carried out on the contractor before the above contract was awarded?
- (9) If yes, did it include a check of the contractors financial background?
- (10) Who carried out the financial background check?
- (11) If the contractor is a company, when was the company formed and what is its share capitalisation?
- (12) Who are the directors of the company?
- (13) Are any of the company directors Ministers or senior public servants?

Hon MAX EVANS replied:

Before responding to the specific questions it should be noted that the decision to construct a vermin proof fence around the proposed Port Kennedy Scientific Park was made by the Port Kennedy Management Board. In March 1997 the Department of Conservation and Land Management (CALM) undertook to prepare tender specifications, call tenders and to prepare a recommendation for the Port Kennedy Management Board and the Ministry for Planning (MfP). CALM did not contribute any funds to the construction of the fence. MfP contributed funds for the portion of fencing that was to be built on land that it managed. The Port Kennedy Management Board recommended to the Minister for Planning that funding for the remainder of the fence should be drawn from funds paid to the State (a requirement of the Port Kennedy Development Agreement Act 1992) by the developer, Port Kennedy Resorts Pty Ltd. In August 1997 the Port Kennedy Scientific Park was created and vested in the National Parks and Nature Conservation Authority (NPNCA). As such, management responsibility now lies with CALM.

- (1) McKenna Contracting.
- (2) The Department of Conservation and Land Management (CALM) sought and checked references supplied by McKenna contracting prior to awarding the tender. All tenders were assessed in accordance with CALM and State Supply Commission policies, guidelines and special exemptions. The successful tenderer was selected on the basis of his price and his prior work record.
- (3) See preamble and response to question (2).
- (4) Not applicable.
- (5) See preamble and response to question (2).
- (6)-(7) Not applicable.
- (8) No.
- (9)-(11) Not applicable.
- (12) The sole operator of McKenna Contracting is Peter Mark McKenna.
- (13) No.

FITZROY RIVER INTEGRATED IRRIGATION PROJECT

1752. Hon GIZ WATSON to the Leader of the House representing the Premier:

In respect of the feasibility study into the development of an integrated irrigation project in the Fitzroy River, will the Premier table the tender documents submitted by Western Agricultural Industries?

Hon N.F. MOORE replied:

In response to the Government's call for expressions of interest for the West Kimberley Project, Western Agricultural Industries submitted documentation. [See paper No 1709.]

The Minister for Primary Industry has indicated that he would be happy to provide an extensive briefing on the West Kimberley Project, should the Hon Member wish to contact that office.

FARMS ON PERPETUAL LEASES

1755. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

- (1) How many farms are on perpetual leases?
- (2) What is the total area of perpetual leasehold farms?

Hon MAX EVANS replied:

- (1) There are currently 650 perpetual leases able to be used for agricultural purposes.
- (2) Approximately 600,000 hectares.

PASTORAL LEASES, NUMBER AND OWNERSHIP

1756. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

- (1) How many pastoral leases are there in Western Australia?
- (2) What area do these leases cover?
- (3) How many of the leases are wholly or partly foreign owned?
- (4) How many are operated by a resident leaseholder?

Hon MAX EVANS replied:

- (1) 563 leases which form 513 stations.
- (2) Approximately 95,132,593 hectares.
- (3) 12.
- (4) The Pastoral Lands Board does not record this information. Many pastoral lessees appoint managers to run the station on their behalf.

PASTORAL LEASE FEES

1758. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

- (1) For each of the last 10 years, what was the State's total annual revenue in pastoral lease fees?
- (2) How are the fees calculated?
- (3) What is the median fee paid per annum?

Hon MAX EVANS replied:

- (1) Pastoral Lease rents received for the past 10 years were;

1987/88	\$530,000
1988/89	\$479,000
1989/90	\$490,000
1990-91	\$490,000
1991/92	\$464,000
1992/93	\$475,000
1993/94	\$390,000
1994/95	\$364,000
1995/96	\$480,000
1996/97	\$477,000

- (2) Pastoral Lease rents under the Land Act 1993 were based on the estimated carrying capacity of the particular lease, which varied from lease to lease depending on the rangeland type and therefore the level of stock carrying capacity.

Under that rental reappraisal the standard basic rental was 35 cents per large stock unit (cattle) applicable in the Kimberley Division. South of Kimberley, the rate was seven cents per small stock unit (sheep).

Following the establishment of a standard annual rent, that is the number of animal units multiplied by the appropriate basic rate, a number of discounts for disability were applied to the final rental figure.

These disability allowances were as follows -

Kimberley Division

- (i) Transport distance for the cartage of livestock to the nearest port or outlet.
- (ii) Development and running costs based on pastoral capability. An allowance was calculated for each individual lease to benefit a lessee for the additional costs of developing and maintaining a lease which has a lower capacity than other leases with higher stocking capability. This allowance recognised that some leases are less productive and more costly to run per stock unit and rents were adjusted in line with that consideration.

South of Kimberley

- (i) Transport distances for the cartage of both wool and livestock. A deduction based on the distance from the pastoral lease to Spearwood or Midland.
- (ii) Wool cut allowance. A deduction was made according to the percentage departure of wool cut for the Shire, in which the lease is situated, from the maximum wool cutting Shire in the State and;
- (iii) Development and running costs are the same as applies to the Kimberley Division.

Under the Land Administration Act 1997, the rental for a pastoral lease will be the amount determined by the Valuer General. This value is based on the ground rent which the land might reasonably be expected to realise in good condition, for a long term lease for pastoral purposes under which all normal outgoings are paid by the lessee.

- (3) The median rent is \$522.70.
The average rent is \$965.24.

PASTORAL LEASE EXEMPTIONS

1760. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

- (1) Have any pastoral leaseholders been granted exemptions from running stock on their pastoral lease?
- (2) If yes -
 - (a) how many;
 - (b) on what basis were the exemptions granted; and
 - (c) which pastoral lease is involved in each of these exemptions?

Hon MAX EVANS replied:

- (1) Yes.
- (2) (a) 26.
- (b) In most cases these have been granted on the basis that the rangeland condition on the lease would benefit from a period of destocking. Pastoral Leases held by CALM have also been destocked.
- (c)

Barwidgee	Jundee	Yakabindie
Black Hill	Lake Violet	Yamarna
Boodanoo	Lake Way	Yandal
Booylgoo Springs	Lansdowne	Youanmi Downs
Bullabulling	McPherson Springs	
Burnerbinmah	Merolia	
Charnley River	Millbillillie	
Cullculli	Mt Elvire	
Ellenbrae	Mt Hart	
Ennuin	Nabaroo	
Goongarrie	Timberfield	

PASTORAL LEASE VARIATIONS

1762. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

- (1) For each of the past five years, how many applications have been received from pastoral leaseholders to vary the use of their pastoral leases?
- (2) How many of these applications have been approved, and for what projects?

Hon MAX EVANS replied:

- (1) It is assumed that this question refers to applications from pastoral lessees to conduct other supplementary activities on the lease. On this basis the following requests have been received over the last 5 years:

1997	12
1996	5
1995	2
1994	6
1993	6

- (2) Approved application over the last 5 years are:

1997 - 5 (low key tourist activities), 7 (domestic goat grazing enterprise).
 1996 - 2 (low key tourist activities), 3 (cultivation/horticulture trials).
 1995 - 1 (horticulture trials), 1 (domestic goat grazing enterprise).
 1994 - 6 (low key tourist activities).
 1993 - 4 (low key tourist activities), 2 (cultivation/horticulture trials).

MINIM COVE CLEAN-UP CONTRACT

1791. Hon MARK NEVILL to the Minister for Finance representing the Minister for Lands:

In respect of the Minim Cove development being undertaken by LandCorp -

- (1) Did LandCorp have all statutory approvals in place before letting contracts for work at Minim Cove?
- (2) If not, what statutory approvals were not in place and why?
- (3) If no to (1) above, what extra costs have been incurred because of the failure to have all statutory approvals in place?

Hon MAX EVANS replied:

- (1) Yes.
- (2)-(3) Not applicable.

QUESTIONS WITHOUT NOTICE

ATTORNEY GENERAL

Visit to United States and Canada

1696. Hon N.D. GRIFFITHS to the Attorney General:

I refer to question 1227 asked on 12 March 1998, in the answer to which the Minister stated that in relation to the preparation of a report on his visits to the United States and Canada last year, "The draft is to hand and the report will be finalised shortly."

- (1) Can the Attorney General confirm that he has not yet tabled a copy of the report or notes made in relation to the trip to North America in 1997?
- (2) When will he do so?
- (3) What is the reason for the continued delay?

Hon PETER FOSS replied:

- (1) Yes.
- (2) I will do so shortly.

- (3) The delay is due to pressure of work.

LEISURE AND ALLIED INDUSTRIES

Closure of Factory

1697. Hon N.D. GRIFFITHS to the Minister for Finance:

- (1) Is the Minister aware of the plans of Leisure and Allied Industries, the company that operates Timezone, to close its factory in Perth and to relocate its entire manufacturing facility to Jakarta to capitalise on the devaluation of the Indonesian currency?
- (2) What steps has the Government taken, or what steps will it take, to encourage the company to keep its operations in Western Australia, thus securing jobs in this State?

Hon MAX EVANS replied:

- (1) Yes, I am well aware of that. I read it in the Press.
- (2) I suggest the question be placed on notice. Given the currency factor, I can see how economics could play into the hands of a company that is exporting around the world. It must represent a very big advantage to this company. I have been to its factory in Welshpool Road. It is huge. If this company does go to Jakarta, it will have to sublease its premises to another party or sell them. It is a very important decision for that company.

Hon N.D. Griffiths: We must keep it here.

MAIN ROADS WESTERN AUSTRALIA

Crushed Concrete for Road Building

1698. Hon J.A. SCOTT to the Minister for Transport:

- (1) As Main Roads Western Australia has had specifications for the use of crushed concrete in road building for over three years, why will it not use this material as a road base, as is done in other Australian States?
- (2) Has Main Roads Western Australia conducted in situ tests for the use of this material; and, if not, when will it carry out in situ tests?
- (3) Is the Minister aware of the need to reduce the significant levels of concrete waste so that the State Government can meet its own policy of reducing landfill waste by 50 per cent by the year 2000?
- (4) Will the Minister direct Main Roads to carry out in situ trials to enable the use of concrete waste as a road base to help meet the Government's waste reduction policy objectives?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) Crushed concrete is not generally used as a base material in Australia. However, it is used as a sub-base or lesser quality road building material for which Main Roads has specifications. Where this material type is produced and meets the specifications and is cost competitive, it is used in road construction. A number of companies in Western Australia produce recycled building material on a small scale. Generally Main Roads is not a buyer of materials, with most of the construction work being performed by contract.
- (2) Main Roads has not conducted in situ testing of base quality, crushed concrete; however, it is aware of the current testing in New South Wales and is awaiting the results of those tests.
- (3) Yes. Main Roads was involved with the development of the strategy.
- (4) Research is being carried out in New South Wales on the use of crushed concrete as a base material, and some laboratory work has also been conducted in Western Australia. A decision on the need for in situ testing will be made in the light of the outcome of this research.

EMPLOYMENT FIGURES

Tourism, Plantation and Native Hardware Industries

1699. Hon NORM KELLY to the Minister representing the Minister for the Environment:

I refer to question on notice 1422 asked on 18 March this year, relating to tourism and plantation and native hardware industry employment figures in the regional forest agreement region.

- (1) Can the Minister explain why after three months these questions remain unanswered?
- (2) Does the Minister agree that the figures requested are important for people to be able to assess the current RFA public discussion document and, consequently, to be able to make submissions on that document?
- (3) Does the Minister agree that the current six week public consultation period is necessary for the RFA process?
- (4) Can the Minister guarantee that public submissions on the RFA will be accepted for six weeks after question on notice 1422 has been answered?

Hon MAX EVANS replied:

I thank the member for some notice of this question. Only last week I put out a reminder to chase up all unanswered questions on notice.

- (1) It was necessary to await economic profiles for some industries assessed for the comprehensive regional assessment. The tourism and recreation economic profile has only just been completed by the Department of Resources Development in consultation with the tourism industry.
- (2) Industry employment data is relevant to the RFA process. The CRA report and the public consultation paper presented industry, employment and economic data in summary form.
- (3) The Commonwealth and State Ministers agreed on a public consultation period ending on 10 July 1998. This closing date, in effect, gives a period of more than six weeks from the date of release of the public consultation paper.
- (4) No, because the industry employment data had been released in both the CRA report and the public consultation paper.

MILYU NATURE RESERVE

Jet Ski Impact

1700. Hon SIMON O'BRIEN to the Minister for Transport:

What steps has the Government taken to address the concerns raised by the City of South Perth about the impact of jet skis on the Milyu Nature Reserve?

Hon E.J. CHARLTON replied:

Following the deputation brought by Hon Simon O'Brien with representatives of the South Perth City Council, the Department of Transport will put in place a management strategy to ensure the area which has been defined for the use of jet skis will be adhered to. That will be monitored. Any changes that must be made as a consequence will be implemented. Full consultation with the Department of Conservation and Land Management has taken place. It is confident that the area that has been set aside, any changes to it and the markings that have been put in place will ensure a complete balance between the area to which the members refers and that where jet skiing will take place.

MURRAY DISTRICT HOSPITAL

Employees

1701. Hon J.A. COWDELL to the Minister representing the Minister for Health:

- (1) How many full time employees are currently employed at the Murray District Hospital?
- (2) In what departments are they employed?
- (3) How many redundancies are being offered to staff at the Murray District Hospital?
- (4) In what areas are they being offered?
- (5) What is the expected cost of these redundancies in the 1998-99 financial year?
- (6) How many transition payments are expected to be made to staff transferring to, firstly, Health Solutions (WA) Pty Ltd at the Peel health campus and, secondly, private nursing homes?
- (7) What is the expected cost of these transition payments?

- (8) How many FTEs will be employed at the Murray District Hospital following these redundancy and transition arrangements?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Currently 130.67 FTEs are employed at that hospital.
- (2) They are employed in clerical and administration, hospital services, maintenance, nursing, allied health and management departments.
- (3) It is estimated that 67.21 FTEs will be surplus to requirements and will be eligible for redundancy if they do not take up offers of employment with the private providers or cannot be found suitable alternative employment.
- (4) They are being offered transfers to the areas of clerical and administration, hospital services, maintenance, nursing, allied health and management.
- (5) The expected cost is not known at this time because it is subject to the number of staff taking up employment with the private providers.
- (6) This information is not known at this time, because it is subject to offers of employment being made and accepted.
- (7) This information is not known at this time; however, employees are entitled to 12 weeks' pay, depending on length of service, plus payment of accrued long service leave and annual leave.
- (8) It is estimated that 63.5 FTEs will be employed at the Murray District Hospital.

OAKAJEE PORT PROPOSAL

Environmental Assessments

1702. Hon GIZ WATSON to the Minister representing the Minister for the Environment:

With respect to the Minister's letter to me, reference number 01012, with regard to the calling for a reassessment of the Oakajee port proposal -

- (1) Does the Environmental Protection Authority/ Department of Environmental Protection have any processes available to prevent consultants or proponents providing misleading or false information to the DEP for the assessment of a project?
- (2) If so, will the Minister describe those processes?
- (3) Does the Minister have any processes available to ensure that environmental assessments are not based on inaccurate, misleading or fraudulent information?
- (4) If so, will the Minister describe those processes?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) The environmental impact assessment in Western Australia has numerous checks in the process. These include the public comment phase, the EPA and government department review and evaluation of the environmental documents, and appeal rights on the EPA report and recommendations. During this process, if the EPA/DEP has reason to believe that there is false, misleading or out of date information, further review can be undertaken through an independent consultant.
- (3) Yes.
- (4) The appeal rights on the level of assessment, the EPA reports and recommendations - including draft environmental conditions - and final right of appeal on the conditions imposed provide sufficient opportunity to allow discrepancies or inaccuracies in the information to be highlighted. The appeal process allows for further information to be sought from independent experts before making a final decision. In addition, it is an offence under the Environmental Protection Act for any person to give, or cause to give, information that to the person's knowledge is false or misleading.

DEATHS IN CUSTODY WATCH COMMITTEE

Criticism of Prison Staff

1703. Hon TOM HELM to the Attorney General:

- (1) Is it true that Ministry of Justice officials asked Deaths in Custody Watch Committee members to tone down their criticism of prison staff?
- (2) Does the Attorney General acknowledge the committee as an important monitor of the ministry's accountability?
- (3) Does the Attorney General support this attempt to silence the relevant criticism of this committee?
- (4) When does the Attorney General anticipate the remaining recommendations of the Royal Commission into Aboriginal Deaths in Custody will be implemented?

Hon PETER FOSS replied:

- (1)-(4) I am very pleased to have this question put. There was no attempt to silence the committee members. We have problems with the Aboriginal deaths in custody committee because we would like to work with them. No point is gained in committee members being critics on the outside and not being prepared to find out what the facts are to ensure that their criticism is accurate and that they are making a fair criticism. It is very important to have outside bodies that are part of accountability, but they also must be accountable. One of the concerns I have with Ms Mallott is that some of her accusations are an outrageous slur on the majority of the officers of the Ministry of Justice. She said - I am amazed nobody has sued her over this yet - a reign of terror takes place within the Ministry of Justice. That is not the case. The Ministry of Justice asked for some form of dialogue so that her concerns could be raised with it. One does not just go straight out and accuse prison officers of being uncaring louts and fascists. That is the sort of remark made by Ms Mallott which is wrong. I hoped Hon Tom Helm would have got the message back through his own union contacts that the prison officers union feels hurt by that sort of statement. The majority of those members are hardworking and caring people who are as much disturbed by a death in custody as many other people. In fact, they are more concerned than the member.

Hon Tom Helm interjected.

Hon PETER FOSS: She made some general statements which are unfair to prison officers. It is quite extraordinary that something that is sourced out of the Trades and Labor Council should make such a general attack on -

Hon Tom Helm: It is not a general attack.

Hon PETER FOSS: It is a general attack. I believe that prison officers are, in general, a conscientious and hardworking group.

Hon Ljiljanna Ravlich: Working in appalling conditions.

The PRESIDENT: Order! Hon Ljiljanna Ravlich did not ask the question and will come to order.

Hon PETER FOSS: The attack made upon them in a broad brush manner is totally unjustified. I am willing to hear from Ms Mallott if she has concerns to raise. We said to her that we would like her to deal directly with some of the people in the prison so that her information can get across correctly.

Hon Tom Helm interjected.

The PRESIDENT: Order!

Hon PETER FOSS: She refuses to deal directly with superintendents or anybody within the prison. She previously dealt with the director of offender management; now she has refused to do that, and has said that all further communications will take place through the Press. I regret that as much as I also regret the attitude that she has taken. I make this invitation here and now: I would like her, before she comes out and makes general accusatory statements, to deal with the Ministry of Justice and put her understanding of the facts forward, to allow it to deal with that, and to also allow people at a superintendent level to deal with her concerns before she makes general statements of accusations about what I see as a very hardworking and conscientious group of people. The only way that she will get anywhere is if she takes that attitude. I ask her to embrace that approach now.

Several members interjected.

The PRESIDENT: Order! I have other members waiting to ask questions.

Hon PETER FOSS: The ministry believes that it implemented the recommendations of the Royal Commission into Aboriginal Deaths in Custody. We produce an annual report. It is a matter of dispute between the Aboriginal Legal Service and this committee and the Government. I do not know whether that will be capable of being resolved because the rhetoric is high from that group. It is pleasing to see the number of Aboriginal deaths in custody reducing remarkably. More importantly, it is considerably less than the deaths that occur, not in custody, for the people of a similar age group. It is not all bad news. It is a matter of considerable concern to us. Nonetheless, I believe it must be put in perspective and it must not result in a general attack on prison officers, who are worthy of support because their job is a hard one.

ORD RIVER DEVELOPMENT

Steering Committee for Stage 2

1704. Hon GREG SMITH to the Minister representing the Minister for Primary Industry:

- (1) Is the shire council for Kununurra represented on the steering committee that is examining stage 2 of the Ord River development?
- (2) If not, what avenues are available to the council to have its views taken into consideration?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) No.
- (2) The offer of a formal briefing to the Shire of Wyndham-East Kimberley by the Kununurra based steering committee members occurs both before and after each meeting of the steering committee.

GRAHAM FARMER FREEWAY

Public Relations Company

1705. Hon KEN TRAVERS to the Minister for Transport:

In relation to the use of a public relations company to manage the official opening of the Graham Farmer Freeway -

- (1) Were expressions of interest called to carry out this function?
- (2) If yes, how many submissions were received?
- (3) Has the list of interested companies been short-listed?
- (4) If yes, what are the names of the companies on that short-list?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) Twenty-nine.
- (3) Yes.
- (4) Event Alliance International, Creating Communities, Scott and Company, Turnbull Fox Phillips, Vision Events Management, Ward Holt, and Working Bodies. These organisations were invited to submit tenders and the tender process is not yet complete.

CARINE AND SCARBOROUGH SENIOR HIGH SCHOOLS

1706. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

I refer to the Minister's statement of 23 September 1997 that Scarborough Senior High School should probably close.

- (1) In the event that Scarborough Senior High School does close, what would be the expected enrolment at Carine Senior High School in the year following the closure?
- (2) How many extra demountable classrooms would be required to accommodate that expected enrolment for Carine Senior High School?
- (3) What would be the estimated cost of providing the extra demountable classrooms required?

- (4) What would be the estimated cost of the enhancement of toilet and other general service facilities as required to accommodate the increased student enrolment at Carine Senior High School?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) No decision has been made regarding the closure of Scarborough Senior High School. However, should that decision be made, it is likely the school would not close before the end of 1999. In that case the Education Department has estimated that the projected enrolments at Carine Senior High School would be approximately 1 460 students - about 15 to 20 more than now projected for 1999.
- (2) It is unlikely that any extra transportable classrooms will be required.
- (3) If an extra transportable is required, the cost would be \$60 000.
- (4) While no detailed costs for the enhancement of toilets and other general service facilities have been determined yet, it is anticipated that the cost will be minor.

WILDLIFE CONSERVATION LEGISLATION

1707. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:

- (1) Is the Minister planning to introduce new legislation to replace the existing Wildlife Conservation Act?
- (2) If yes, has the proposed legislation reached the drafting stage?
- (3) Will the Minister release the Bill for public comment?
- (4) When will the legislation be introduced?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2)-(4) CALM is currently re-examining the draft Bill released in 1992 in the light of comments received and more recent concepts which have developed in conservation legislation. The Bill will be released for further public comment and realistically will be ready for introduction to Parliament in 1999.

RETIREMENT VILLAGES ACT REVIEW

1708. Hon CHERYL DAVENPORT to the Minister representing the Minister for Fair Trading:

- (1) Has the review of the Retirement Villages Act been concluded?
- (2) If so, will the Minister table the report?
- (3) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) The report by the Minister for Fair Trading on the operation and effectiveness of the Retirement Villages Act 1992 was tabled in 1995.
- (3) Not applicable.

SOUTH EAST METROPOLITAN COLLEGE OF TAFE

Training Broker

1709. Hon BOB THOMAS to the Leader of the House representing the Minister for Employment and Training:

- (1) Has the South East Metropolitan College of TAFE provided any financial assistance or other form of support to a private training broker?

- (2) If so, what is the name of the training broker?
- (3) What was the nature and extent of the assistance or support provided?
- (4) What contractual arrangements does the college have with the training broker?
- (5) What was the process through which the contract was entered into?
- (6) Who was responsible for drawing up the contract?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(3) The Australian Academy of Business Development used an office leased by South East Metropolitan College of TAFE at Technology Park, Bentley, to assist the college in the development of college marketing staff under a "return to industry" arrangement to enable staff to better appreciate the training market from an industry driven perspective.
- (4) None.
- (5) Arrangement as agreed between CEO Australian Academy of Business Development and Managing Director, South East Metropolitan College of TAFE.
- (6) Not applicable.

MITCHELL FREEWAY AND NORTHERN RAILWAY EXTENSIONS

1710. Hon RAY HALLIGAN to the Minister for Transport:

- (1) When is the planned extension to the Mitchell Freeway north due to commence?
- (2) When is the planned extension to the northern railway due to commence?
- (3) Is there likely to be any disruption or delay to traffic using either the freeway or the railway as a result of these extensions?

Hon E.J. CHARLTON replied:

- (1) Extension of Mitchell Freeway north of Ocean Reef Road will commence in late 1998.
- (2) The Government has announced its intention to extend the northern suburbs railway from Currambine to Clarkson. The date for commencement of the extension will be decided after completion of the master plan, which is about to commence, and consideration of it by the Government.
- (3) Any disruption during railway construction will be kept to an absolute minimum. The Commissioner of Main Roads has indicated that there will be no disruption or delay to freeway traffic.

PRISONS, EXTENSION OF ACCOMMODATION

1711. Hon KIM CHANCE to the Attorney General:

I refer to the 250 new interim prison beds announced by the Attorney General in a media release dated 25 March 1998 to meet increased accommodation needs in WA prisons, in particular "another 150 temporary accommodation places would be built within Casuarina" -

- (1) Can the Minister confirm that only \$5.3m was actually allocated in the Budget for upgrades and construction at Wooroloo, Riverbank and Karnet - a total of 100 beds?
- (2) Will the Minister explain why money was not allocated in the Budget for the other 150 beds that he promised?

Hon PETER FOSS replied:

- (1)-(2) We were hoping to have temporary accommodation, so it would not necessarily be permanently built. That has probably changed. We were originally thinking of putting a construction camp or a hardened construction camp accommodation in Casuarina. That will probably change to a different style of construction which will be between the two complexes at Canning Vale. That has not come to me as a firm proposition but it has been discussed with Treasury, because it would mean that what was spent would lead to permanent accommodation as opposed to temporary accommodation. The original intention was to have temporary accommodation within Casuarina, but it is currently under re-examination.

MAIN ROADS WA

Appeals Process

1712. Hon LJILJANNA RAVLICH to the Minister for Transport:

- (1) Can the Minister inform the House of the process by which persons dissatisfied with decisions of Main Roads can appeal to the Minister?
- (2) Which officer in -
 - (a) Main Roads; and
 - (b) the Minister's office,is responsible for processing the appeals?
- (3) What is the legislative basis for this process?
- (4) Is the process contained in any document?
- (5) If so, will the Minister table that document?
- (6) What criteria does the Minister apply in determining appeals?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1)-(2) Formal appeals to the Minister for Transport are made only in relation to advertising signs. Land resumption procedures allow for an objection against any Main Roads WA proposal to resume land and this is decided by the Minister. As the member would know, members of Parliament, organisations and individuals who are not satisfied with a decision by Main Roads, or any other government department or agency, can make representation to the responsible Minister. Such representations are treated on their merits. I am sure that any representation that the member makes will be treated with the care and consideration that she would expect.
- (3)-(4) In respect of advertising signs appeals, the Main Roads Act 1930 and the Main Roads (Control of Advertisements) Regulations 1996. In respect of objections to land resumption, the Land Administration Act 1997.
- (5) The appropriate papers will be tabled.
- (6) In all other matters, justice and equity are applied very fairly. Most importantly, this Government ensures that progress is made with Main Roads' construction. Unfortunately no appeals were made when members opposite were in government, because that Government did not do anything.

PSYCHIATRIC EMERGENCY TEAM

1713. Hon NORM KELLY to the Minister representing the Minister for Health:

- (1) Are there plans to devolve the psychiatric emergency team?
- (2) If so, will a central information and referral point be retained or will all services be devolved?
- (3) Will there continue to be a service for the inner metropolitan area?
- (4) Will 24 hour, seven days a week specialised psychiatric services be provided in each region?
- (5) What is the waiting time for emergency assessment in the community, both in metropolitan and rural areas?
- (6) What emergency and after hours services are currently provided in rural and remote areas?
- (7) What emergency and after hours services are planned for rural and remote areas?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Yes. Implementation will be undertaken as a staged, planned process with the assistance and expertise of the psychiatric emergency team. An implementation steering group is being convened by the mental health division to ensure a coordinated and consistent process of implementation across the State. The

implementation steering group will include members of the psychiatric emergency team and key representatives from the regions.

- (2) A central information and referral point will be retained as part of the implementation process.
- (3) Emergency services will be progressively devolved to regional mental health services and a service will be provided to the inner metropolitan area on this basis.
- (4) The majority of psychiatric emergencies in rural areas are managed by primary medical services, such as general practitioners and general hospitals. Specialist mental health services will be progressively made available in each region, depending on availability of staff with appropriate expertise.
- (5) The response time to any particular emergency situation is dependent on a wide range of variables. However, all emergencies are responded to as soon as possible.
- (6) In addition to primary health care services, specialist mental health services in rural and remote areas respond to emergency situations during working hours. The psychiatric emergency team has a 1800 number, which is accessible across the State 24 hours a day, seven days a week and which provides information, advice and counselling by telephone.
- (7) Once implemented, all mental health service regions across the State will provide an emergency response 24 hours a day, seven days a week.

CARTON, MR KEVIN

Trip to New York

1714. Hon JOHN HALDEN to the Minister for Tourism:

In relation to Mr Carton's government funded trip to New York during which he spent one and a half days doing Western Australian Tourism Commission work and eight days of personal business -

- (1) Will the Minister confirm that the Government paid the business class airfare of \$6 178 for Mr Carton?
- (2) Was Mr Carton's personal business of a commercial nature?
- (3) If yes, was any of the fare reimbursed to reflect the proportion of personal business in which Mr Carton participated?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) At the time I approved Mr Carton's travel, the Perth-New York-New York-Perth airfare was \$6 178. The WATC subsequently negotiated a business class airfare of \$5 514.30 with Singapore Airlines. This fare was met by the commission, although not amended in the quarterly report tabled.
- (2) No.
- (3) Not applicable.

MANDURAH COMMUNITY HEALTH CENTRE

1715. Hon J.A. COWDELL to the Minister representing the Minister for Health:

Will the Government consider vesting the Mandurah Community Health Centre in the City of Mandurah so that a range of community health related services may continue to operate from these premises?

Hon MAX EVANS replied:

I thank the member for some notice of this question. This issue has not been raised with the Government, but I would anticipate any such transactions would be considered on a commercial basis.
