



WESTERN AUSTRALIA

# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT  
FIRST SESSION  
1997

LEGISLATIVE COUNCIL

Wednesday, 17 September 1997

# Legislative Council

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

## STANDING COMMITTEE ON LEGISLATION

### *Interim Report Tabling - Extension of Time*

Hon Bruce Donaldson presented a report from the Standing Committee on Legislation requesting that the time in which it must report on the Energy Coordination Amendment Bill be extended from 18 September 1997 to 23 October 1997, and on his motion it was resolved -

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

[See paper No. 777.]

## MOTION - STANDING COMMITTEE ON PUBLIC ADMINISTRATION

### *Heroin Use in Western Australia*

Resumed from 16 September.

**HON CHERYL DAVENPORT** (South Metropolitan) [4.06 pm]: Following my remarks yesterday I have a paper entitled "NALTREXONE - talk by Alex Wodak 30 July 1997". He is the Director of the alcohol and drug services unit at St Vincent's Hospital in Sydney. His report reads -

Naltrexone works to block the opiate receptor sites in the brain (an opiate antagonist). This stops the pleasure that is usually felt from taking heroin and also antagonises morphine, methadone and all other opioids. The licence for Naltrexone in Australia is currently held by the pharmaceutical company called Boots, but they are not interested in pursuing an application for approval to market the drug in Australia. Consequently a small company called Orphan is in the process of buying the rights to Naltrexone and an application will be lodged shortly. This means that it may be available to all Doctors to prescribe quite soon. Naltrexone has 3 major applications:

- 1) Heroin Maintenance
- 2) Heroin Detoxification
- 3) Alcohol Dependence.

Problems are associated with the drug, some of which are: Clients can stop using Naltrexone for 48 to 72 hours and have a shot of heroin if they wish. Naltrexone is not an attractive drug as there is no pleasurable effect from taking it. The research in this area is not impressive and the major difficulty has been poor compliance. Naltrexone has gained a reputation as a useful drug for niche patients such as professionals and blue-collar workers. It can have severe side effects if used seven to 10 days after use of an opiate. Serious opiate withdrawal symptoms are induced which last for several hours.

Normally Naltrexone does not cause side effects. However, at doses three to five times greater it can result in abnormal liver function tests. A major problem is that because Naltrexone is an opiate blocker it also blocks pain relieving drugs such as Morphine. Different drugs are available which can overcome this, such as Torodal, which works on a different system from the opiates. However, Torodal cannot be used by patients who have poor kidney function. Finally, patients on Naltrexone may lose their tolerance for heroin, increasing their chance of an overdose if heroin is used.

Naltrexone can be used in combination with other drugs such as Clonidine for rapid heroin detoxification. This usually takes 48 hours and high blood pressure can be a side effect of the mixer drug.

As I said yesterday difficulties exist with this drug. However, because it does not prolong the addiction, as tends to occur with methadone, there is some hope. As I also said yesterday my 22 year old constituent wants to give up heroin and despite trying again this morning I am still unable to gain access to a program for him. I am becoming increasingly worried that the systems in this State are inadequate and cannot cope with the demand. Therefore, the Public Administration Committee has a role in investigating why departments - for example, the Health Department, Family and Children's Services and the Education Department - are not providing people with access to available services.

I now turn to the question of adult respect towards young people and, in the main, the lack of willingness by the community to actually listen to young people. I refer members to a recent draft paper which was tabled in July this year following an inquiry conducted jointly by the Australian Law Reform Commission and the Human Rights and Equal Opportunity Commission. It was entitled a "Child's right to be heard". It reads -

Nowhere is the conflict between the best interests policy and the right of the child to be heard more marked than in the jurisdiction of the Family Court.

While the *Family Law Act* lists the child's wishes as the first factor a court must consider in deciding the best interests of that child, the inquiry found that in practice children's voices may not be heard.

"There's no doubt that the views of the child are given weight in the Family Court, where it is able to be given," says Australian Law Reform Commissioner Katherine Cronin, "but from what children have said to us, too often evidence relevant to their view was not being put to the court. It was rather the child's representative's views of what ought to be."

Children's expectations of their representatives, and how their representatives perceived their role, often did not tally says Cronin. "Young people have said to us, and it's a fairly consistent comment, that what they want from a lawyer is someone who is their ally. And they've indicated to us in our consultation that they've been aggrieved at the fact that their lawyer wasn't telling the court what they wanted.

It is a good illustration of what I said earlier about creating respect for young people. In theory we tend to say we are listening to them, and we think we are listening, but perhaps in reality we are not. That links to parts (g) and (h) of the motion. The Public Administration Committee could come up with a framework to work to ensure a better relationship between young people and the community, hopefully one which will lead to less drug abuse and a decrease in the need for young people to commit crimes to support their habit.

I also mentioned in the debate yesterday that I received and have read the Government's "Parent Booklet". My son is a teenager, although he is 19 and has one year left in that age bracket, but his comment to me about the booklet was cynical. He asked, "Do you think you will know I am on drugs by reading this, Mum?"

Hon Derrick Tomlinson: What was your answer?

Hon CHERYL DAVENPORT: I said, "Maybe I would." I do not think it is a bad publication, but some areas could have been expanded upon. I refer first to the heading "Teenagers and Drug Use - in Perspective" under which is a subheading "Experimenting is part of growing up." The first sentence under that heading reads -

As part of developing their personality, teenagers may experiment with things such as clothes, ways of talking and sex.

My response to that was, "Do adults tolerate such activity?" I was reminded of an incident conveyed to me about the young man I referred to earlier in this debate. When he was 14 or 15 he went to the local delicatessen to buy some milk for his mother. He was dressed in a baggy T-shirt which was a bit ragged and long board shorts because he had been skateboarding, and he had fairly long hair. The police pulled him up and asked him what he was doing. It was about five o'clock in the afternoon and he told the police that he had been to the deli to buy some milk for his mother. They said they had to look at people like him because a robbery had been committed. His mother spoke to the police at length on the telephone about the behaviour that they displayed towards her son.

What came to my mind about experimenting as part of growing up is that many young people dress differently to what we consider is appropriate, but they are not always bad because they do that.

Hon Peter Foss: There was someone involved with the Legislation Committee who dressed differently.

Hon CHERYL DAVENPORT: Yes, pink hair as I recall.

The other point is under the heading "What can you do about 'The Drug Problem'?" A subheading is "Can I stop my teenager from using drugs?" and it reads -

Some parents doubt the impact that they can have on teenagers by discussing illicit drugs.

Another subheading under that main heading is "Should I be talking to my child about illicit drugs?" The booklet says it is the parents' decision whether to do that.

In relation to communications with young people, I am reminded of my circumstances when my marriage broke up which was about two or three weeks before my son turned seven. My former husband and I waited until he was ready to leave before we told our son. My husband's view was, "We'll tell you about it when you get older, mate." My view was totally different. I said we do not have to go into graphic detail, but we must tell him the truth about why it

happened and always keep the lines of communication open. We did that; however, my son's instant reaction to our break-up was that it was his fault. I was very keen to make sure that he did not go on thinking it was his fault. It certainly was not.

In many cases incidents that are so dramatic in a young person's life are not talked about in terms they can understand. One need not go into the detail, but it is very important to communicate with young people from a very early age.

I am also reminded of my son and the K-10 syllabus when Kent Street Senior High School was discussing the question of drugs. There is no doubt that my son knew, like any other teenager at that high school, who was pushing drugs and that he could get hold of them. I am very pleased to say that he was keen to talk about issues like that with me. I suspect the stance I have taken throughout our relationship of being open and honest led to his feeling sufficiently confident to talk about things like that.

I am not holding myself up as perfect in this area because my son is not out of the age group where it can still happen. One thing the booklet lacks in its information on illicit drugs is that it does not refer in any way to relationships. It refers to the availability of drugs, experimentation, peer influence, relaxation to eliminate problems, rebellion, heightened sensations and self-esteem. An important reason for young people turning to drug abuse is that their relationship with either their family, peers or teachers is not good.

Hon Peter Foss: Particularly the middle one.

Hon CHERYL DAVENPORT: It plays a very important role, but relationships at home can compensate when relationships with peers do not work out.

Hon Peter Foss: I have four children and you could not get four different children and the capacity to communicate with them varies from child to child.

Hon CHERYL DAVENPORT: Relationships could have been a heading for the reason that young people turn to drugs. I do not mean it should be spelled out in graphic detail, but it is important that parents recognise that the relationship of their child with people from those groups is important. It would be very interesting to see just how many people have read the booklet. The Government might look at polling that, to see what the response has been to it. It is a good start, but some areas could be covered a little more.

I will not take any longer in this debate. I have covered why this matter should come to the Public Administration Committee. I believe the committee can put questions to departments, in particular, about accessing services, and why people cannot do so. That is an important component in being able to deal not only with young people, but all people, with an addiction who make the choice to get off substance abuse. If they make that choice, they must be able to do so quickly.

I realise a select committee in the other place is looking at this issue; however, a range of issues has been left off its terms of reference which could easily be considered by the Public Administration Committee. I support the motion.

**HON SIMON O'BRIEN** (South Metropolitan) [4.21 pm]: I thank Hon Cheryl Davenport for sharing some personal observations with us. I will also do that. I recall that when I was about 16 years old I left school for a year and worked as a bank johnny at the R & I, as it was then known. Young people in their mid-teens are impressionable when they are trying to strike out from home, to show some independence and how grown up they are and how much they know, and to be accepted by the wider community. All too often people in that age group and in that frame of mind find themselves exposed to the worst excesses of peer group pressure and a teenage compulsion to demonstrate their ability to take control of their lives or to indulge in extravagant or outlandish behaviour to draw attention to themselves. We have seen that happen too often in the anecdotal evidence which presents itself time and time again in the media and also in a first person sense when we talk to people whose family members have become heroin addicts. Occasionally we become affected by those even closer to home, when our loved ones, our family members or friends, become caught up in the menace of heroin abuse.

As I was saying, I was a 16 year old bank teller. I can tell members that whatever money I was being paid as a 16 year old bank teller, it was little more than pocket money. The bank had a policy at that time that if people cashed a cheque outside the guidelines given to tellers and the cheque turned out to be bad or dishonoured, the teller paid. I have a vague recollection that my net pay at that time was about \$30.

Hon N.D. Griffiths: What year was that?

Hon Kim Chance: The year when you were 16.

Hon Ken Travers: Was it in pounds or decimal currency?

**HON SIMON O'BRIEN**: It was in decimal currency. I forget the exact amount of my pay; it was probably \$50 or

\$60 per fortnight in the hand. I remember a neighbour of mine who lived in the same block of flats. We knocked around together. He was a few years older than I was. He came into the bank and asked me to cash a social security cheque. I said that it was not in his name and he told me that it had been given to him and he had cashed it for someone else. I knew this person very well and I cheerfully cashed the cheque. As members can guess, the cheque was rather rubbery and it bounced. Sometimes we learn things the hard way. The bank was a little more sympathetic than to take 10 weeks' pay off me, and I am grateful to it for that. I was not a bad bank teller in other ways. I could do the old finger clicking with the counting of the currency very well.

The point is that this so-called friend left me in the manure in a significant way. Sixteen year old employees do not know how to deal very effectively with these situations. It developed that this person was a heroin addict. I went to see him, having tracked him down because, surprise, surprise, he had moved. I asked him why he did what he had done. He said that he was sorry and told me he was a heroin addict. This guy was highly intelligent. I had grown to trust him. We shared experiences and conversations. We all know how we develop bonds with people. This heroin addict lectured me saying that I should never use dope because it had never done him any good; yet he could quite cheerfully come into the bank and rip me off.

I have found this is a characteristic of people who are hopelessly hooked on heroin. This is peculiar to this drug in a way that is not symptomatic of the other illegal drugs in use in our community at this time. I understand crack cocaine addicts behave in this way, but marijuana addicts and alcoholics do not necessarily do so. Heroin addicts seem to have no great problem in letting down their friends, family and their dignity. That is the sad news behind so many of these cases. That one I have just mentioned is a pretty minor affair. We have just heard stories from Hon Cheryl Davenport. We all have legions of stories about heroin addicts who have shown all the promise in the world. They have been educated at university. They have been star sportsmen or women. They have family members who love them. They have fiancées. They might have young children who love them. For no apparent reason, they embark on courses that are so self-destructive and pointless that mothers, ex-friends and everyone else shake their heads in disbelief.

People in my extended family have gone off the rails in some way. Although it might not be the situation in most cases, people sometimes come to a bad end. I have a relative by marriage in New Zealand whom I have never met who has just come out of a coma. Generally speaking we become aware of tragedies through our extended family. Having been involved in a heroin related car accident, he was in a coma for months. He is now out of the coma, but he is not fit for much. He will never be employed and he will not be able to lead a normal life. Even in that situation, where he is such a drain on the emotional and financial resources of his family and his community, he is less of a threat than he was before, when he was stealing, sometimes with violence, even from his family's household to finance this ruinous and destructive habit.

The reason I took a little time in those opening remarks was to carry on from where Hon Cheryl Davenport left off to point out that heroin abuse is very much a human problem. Ultimately all the victims are people. I do not know whether the Standing Committee on Public Administration need necessarily take on such an onerous task as the detailed and multifaceted one that is set out in the nine paragraphs of the motion that is before the House.

I spoke with a member opposite the other week. We agree that the most important thing about this motion is that it be debated and that in some way we increase each other's understanding of the way this curse affects our community. As Hon Kim Chance pointed out last Thursday, the issues involve not only prohibition and law enforcement and shutting off the supply tap, which are being looked at by people in another place, but also the human elements I mentioned. Those elements involve the consequences of heroin addiction, the adequacy of facilities for treatment, and the relationship between dependence on heroin and the incidence of crime - those downstream aspects of heroin abuse - and how it affects other aspects of community welfare through the diversion of resources, be they police, social workers, lawyers, nurses or doctors, away from genuine cases who need those resources but which resources are sometimes not available because they are squandered on people who are out of control because of their own habit.

What really drew my attention to this debate again occurred in Hon Kim Chance's speech on Thursday. Towards the end of his speech he mentioned that after some matters were recently raised in the House about violence and so-called chroming episodes, he had a conversation with a senior colleague who despaired that our society was in collapse. When I heard that, it stabbed me. That phrase Hon Kim Chance reported to this place galvanised my attention because I thought that was a dreadful thing to say. Hon Kim Chance went on to show that his colleague had been speaking on a spur of the moment rather than in a considered way in response to what were at face value some very difficult issues.

Hon Kim Chance: It was in the form of a rhetorical question.

Hon SIMON O'BRIEN: I grant that; that is my recollection also. I think the record bears that out. I listened closely to Hon Kim Chance's words from that point on because I really wanted to know the answer to that question. I felt

a sense of almost physical relief when Hon Kim Chance gave us his response towards the end of his speech, which was basically that he was optimistic rather than pessimistic. He also was concerned about the nature of the sentiment.

Hon Kim Chance: We all should be concerned about the question.

Hon SIMON O'BRIEN: Exactly. On balance Hon Kim Chance came to the decision that we are not a society in collapse but that we must take strong heed of some things and be on the alert for them. I will expand on that point, even though it is now almost a week later, because this matter has been on my mind. I wanted to share some thoughts on the same subject.

As a comparatively new member of this House I am constantly being called on by people outside the House - acquaintances and colleagues - to form an opinion about things we do in here; that is, whether we are achieving anything. My experience in the few months I have been here has led me to say unequivocally, yes. I am delighted to be part of that process.

I return to the point that was raised by Hon Kim Chance's colleague. I have the view that if we ever feel so helpless that we adopt the view that society is on its way to collapse, we have no right to be here. Hon Kim Chance will agree with me that this is the very antithesis of what the attitude of a member of Parliament should be. If we see symptoms of potential collapse, early signs of collapse, or any indication of any factor in society that should trigger alarm bells, we should take action and do something about it.

If because of a lack of confidence or a lack of ability we feel incapable of undertaking to do something about it, if we want to run around like Chicken Little and say we fear that society is in collapse, we should get out of the road and let more competent and confident people hold sway and demonstrate the leadership society requires. I was delighted Hon Kim Chance came to the identical conclusion when he made his remarks last Thursday. I felt good as we adjourned debate on that day.

It is fine to assert that we care and that we should be able to do things. We should not be here if we cannot do anything constructive. However, we must return to the tough question: What do we do? I will make some observations about the nature of law enforcement as it relates to heroin abuse. Prior to coming to this place I worked for a government agency. Hon Ken Travers was an officer with that same agency at one stage. We were involved in a number of activities including certain law enforcement activities and placing priority on the interception of illicit narcotic substances that offenders were trying to import into the Commonwealth.

The question that arose was how much of it had we found. Was it 100 per cent or 1 per cent? I was asked this question many times by trainees. I mentioned once before that I had been a training officer, and a few hundred trainees had passed through my courses. I indicated that one of the first things they should know about being a customs officer was not where to look or how many fags travellers were allowed to bring back from Bali, it was how to develop a mature understanding that the drug issue was a case of supply and demand and market forces will win out over anything they try to do. They must take the limited resources that the Federal Government made available to them and use them in a way that optimises the results. They could be secure in the understanding that all they were doing was to keep a lid on the problem. That was all they could hope to do.

A few years ago the Australian Customs Service had some tremendous successes. The statistics in the annual report were marvellous. I forget who was the Minister, but he must have been clicking his heels as he walked down the corridors in Canberra. We seized kilograms of drugs. All the indicators were good; the percentages went through the roof. The quantity of cannabis seized went through the roof. Someone found a couple of tonnes of compressed cannabis on Bernier Island and that really kicked the statistics along. The mail exchange did very well that year as well. There were a number of successes, so the statistics were looking good. We were then asked how much we had missed. My answer would be 100 per cent. The quantity of heroin seized by law enforcement agencies does not alter the demand in society. For every kilo seized another kilo will come from elsewhere to supply that demand.

It has been suggested that the upper limit of the seizure rate for a law enforcement agency is 10 per cent by mass of the total quantity of illegal narcotics that are imported into a State or nation. In that year in the mid to late 1980s it was estimated that nationwide on average the seizure rate was 15 per cent. It was 50 per cent higher than the notional maximum. It was a bumper year; however, that 85 per cent of the whole amount represented 100 per cent of the internal domestic demand. For example, people who are dependent on heroin will get it even if they have to rob their mum - or do something rotten to a young mate who has just got a job at the R & I Bank at \$30 a week and hit him for a cheque for \$165. Now that I am a bit bigger and uglier I wonder, if I ran into that friend again, what I would say to him. I would probably forgive him.

Hon Derrick Tomlinson: He would probably ask you for \$1 650.

Hon SIMON O'BRIEN: Fortunately, I am a bit older and wiser now.

Hon J.A. Scott: Older, anyway.

Hon SIMON O'BRIEN: I am seeking to illustrate that no matter what we do we cannot deal with the heroin problem simply by adopting the credo of "Thou shalt not." It would be a folly to adopt a policy against prohibition or law enforcement in relation to illicit drugs. Hon Derrick Tomlinson said in this place recently that we should be mindful of the Swedish experience.

Hon Derrick Tomlinson: I have never had a Swedish experience.

Hon SIMON O'BRIEN: Is Hon Derrick Tomlinson perhaps talking about Volvos or SAABs?

Hon Derrick Tomlinson: No, drug treatment

Hon SIMON O'BRIEN: Some years ago Sweden conducted a large scale heroin trial. On another occasion that information can be presented to the Public Administration Committee or to the House as a whole. In the 1960s or early 1970s Sweden was going through a socialist experimentation phase and introduced a free heroin trial. It provided heroin to addicts, along much the same lines as some of the suggestions we have heard in recent times.

Hon N.D. Griffiths: Sweden had a socialist government from the 1930s on. Hon Simon O'Brien should not talk about the 1960s being a socialist phase in Sweden.

Hon SIMON O'BRIEN: I am talking about the experiment in drugs.

Hon N.D. Griffiths: Do not politicise it.

Hon SIMON O'BRIEN: I used the word socialist very much with a small "s". I do not want us to get caught up on that issue. I am not seeking to politicise this issue. It was the policy of liberalisation.

Hon Derrick Tomlinson: Liberal social welfare

Hon SIMON O'BRIEN: Liberalisation, although not in the way that some of us in this House understand that word.

Hon Tom Helm: We understand, comrade.

Hon SIMON O'BRIEN: The Swedish went down the path of free heroin trials along the lines that have been mooted in this country recently.

Hon N.D. Griffiths: It was more than that, the Swedish were libertarian in their approach.

Hon SIMON O'BRIEN: In the greatest good humour, I refuse to digress a third time.

In Sweden the level of addiction dramatically increased in line with this policy. It went through the roof. However, it was all right because it was legal and people did not have to worry about hiding out in back alleys to inject because there were clinics and facilities for them. Apparently everything was not all right. In fact, Sweden was confronted by heroin addicts who were abusing the substance and all the symptoms I alluded to in my opening remarks - theft, dishonesty, ruined lives, and lost expectations - came to the surface. Instead of having a few heroin addicts Sweden had many more caught up in this vicious circle. It has taken years and years for Sweden to undo this model. Unfortunately, Sweden has had to adopt fairly draconian measures of law enforcement and assertiveness on the part of the community to say, "Hang on, we will not do this." I can provide Hon Ken Travers with material on that if he wishes. I wanted to share those thoughts.

There is a role for law enforcement in drug abuse, because it keeps the lid on the problem. Even if it is only 10 per cent in a good year or 15 per cent in a bumper year, it can stop the 300 or 400 per cent explosion which happens with over liberalisation. We saw this in the Swedish model. Furthermore, keeping a lid on drug abuse can restrict the level of victims to the lowest possible number - given their skills and abilities. We will always have some victims and we will always have those around them who suffer as a result. The claims by television people that they can go down to a school and buy heroin or go to a bus stop and score marijuana is rubbish. Imagine if this House requested me to go to a local school and score heroin and come back within the hour. I would have Buckley's.

Hon Ken Travers: If you knew how to, you could.

Hon SIMON O'BRIEN: That is if I knew how, but not everyone has access to drugs to the extent that some people believe. However, if we were to adopt that policy, including a social policy of decriminalisation or legalisation or whatever -

Hon Cheryl Davenport: That is not suggested in the motion.

Hon SIMON O'BRIEN: No.

Hon Cheryl Davenport: Why are you debating it in that context?

Hon SIMON O'BRIEN: I thought I made it clear. Perhaps the member was out of the Chamber at the time. Reference was made to a motion to set up a select committee in another place, and this motion states that we must look at methods other than law enforcement, and the fact is that it is of prime importance to retain prohibition -

Hon Cheryl Davenport: I did not say that there should not be law enforcement. I referred to access to services to help people get off drugs.

Hon SIMON O'BRIEN: Nothing in my remarks indicates that that should not be the case. If we compared the availability and levels of abuse of, for example, alcohol versus heroin, we would see a big difference between the availability of the two. To suggest that prohibition and a semi law enforcement approach to heroin does not work is a contradiction.

**HON DERRICK TOMLINSON** (East Metropolitan) [4.53 pm]: I should make it clear that I have a personal interest in this matter because I am a narcotics drug user. I first used the drug as a 16 year old school boy. It was a classic situation at a party; all my mates were using it and I wanted to try it because they looked as though they were having a good time. Therefore I tried it. Reflecting on the event now, I do not know whether it was a pleasant experience, but I remember that everyone else seemed to be playing up and looked as though they were enjoying themselves. I recall playing up and enjoying myself.

I did not use it again for a couple of years until I became an undergraduate student. Again, it was a social occasion and my mates produced the substance in the bonhomie of the social event; so I joined my mates and tried it. Over the four years that I was an undergraduate student it became the sort of thing we did at parties. We reached the stage where we would not go out to use the substance at a social function; it became the source of the social function. We would meet at someone's flat and it became a part of the evening's activities. Then it became part of a sophisticated lifestyle as I moved to adulthood. It became the thing. We would meet at each other's homes and we became what could be termed "recreational users", but it was more than recreational use. It became an essential part of our social interaction. Now, at age 56, I could still be characterised as a recreational user. I do not think I am dependent on it. I like to think I have control of it.

However, I can tell members that there are times, particularly when I have had a bad week in this place, when I have had a substantial hit. My narcotic drug is alcohol, but the pattern of use of what is a socially acceptable narcotic drug would be pretty much the pattern of use of the drugs which are not necessarily socially acceptable.

I was very interested to hear Hon Cheryl Davenport's comments on the pamphlet for parents recently issued by the Government. Through interjection, I deliberately asked what was her son's answer -

Hon Cheryl Davenport: It was very cynical.

Hon DERRICK TOMLINSON: I do not know whether it was cynical. It was honest, because when I became an undergraduate student living at home - I was 17, 18 or 19, still in my late adolescence; some people would say that I am still in my late adolescence - I do not know whether my parents were ever aware -

Hon Tom Helm: That is the side effect of the drugs you take!

Hon DERRICK TOMLINSON: When I have had a hit I do not act like an adolescent, I act like a kid. If I have enough of it I act like a baby. I do what the narcotic drug intends; I slip into narcosis -

Hon N.D. Griffiths: What did you do for lunch?

Hon DERRICK TOMLINSON: I have not had lunch.

I want to be serious about the answer given by Hon Cheryl Davenport. We think we know the manifestations of alcohol consumption, but how many of us would be able to pick someone who has had just a recreational hit of alcohol? I honestly do not know whether my parents knew that when we went to university parties and so on, we would arrive with our hippy of scotch. It was probably not scotch. It was probably Tolley's TST.

Hon N.D. Griffiths: Corio!

Hon DERRICK TOMLINSON: That is what we could afford! I came home one night absolutely inebriated; my mate poured me out of the car and threw me into bed. I did not stay in the bed for very long. I remember my father dragging me up from the floor, from the pool of vomit, and taking me to the shower and undressing me. I remember him holding me and saying, "Hold this." I was left there. I said, "Geez dad, you're a luvverly bloke!" I think that was the first time that he knew, and it was particularly important -

Hon Ken Travers: I bet your mother knew. Mothers always do.



Hon DERRICK TOMLINSON: They probably do not. That raises an interesting question: If the parent knows, does the parent want to admit that this could be the beginning of a dependence and alcoholism? I do not know. I wonder if the parent looks at the child and thinks, "I do not know whether he is abusing a substance. I have my doubts, but I pretend not because I do not want to admit my child - "

Hon Cheryl Davenport: Do you raise it and risk alienating the child?

Hon DERRICK TOMLINSON: That is the dilemma parents face. I can recall when my daughter was 16 the principal of her school told me that she smoked. My reaction was, "Don't you dare say that about my daughter. She would not smoke." I learned when she turned 30 that she was also using marijuana.

Debate adjourned, pursuant to standing orders.

**[Questions without notice taken.]**

**ACTS AMENDMENT (SEXUALITY DISCRIMINATION) BILL**

*Introduction and First Reading*

Bill introduced, on motion by Hon Helen Hodgson, and read a first time.

*Second Reading*

**HON HELEN HODGSON** (North Metropolitan) [5.35 pm]: I move -

That the Bill be now read a second time.

Research indicates the following -

that between 7 and 13 per cent of the population are gay or lesbian;

115 inquiries were received by the Equal Opportunity Commission from individuals attempting to make a complaint on the basis of sexuality in 1995-96;

in a 1989 poll, 77 per cent of Western Australians said homosexuality should be decriminalised;

91 per cent of responses to a discussion paper by the Equal Opportunity Commissioner advocating equal opportunity laws based on sexuality supported the proposal;

by the age of 13 years most homosexual youth are aware of their attraction to same sex partners;

by the age of 14 years, most lesbians are aware of their attraction to same sex partners;

25 to 40 per cent of young gays and lesbians attempt to commit suicide;

65 to 85 per cent of young gays and lesbians feel suicidal;

66 per cent of young gays say they have been discriminated against or harassed on the basis of their sexuality;

70 per cent of gay men report experiencing homophobic abuse;

6 per cent of gay men report being bashed in the past 12 months;

more than 90 per cent of child molesters are heterosexual; and

a child is 100 times more likely to be molested by a heterosexual partner of a relative than by a gay or lesbian individual.

Equality is one of the most basic foundations of our democratic society. Although we pay lip service to the principle that we are all created equal, the reality is that some people are treated more equally than others. We should all believe in the innate worth of the individual, that the freedom of the individual must be protected, and that all people should have the opportunity to advance to their full potential.

We must not just pay lip service to equal opportunity and social justice for all Western Australians, and it is our responsibility to foster a tolerant community. It seems that in Australian society unless one is a healthy, white, Anglo-Saxon, heterosexual male, one is forced to battle to be awarded the status of human being, and therefore to be entitled to human rights recognition.

Throughout our history, minority groups have had to battle against hatred and prejudice to achieve that equality - I

refer to women, indigenous people, the disabled and the aged. Through society's sense of fairness, and often despite opposition from vocal minorities, these groups have all achieved laws that enable them to fight back against oppression and achieve equality before the law.

The gay, lesbian and transgender communities in Western Australia are not being afforded the right to equality. These sections of the community have no protection from persecution purely on the basis of their sexuality. Gay men are treated unequally in comparison to all others in society regarding the age at which they can have consenting sexual relations without being branded criminals. Western Australia has the highest age of consent for gay men in the world today, and the worst anti-gay laws in the nation. It is the only State in which consenting gay sex between adults is a criminal offence for which offenders can be gaoled for up to five years.

The Bill I present to the House seeks to overcome these inequalities and injustices. Gay, lesbian and transgender people are not asking for affirmative action or special rights. They are merely asking for equal rights; these are the same rights as those given freely to other members of our society - human rights.

Human rights are derived from the very nature of being, and it is the role of Governments, not to grant human rights, but to recognise the rights to which we are all entitled by the very fact that we are human beings. It is a question of recognising the dignity of every individual in society. It is easy to give lip service to the ideals of tolerance and acceptance, but far more difficult to put those values into practice.

Basic human rights, including the right to freedom of sexuality, are recognised throughout the world in a number of United Nations declarations to which Australia is a signatory. Australia ratified the International Covenant on Civil and Political Rights in 1980, and the optional protocol of the covenant was ratified in 1991. Both documents are scheduled to the Human Rights and Equal Opportunity Commission Act. As a result of this scheduling, Australia agreed that laws would be made with respect for individuals and without distinction of any kind; and that there would be no discrimination to the equal protection of rights under the law. The Human Rights Committee of the United Nations has found that sexuality is one of the areas in which there should be no distinction or discrimination.

Under the International Labour Convention No 111 - Discrimination in Employment or Occupation, ratified by Australia in 1973 - it is unlawful to discriminate on a number of grounds. Australia adapted the terms of the convention in the Human Rights and Equal Opportunity Act and in 1990 the Australian Government specifically included sexual preference as a ground of unlawful discrimination. Western Australia has thus far neglected its duties under these international conventions and has shown itself to be an international dinosaur in its refusal to act justly and fairly. The experience of gay, lesbian and transgendered Western Australians is that others have made their sexuality an issue in areas such as employment, education, accommodation and the provision of goods and services. Sexuality is not a preference any more than gender, age, disability, culture or any other ground currently protected by equal opportunity laws. To this end, sexuality is an essential part of what makes each of us who, and not what, we are.

It is also true that discrimination in society does occur not only when the victim is in fact gay, lesbian or transgendered, but also when the individual appears to be independent of their actual sexuality. I was present in the gallery when Hon Paul Sulc made his inaugural speech, when he referred to the discrimination that he suffered as a result of the perceptions of others. Individuals deserve protection against the prejudice, bigotry and often violence aimed at them because of their actual or perceived sexuality because it is their right to be protected against such evils in their everyday lives. For the Western Australian Government not to reach out to those being denied their human rights is tacit approval of that prejudice, of that bigotry and of that violence. It is condoning the actions of those perpetrators who seek, because of their irrational fears, to deny others their human rights.

Every jurisdiction across the nation - except Tasmania, which has passed laws through only one House - has recognised the right of individuals to be protected against discrimination on the grounds of their sexuality, whether homosexual, lesbian, transgender or heterosexual. The majority of jurisdictions have also legislated to give homosexuals rights equal to all other citizens to engage in consensual sexual activity with an equal age of consent.

The Commonwealth Government has recognised this by enacting the Human Rights (Sexual Conduct) Act, which provides all citizens over the age of 18 with a defence against criminal charges in respect of consensual sex. This inconsistency with federal law makes the current Western Australian legislation vulnerable to a High Court challenge.

In both of these fundamental areas of human rights the Western Australian Parliament has neglected its duty and made criminals of otherwise law abiding citizens because of prejudice. Western Australia's laws in relation to homosexuality have been condemned by the Human Rights Commission, the World Health Organisation, the Australian Medical Association, Amnesty International and the Chief Justice of the Supreme Court of Western Australia, David Malcolm. Only three weeks ago Commonwealth Human Rights Commissioner, Chris Sidoti, said Western Australia had the most discriminatory laws in the nation in relation to gays and lesbians. He said the

discriminatory laws are among the greatest of human rights abuses of which this Government is guilty, negatively distinguishing the State from all others.

The Bill that I present to this place today seeks to rectify this serious breach of duty and past failures in leadership and to respond to what has time and again been shown to be supported, not only by those in the gay, lesbian and transgender communities, but by the majority of Western Australians. It does not seek any special consideration for gays, lesbians or transgendered people, but seeks only for them to be treated the same as other members of society. It is time for change.

I would now like to outline the basic provisions of the Acts Amendment (Sexuality Discrimination) Bill. The Bill before the House today firstly prohibits discrimination on the basis of an individual's sexuality or transgender identity by inserting new definitions and parts into the Equal Opportunity Act 1994. The definition of sexuality is exclusive, expressly limiting the ground to bisexuality, heterosexuality, homosexuality or lesbianism. This Bill does not cover any other form of sexual identity or sexual behaviour. Transgender identity is a separate ground for complaint, as the issue of an individual's sexuality is not related to their gender identity.

The Bill will insert a new part into the principal Act that makes it unlawful to discriminate against an individual on the basis of -

- the individual's sexuality or presumed sexuality;
- a characteristic that appertains generally to persons of that sexuality; or
- a characteristic that is generally imputed to persons of that sexuality.

This means that complainants need not in fact identify their sexuality in lodging a complaint in respect of an alleged incident of discrimination. It also applies to discrimination against relatives or associates where discrimination has occurred because of their relationship with such a person. Identical clauses apply to the ground of transgender identity.

I would like to emphasise here that this Bill deals only with the issue of equal opportunity protection for all those who identify as transgendered, and does not consider the legal status of those who have undergone gender reassignment surgery. A separate Bill is currently dealing with this issue. I do signal my intention to ensure that legal recognition will shortly become available to such people.

Each division then sets out specific circumstances in which it is unlawful for discrimination to take place, except where relevant specific exemptions are provided, under which it is lawful for discrimination on the basis of sexuality to occur.

The first area dealt with in the Bill is discrimination in work. These provisions are identical to those in the Equal Opportunity Act that extend protection to the disabled, the aged and indigenous people, and in the gender provisions. For this reason alone I can see no reason for objection by any party to providing equal protection on the basis of sexuality. The clauses prohibit discrimination when selecting candidates for employment, in the terms and conditions offered in employment, when awarding promotion or opportunities in employment and in dismissing an employee.

Similar prohibitions are made in the areas of commission agents, contract workers, partnerships, professional or trade organisations, qualifying bodies and employment agencies. Exclusions to having to comply with the provisions are also identical to other grounds of discrimination. The existing provisions provide exclusions for employment for domestic duties in the discriminator's home and partnerships of fewer than six persons.

It would become unlawful for an education authority to discriminate against people because of their sexuality or transgender identity by refusing to admit them as students by making special terms or conditions for their admissions, by denying or limiting access to benefits, or by expelling them or exposing them to any other detriment. Again, these provisions are essentially identical to those that appear in the principal Act in relation to other grounds for a discrimination complaint. In relation to religious educational facilities, the general exemption in the Equal Opportunity Act in sections 72 and 73 would continue to provide any freedom those institutions felt they needed in relation to their religious code. Every individual should have the right to an education regardless of race, gender, age disability or sexuality. To be able to legally take that right away strips a human being of his or her right to learn and their dignity.

The goods, services and facilities section would give gay, lesbian and transgendered individuals the same rights to protection against discrimination in the provision of goods, services and facilities as other grounds for action in the Equal Opportunity Act. It makes it unlawful to refuse to provide goods, services or make facilities available or to attach special conditions to the provisions of goods, services or facilities. The existing definition of services includes insurance. Many gay, lesbian and transgendered people have been discriminated against in the very important areas

of insurance and superannuation, and so it is an aim of this Bill to attempt to overcome those inequities. This will make it possible for gays and lesbians to take care of their same sex partner through superannuation contributions and insurance policies; an issue of immense importance to those in the gay and lesbian communities.

The right to accommodation is fundamental in our world today. We, as a society, have an obligation to ensure that members of our community are not discriminated against in seeking shelter because of their sexuality. The provision here would make it unlawful to refuse an application for accommodation, impose discriminatory terms and conditions for accommodation, defer or give lesser precedence for accommodation, deny or limit access to accommodation or evict an individual based on their sexuality. It does allow people to discriminate when the person letting the accommodation or a close relative of that person will also be living in the accommodation. This allows people to have the freedom of choice of whom they may have residing in their homes. Religious bodies providing accommodation will also be exempted and charitable or voluntary bodies providing accommodation solely for use by those of a particular sexuality or transgender identity will also be able to refuse accommodation on the basis of sexuality.

**Clubs and incorporated associations:** Under this Bill clubs and associations may not refuse membership or place special conditions on membership because of an applicant's sexuality or gender identity. Once a member of the club or association, there can be no discrimination in the terms or conditions of that membership, access to benefits afforded to members, or depriving a member of membership or any other detriment to a member on the basis of sexuality or transgender identity.

The exemption attached to this clause is for clubs or associations that have, as their principal purpose, the provision of benefits for people of a particular sexuality or transgender identity. The sole purpose test must be strictly enforced, with the club or association having to show that its affairs are structured in such a way as to solely benefit individuals of a particular sexuality or gender identity.

**Discrimination in sport:** Excluding a person from a sporting activity on the basis of his or her sexuality or gender identity would become unlawful under clause 35ZB of the Bill. This includes administration or coaching activities. However, discrimination will be lawful if the sporting activity is specifically conducted only for persons of a particular sexuality or gender identity.

**Land:** In disposing of interest in land it would be unlawful to discriminate on the basis of sexuality or gender identity unless the disposal is by will or gift or the land is within an area of land that has as its principal object the occupation by persons of a particular sexual or gender identity.

**Other provisions:** In all these areas it would be unlawful to ask a person to reveal his or her sexual or gender identity, as it should not be relevant to the situation. Of equal importance are the problems the partners of gay and lesbian people face. For example, access to their partners in hospitals when they are ill. In many situations, hospitals will not afford next of kin status to a same sex partner, thus denying them visiting rights or the right to be consulted when making medical decisions.

The Bill before the House today attempts to remove the discrimination against same sex partners. It acknowledges the rights of these partners and makes those rights equal to those enjoyed by heterosexual de facto partners where discrimination occurs. By altering the definition of de facto for the purposes of the Equal Opportunity Act, same sex couples will have protection under the ground of discrimination on the basis of marital status and therefore be given rights to see their partners, to be consulted in medical situations and to access employment benefits available to de facto partners. The recognition of same sex partners does not extend beyond the scope of the Equal Opportunity Act and does not provide recognition of such relationships for any other legal purpose. Only the Federal Government could amend the law to recognise homosexual or lesbian marriages. This Bill does not, and could not, do that.

**Criminal Code amendments:** The notion of equality is again the impetus behind changes to the Criminal Code with the aim of equalising, and I emphasise equalising, the age of consent for gay men. Currently the law discriminates between gay men and all other couples, including lesbians.

At the age of 16, both males and females are free to decide to have sexual relations with the opposite sex, and lesbians are also legally allowed to have sexual relations at 16. The age of consent differs for sexual relations with someone in a position of authority or power, being 18 years of age. For gay men, however, it is a criminal act to have sex with another man aged between 16 and 21 in all circumstances, with an age of consent set at 21.

This Bill will make the age of consent for all people 16, retaining the strict enforcement of an age of consent of 18 in situations where one of the parties is in a position of power or authority over the other. There is no legitimate reason why the age of consent for young gay men should be different from that for other citizens, and no reason why a man should be labelled a criminal for having a loving relationship with another male.

The paranoia and uninformed opinion that "dirty old homosexuals" would prey on vulnerable 16 year old boys is a most offensive notion. It is a fact that the overwhelming majority of paedophiles are heterosexual men who violate young girls, yet we hear no objection to an age of consent of 16 for girls who wish to be sexually active.

It is also a nonsense to claim that raising the age of consent will give youths more time to really decide if they are homosexual before being "inducted" into homosexuality. Research indicates that at least 33 per cent of males have a homosexual experience at some stage in their life, but this does not mean they are gay. We do not criminalise heterosexual activity for youths who are experimenting, and there is no reason to treat gay and lesbian youth differently. It is a myth that young men are confused about their sexuality when they have their first homosexual experience. In fact, no gay man I have spoken to supports this argument. We cannot structure the law around a myth.

At what age does one become aware of one's sexuality? Study after study indicates that an individual is aware of his or her sexuality by the age of 14. Most of us here today would think it ludicrous to be asked at what age we realised we were heterosexual, and the same question is equally ludicrous when asked of a gay or lesbian person. One does not decide to become homosexual or lesbian, it is a part of who one is. It is essential to give homosexuals this respect, to give them equality, and there is no logical reason to deny it.

Finally, this Bill seeks to repeal in its entirety the Law Reform (Decriminalisation of Sodomy) Act 1989. Throughout my consultation with the gay and lesbian community I do not believe I have heard any section of legislation condemned in stronger terms than the preamble and amendments to this Act. It is overwhelmingly rejected as bigoted and prejudiced and is seen to be used by those who vilify gay and lesbian people to exonerate and justify their hateful behaviour.

Impact of current laws on society: The current lack of laws protecting gay, lesbian and transgender individuals is a tacit approval of prejudice, discrimination and bigotry, which are all merely euphemisms of hatred. As a Parliament we should not stand for allowing hatred to bloom in our society.

The repercussions of this State's laws oppressing gays, lesbians and gender dysphoric are well documented. Making adult homosexual activity criminal sends a message to gay youth that they do not have any value, they are not worthy of compassion or protection. By forcing youths to hide their sexuality they feel they cannot talk to anyone about their feelings and this further isolates them and increases the stigma they are already forced to feel by a society that approves of denigrating those who are a minority.

Western Australia's current laws validate behaviours of intolerance, alienation, prejudice and sometimes violence. The suicide rate for gay and lesbian youths in this State is a disgrace and our laws do little to help save them. The criminal label attached to homosexuality means that a sexually active gay man cannot be recruited to the Police Service as his criminal activity - until he turns 21 - would preclude him.

A recent HIV-AIDS scare in our prison system has highlighted another social disaster caused by our discriminatory laws. Condoms cannot be distributed in prisons as the Government could then be seen to be aiding criminal activity. Men over 18 are imprisoned with men over 21 and any prisoner between the ages of 18 and 21 in an adult gaol cannot legally engage in same gender sexual activity. Not only does this have repercussions inside gaols, but those men then go back out into society and spread a variety of infectious diseases.

The religious arguments often used to justify the continuation of prejudice towards gays and lesbians are similar to those used throughout the ages to justify the campaigns against the Magna Carta, to uphold the principle of the Divine Right of Kings, to justify slavery and to continue policies of discrimination and hatred against blacks and women.

We cannot use a moral wrong - discrimination and hatred - to achieve what some see as a moral right - illegality and lack of support for homosexuality and lesbianism. Our society teaches us to cherish the values of tolerance, acceptance and to do unto others as one would have done unto oneself. To do other than to support this Bill would prove hypocrisy to anyone who subscribes to this basic value system. To do otherwise is merely hatred cloaked as morality.

Conclusion: Discriminatory behaviour is most often the result of ignorance and fear fed by myths, misconceptions and stereotypes, and there are few areas in life that have evidenced this more than sexuality. This Parliament has the opportunity to lead the way, to educate to eradicate ignorance, to alleviate fears and to squash those myths, misconceptions and stereotypes.

We have the chance to promote tolerance and to condemn hatred. What this Bill is really about is whether gay, lesbian and transgendered individuals have a right to exist and to be embraced and included in society. I say yes, they do. While I do not believe that legislation of itself has the power to change the prejudice that generations of approval of inequality has bred, I do believe that it is this Parliament's obligation to initiate change. To quote Martin Luther King Jr -

Morality cannot be legislated, but behaviours can be regulated. Judicial decrees may not change the heart but they can restrain the heartless.

Debate adjourned, on motion by Hon Norm Kelly.

### PARLIAMENT HOUSE - VISITORS AND GUESTS

**THE PRESIDENT** (Hon George Cash): I recognise the presence in the President's Gallery of Senator Lyn Allison, senator for Victoria, a member of the Australian Democrats, who is visiting Perth on official business.

*Sitting suspended from 6.01 to 7.30 pm*

### STATEMENT - LEADER OF THE HOUSE

*Metropolitan Region Scheme Amendment - Ground Water Protection*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.30 pm] - by leave: I make this statement on behalf of the Attorney General representing the Minister for Planning.

I rise to make a statement about moves by this Government to further strengthen protections over Perth's valuable ground water reserves. The amendment to the metropolitan region scheme, which the Attorney General tabled earlier today, defines a protection boundary over the Jandakot water mound and is a positive step in the State Government's protection of ground water. The ground water amendment introduces an historically new zone called "Rural - Water Protection", the first new zone in the metropolitan region scheme since its inception in 1963. This underlines the importance the Government has placed on protecting drinking water for future generations and on protecting the associated wetlands.

Planned changes to the MRS were advertised late last year, and 235 submissions were received. The Western Australian Planning Commission examined all the concerns raised in the public consultation process and made some alterations to the amendment. The commission found the planned changes reflected best available scientific data or were compatible with planning policies, and were supported by the majority of submissions received. The proposals were backed by detailed research by the Select Committee on Metropolitan Development and Groundwater Supplies, and the Jandakot land use and water management strategy.

In addition to this amendment, the WA Planning Commission released a statement of planning policy for public comment last week. This policy reinforces a minimum lot size of two hectares within the protection zone, and subdivision potential will continue to be guided by the Jandakot land use and water management strategy.

Uses such as equestrian activities and stables, kennels, extractive industries and some horticultural uses, such as extensive floriculture, hydroponics, orcharding and viticulture, must be referred to the Water and Rivers Commission before being approved by the local government. Golf courses and turf farms will not be permitted.

However, people may still build homes, run hobby farms, grow broadacre crops and provide public recreation. Any future development plans will be assessed on merit. The aim of the policy and this amendment is to control and manage land use to achieve acceptable levels of risk for contamination of Western Australia's important underground water supplies. The "Rural - Water Protection" zone will correspond with the priority 2 water source protection area over the Jandakot mound and the new policy will provide guidelines on appropriate land uses. I commend this amendment to the House.

Consideration of the statement made an order of the day for the next sitting of the House, on motion by Hon Bob Thomas.

### EQUAL OPPORTUNITY AMENDMENT BILL (No 3)

*Introduction and First Reading*

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

*Second Reading*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.34 pm]: I move -

That the Bill be now read a second time.

Background: In January 1993 the Equal Opportunity Amendment Act 1992 came into force. The Act, among other provisions, amended the Equal Opportunity Act 1984 to include age as an unlawful ground of discrimination in all areas of public life covered by that Act, including employment.

Section 66ZN of the Act provided that there be an exemption to complaints of age discrimination because of compulsory retirement for a period of two years from the commencement of the amendments. This section provided a further exemption with regard to the compulsory retirement of certain holders of judicial office, these being judges, the Master of the Supreme Court and magistrates.

Section 66ZS of the Act also provided an exemption for any acts done pursuant to a requirement of any written law of State. In January 1995 the sunset clause under section 66ZN operated to make it unlawful to compulsorily retire a person by reason of his or her age.

Inconsistencies between provisions of the Equal Opportunity Act: The 1992 amendment to the Equal Opportunity Act required the Commissioner for Equal Opportunity to review the written laws of the State and identify any provisions which discriminate against persons on the ground of age. Further, the commissioner was required to report her findings to the Attorney General by January 1995.

The commissioner's review and report revealed that many state Acts contain provisions which require certain public sector employees and office holders to retire at a particular age. The commissioner's findings thus revealed an inconsistency between provisions in the Equal Opportunity Act.

Compulsory retirement is no longer exempt under the provisions of section 66ZN, yet by reason of the exemption provided in section 66ZS in relation to acts done pursuant to the written law of the State, it continues to be lawful to compulsorily retire certain public sector employees and office holders. This inconsistency has caused the undesirable situation where some employees can no longer be compulsorily retired and yet in the same public sector organisation other employees can.

The commissioner's review also identified a number of judicial officers which it would be appropriate to include in the permanent exemption contained in section 66ZN in order for there to be consistency. The judicial officers identified are the President and members of the Industrial Relations Commission, the Solicitor-General and the judge of the Liquor Licensing Court. The main reason for making judicial officers subject to compulsory retirement is that they are not subject to performance review. There is therefore no other way in which a judicial officer who became incompetent could be required to retire.

Main features: Clause 6 of the Bill amends section 66ZN to include the judicial officers identified by the commissioner's review. Clause 8 amends various state Acts listed in schedule 1 of the Bill. Schedule 1 lists those Acts which will be amended to remove reference to a retirement age for certain office holders and employees.

Other amendments: During the drafting of the Bill certain other issues arose which resulted in drafting amendments unrelated to the issue of compulsory retirement. Section 66ZL of the Act refers to the Occupational Superannuation Standards Act 1987. This reference is obsolete and clause 4 is amended to refer to the Superannuation Industry (Supervision) Act 1993.

Section 66ZN of the Act makes an exception to age discrimination for terms and conditions imposed for health and safety considerations. The section refers only to division 2 at the present time; that is, the division dealing with employment. However, it was clearly intended that the exception apply to other areas contained in division 3 and clause 5 amends that section accordingly.

Conclusion: This Bill is designed to enhance the effectiveness of the provisions in the Equal Opportunity Act relating to age discrimination and remove inconsistencies in the Act. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

## COMMERCIAL ARBITRATION AMENDMENT BILL

### *Introduction and First Reading*

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

### *Second Reading*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.37 pm]: I move -

That the Bill be now read a second time.

In 1984 the Standing Committee of Attorneys General adopted a uniform Bill on commercial arbitration, with the following aims -

- (i) to provide a modern framework for the conduct of arbitration;

- (ii) to recognise party autonomy in choosing a tribunal and procedure suitable for the resolution of their dispute; and
- (iii) to achieve national uniformity in the law of commercial arbitration.

In 1985 the Western Australian Parliament enacted the Commercial Arbitration Act which is based upon that model Bill. All other Australian States also enacted similar commercial arbitration legislation.

In January 1986 a working group was established by the Commonwealth to examine commercial arbitration laws with reference to the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration.

Subsequently, the standing committee reviewed the operation of that uniform legislation. The issues considered by the standing committee were -

- (i) the consolidation of arbitral proceedings;
- (ii) the limitation of the right to legal representation;
- (iii) the holding of compulsory conferences; and
- (iv) the possible inconsistency between part VII of the uniform legislation and the Commonwealth Arbitration (Foreign Awards and Agreement) Act 1974.

As a result, the Standing Committee agreed that there should be some amendments to that legislation. All States other than Western Australia have enacted those amendments.

It is desirable that, as far as possible, state laws relating to commercial arbitration should be uniform. Therefore, this Bill proposes to adopt amendments which have been enacted in other jurisdictions.

The principal amendments to the Commercial Arbitration Act 1985 can be summarised as follows: Clause 6 makes it clear that a reference to an "arbitrator" in the Act extends to all arbitrators in a particular case if there is more than one. This will make explicit in the Act what may already be achieved by the Interpretation Act 1984 which provides that the singular includes the plural.

Clause 8 extends and rephrases the existing provision dealing with the representation of parties in arbitration proceedings. Under the present section 15, a party may be represented by a legal practitioner or other representative if the arbitrator or umpire gives leave. In addition, an incorporated or unincorporated body may be represented by an officer, employee or agent.

The new section 15 to be inserted by clause 8 generally extends these provisions so that a party may also be legally represented if another party is represented by a legally qualified person, or if all the parties agree, or if the value of the claim exceeds \$20 000 or such amount as prescribed by regulation under the Western Australian Legal Practitioners Act 1893. In addition, a party may be represented by a person who is not a legally qualified person if all the parties agree. A legal practitioner from outside the State is brought within the provisions and is protected from committing an offence under the Legal Profession Act 1987. These amendments are intended to provide clarification and guidance to arbitrators rather than leave the matter to the discretion of arbitrators.

Clause 12 amends the provisions of the Act dealing with the consolidation of arbitration proceedings. Under section 26, only the parties by agreement or the court by order can consolidate proceedings. The Bill proposes to insert a new section 26 so that arbitrators or umpires may make orders for the consolidation of arbitration proceedings. Different procedures are prescribed, according to whether the proceedings have the same or different type arbitrators or umpires. Procedural directions are also provided and the role of the court becomes one of review. The grounds on which consolidation can be ordered remain substantially as in the existing provision and the parties to two or more arbitration proceedings remain free to agree on the consolidation of these proceedings. The Bill is intended to encourage speedy determination of consolidation applications without any delay in arbitral proceedings.

Clause 13 repeals the provisions of the Commercial Arbitration Act dealing with the settlement of disputes otherwise than by arbitration. Section 27 provides that, unless agreed by the parties in writing, an arbitrator or umpire may order the parties to take such steps as the arbitrator or umpire thinks fit to achieve a settlement of a dispute, including attendance at a conference conducted by the arbitrator or umpire, either without proceeding or while continuing with arbitration.

The new section 27 will provide for greater control by the parties because they may seek settlement by mediation, conciliation or similar means or may authorise an arbitrator or umpire to act as a mediator, conciliator or other non-arbitral intermediary, whether involving a conference and whether before or after proceeding to, or continuing with,



arbitration. The new section also provides that an arbitrator or umpire will be expressly bound by the rules of natural justice when proceeding under the section unless the parties otherwise agree.

Members will be aware that attention is increasingly being focused on alternative dispute resolution methods such as conciliation and mediation. Such methods have traditionally been used by Australia's trading partners in Asia, particularly Japan and China. In Australia there is growing interest in alternative dispute resolution methods.

The new section 27 recognises that arbitration is consensual in nature and that the parties should be free to decide the nature and the content of the arbitration. To allow an arbitrator to override that autonomy and compel attendance at a settlement conference or other procedure is a departure from that principle and could lead to unfairness. The form of this new section respects party autonomy by allowing the parties to decide on settlement procedures while at the same time giving legislative recognition and encouragement of the use of alternative dispute resolution procedures.

Clause 17 deletes section 34(6), which requires an arbitrator or umpire, when exercising the discretion, to award costs to take into account a refusal or failure to attend a conference ordered by the arbitrator or umpire. In its place, a provision is inserted which requires an arbitrator or umpire, when exercising the discretion to award costs, to take into account both the fact that an offer of compromise has been made and the terms of that offer.

Clause 18 adds to the provision in section 38 dealing with judicial review of awards by providing that the court may not grant leave to a party to appeal on a question of law, unless it is satisfied that -

there has been a manifest error of law on the face of the award; or

there is strong evidence that the arbitrator or umpire made an error of law and the determination of the question will add to the certainty of commercial law.

The court must be satisfied also that determination of the question could substantially affect the rights of the party.

One of the major objectives of this uniform legislation is to minimise judicial supervision and review. If arbitration is to be encouraged as a settlement procedure and not as a "dry run" before litigation, a more restrictive criterion for the granting of leave is desirable and the parties should be left to accept the decision of the arbitrator whom they have chosen to decide the matter in the first place.

Clause 19 re-enacts the provisions of section 46 of the Act with several alterations. This section deals with delay in prosecuting claims that are subject to arbitration. The first alteration is to insert a requirement that each party to arbitration proceedings, in addition to the claimant as is presently the case, has a duty to exercise due diligence in the conduct of arbitration proceedings.

The second alteration is to re-express the grounds on which the court must be satisfied before exercising its powers following delay by a party. The court must be satisfied that the delay is inordinate and inexcusable and will present a real risk to a fair trial or to the interests of other parties.

Clauses 20 and 22 repeal the provisions of the Act dealing with the recognition of foreign awards and agreements and schedule 2 to the Act which sets out the text on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. These provisions are deleted because the commonwealth International Arbitration Act 1974 covers the field and the state provisions are inconsistent in terms of section 109 of the commonwealth Constitution.

Clause 21 amends section 61(1)(b) of the Act which deals with the making of rules of court by the Supreme Court for the purpose of carrying the Act into effect. The amendment will enable rules to be made concerning offers of compromise in relation to claims to which the arbitration agreement applies.

The amendments to clause 23 are designed to secure greater uniformity of language among the legislation in other Australian jurisdictions. They deal with minor drafting matters. A primary concern in the development by the Standing Committee of Attorneys General of this legislation and its enactment in other jurisdictions has been to obtain uniformity. It is desirable to have such uniform commercial arbitration laws.

Members are aware that there is an increasing trend for modern commercial relations to be conducted over long distances and across borders. Consequently, there has been an increase in the number of disputes which extend across domestic and national boundaries. This demands a system of dispute resolution which is convenient, consistent and coherent. In this context, uniform legislation assists not only arbitrators and legal practitioners, but also, and more importantly, those persons who have included in their business relationships commercial arbitration agreements as a method of resolving any disputes that may arise between them. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

## **JURIES AMENDMENT BILL**

### *Introduction and First Reading*

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

### *Second Reading*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.48 pm]: I move -

That the Bill be now read a second time.

The coalition Government's policy on law and justice makes a commitment to reviewing the jury system process of selection, election and supervision. The courts information technology plan of the Ministry of Justice identified the funding necessary for the implementation of the jury information management system.

The jury information management system is due for implementation in November 1997. It will have the capacity to select potential jurors randomly from the various jury lists of the 12 jury districts in this State. The system is designed to manage the jury process, commencing with the production of jury summonses and following through with the balloting of jurors from the jury pool, the calculation of attendance fees and fares and the transfer of jurors' payments electronically to bank accounts. Various amendments to the Juries Act 1957 over the years have made provision for some of the processes to be performed by computer. However, as the legislation now stands the procedures to be followed by the jury pool supervisor laid down in sections 32F, 32FA and 32H of the Juries Act require manual performance. This Bill has been drafted to allow a computer to perform some of the functions contained in sections 32F, 32FA and 32H, while retaining the option for manual performance.

The amendments to sections 32F, 32FA and 32H are minor. Section 32F requires the summoning officer to furnish to the jury pool supervisor a list of the names of the persons summoned - that is, jurors - and a ballot card for each person summoned. The Bill allows the list of the names of the persons summoned - that is, jurors - to remain in electronic form and for the ballot cards to be produced by computer following an electronic ballot.

Section 32FA requires, among other things, the roll to be called. The Bill allows for jury summonses to be bar-coded and swiped by attending jurors through a bar-code reader, thus recording attendances electronically. Subsections (1), (2), (3) and (5) of section 32H require the jury pool supervisor to select by ballot from the box the jurors required and to provide a list of the jurors selected and ballot cards for each juror selected to the court.

The Bill allows for the jury pool supervisor to select jurors electronically by use of a computer. It also allows for the computer to produce a list of the names of the jurors selected and ballot cards for each juror selected for production to the court. Additional jurors may be selected in like manner.

Other issues: These reforms are an integral part of the jury information management system. They are essential to the system for the realisation of the full benefits of the system to the Ministry of Justice.

Conclusion: The Bill will create a significant saving in time which will enhance customer service by limiting inconvenience to jurors and promoting a more favourable image for courts. Electronic data collection will make payments to jurors faster and more cost efficient. The amendments contained in the Bill will permit the replacement of very labour intensive procedures. The electronic system will be audit tested to ensure random selection of jurors is maintained. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

## **PUBLIC NOTARIES AMENDMENT BILL**

### *Introduction and First Reading*

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

### *Second Reading*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.51 pm]: On behalf of the Attorney General, I move -

That the Bill be now read a second time.

The Bill constitutes the implementation of the intention originally established in 1994 on the passing of the Acts Amendment (Legal Practitioners Costs and Taxation) Act that the Legal Costs Committee established in terms of the Legal Practitioners Act should determine costs charged by the legal practitioners in all contentious and non-contentious business.

Legal opinion was obtained from the Crown Solicitor's Office to the effect that section 58W of the Legal Practitioners Act which provides that the Legal Costs Committee may make determinations in respect of non-contentious business carried out by legal practitioners did not enable the committee to make a determination in respect of notaries' fees.

The Public Notaries Act 1979, amongst other things, gives the judges of the Supreme Court power to appoint notaries and to prescribe the fees they may charge. The Public Notaries Act requires an applicant for the position of public notary to be a legal practitioner, and that when a practitioner is appointed as a notary he occupies a position separate from and beyond his qualification as a practitioner.

On the enactment of this Bill complementary amendments to the Legal Practitioners Act, which is currently before the Parliament in the form of the Acts Amendment (Legal Costs) Bill, and the Supreme Court Rules 1971 will be required. The Bill enables the Legal Costs Committee to determine maximum fees to be charged by public notaries. The Bill remedies the situation in terms of which the Legal Costs Committee could determine other fees charged by legal practitioners, but not fees charged by legal practitioners in their capacity as public notaries. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

### **WILLS AMENDMENT BILL**

#### *Introduction and First Reading*

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

#### *Second Reading*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.53 pm]: On behalf of the Attorney General, I move -

That the Bill be now read a second time.

I am pleased to be presenting to the House the Wills Amendment Bill 1997. This Bill seeks to amend part X of the Western Australian Wills Act 1997 to have the civil standard of proof apply to informal wills.

Presently part X of the Act provides that where a document purports to embody the testamentary intentions of a deceased person, the Supreme Court must be satisfied that there can be no reasonable doubt that those intentions constitute, alter, revoke or revive, as the case may be, the deceased person's will. If the Supreme Court is so satisfied, that document has legal effect either as a will, alteration, revocation or revival, notwithstanding that it does not comply with the relevant sections of the Act.

Part X of the Act was closely modelled on section 12(2) of the South Australian Wills Act 1936 - introduced in 1975 - in accordance with recommendations of the Western Australian Law Reform Commission report on "Wills: Substantial Compliance"; that is, project No 76, part I, 1985.

The Western Australian Law Reform Commission recommended adoption of the criminal standard because the South Australian provision also incorporated that standard of proof and the Western Australian Law Reform Commission recognised the value of being able to rely on South Australian judicial decisions. However, adoption of that standard was unusual because in all other probate matters, and generally in civil matters, the civil standard of proof - that is, balance of probability - has been adopted.

Other States have adopted the civil standard of proof. South Australia has also moved to the civil standard. Therefore, it is proposed that part X of the Act now be amended to lower the present "no reasonable doubt" standard of proof to the civil standard of balance of probabilities. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

### **MINISTER FOR TRANSPORT - OVERSEAS TRAVEL**

#### *Tabling of Documents*

**HON E.J. CHARLTON** (Agricultural - Minister for Transport) [7.55 pm] - by leave: I table documents in relation to my recent overseas trip to the United States. In doing so, I confirm what I said earlier today that these documents do not contain any travel costs. They will be part of the usual Government reporting procedure. The documents do, however, cover all aspects of the information sought and procured during that trip.

[See paper No 779.]

**SELECT COMMITTEE ON NATIVE TITLE**

*Membership*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.56 pm] - without notice: I move -

That Hon Tom Stephens, Hon Giz Watson, Hon Murray Nixon, Hon Barry House and Hon Murray Criddle be appointed as members of the Select Committee on Native Title, appointed by this House on Tuesday, 16 September 1997.

**HON HELEN HODGSON** (North Metropolitan) [7.57 pm]: I second the motion. I have an interest in a matter before this committee. Unfortunately, due to other commitments I am unable to serve as a member of the committee; however, I would like to participate in the committee to the extent that the standing orders allow me to do so.

Question put and passed.

**WATER SERVICES COORDINATION AMENDMENT BILL**

*Third Reading*

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

**HAIRDRESSERS REGISTRATION REPEAL BILL**

*Referral to Standing Committee on Public Administration*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [7.58 pm]: I move -

That the Order of the Day be discharged and the Bill be referred to the Public Administration Committee and that it report the Bill to the House not later than 20 November 1997.

This Bill refers to the Hairdressers Registration Board. I do not know whether many members have heard about this board!

Hon Mark Nevill: It's a bit of a shaggy dog act.

Hon N.F. MOORE: It reminds me a bit of the Dog Act, amendments to which tend to take a long time to receive passage through this House. Members will be aware that yesterday the House voted in a tied vote in respect of the second reading of this Bill. Therefore, one does not quite know what its future passage might be, bearing in mind that you, Mr President, used your casting vote to proceed the Bill beyond the second reading stage.

I think we should take on board the very good advice provided to us by the Leader of the Opposition and others over recent months about the importance of this place as a House of Review and how important it is for us to make the right decisions at the end of the day, based on the very best advice that can be obtained. When a vote is tied, it creates an unusual set of circumstances where half the House supports the decision, and the other half does not. Rather than proceeding on the basis that you, Mr President, will use your casting vote on every occasion, if that is to be the case in the future - I do not know whether it will be - I think it would be appropriate for this Bill to be referred to where it came from; that is, to the successor of the government agencies committee.

Hon N.D. Griffiths: The President does not participate in the Committee stage.

Hon N.F. MOORE: I understand that.

Hon N.D. Griffiths: I am sure you do.

Hon N.F. MOORE: I am talking about the third reading stage. That is the important stage because if the vote is tied the President would be required to say no. That would be an unfortunate state of affairs, if half the House thinks the Bill should be passed. With this motion I am seeking to refer the Bill to the Public Administration Committee to have a quick look at it. I have set a reporting date of 20 November. It means that if the committee makes a decision one way or the other, we can deal with it before the House is expected to rise on 27 November. This is not being done for any purpose, other than to try to resolve a deadlock and to give some new members the opportunity to reflect a little more on this issue and for the new members of that standing committee to review some issues that were looked at when the Bill was before the House on a previous occasion.

**HON BOB THOMAS** (South West) [8.00 pm]: This Bill came about because the repeal of the Hairdressers Registration Board had been dealt with by a committee. The Bill before the House does not do what the committee recommended. Therefore, the Opposition will vote against it.

**HON NORM KELLY** (East Metropolitan) [8.01 pm]: I appreciate the response of the Leader of the House to allow new members more opportunity to reflect on this Bill. I have done more than merely reflect on this Bill over the past few months. I have studied it extensively - and I have lost a lot of hair over this issue! I find it amazing that all along the Government has hammered the point that a standing committee has already thoroughly investigated this issue and requested people to agree with the recommendations of that previous committee's report. That report did not stipulate one way or the other what should happen to the Hairdressers Registration Board. It is partially on that basis that I have formed my position. I refer to the report of the Standing Committee on Government Agencies on the Hairdressers Registration Repeal Bill 1994, because it has been said often in debate about this Bill that we should take note of the report's recommendations. The report states -

The committee has no hesitation in making a positive recommendation; the 1946 Act is no longer relevant to the operation of the hairdressing industry.

That is something the Democrats have agreed with all along. We believe that Act is not relevant and that it needs a total revamp. That is not what has been provided for in this Bill. This Bill provides an opportunity just to do away with the board without fully dealing with the problems that have arisen through this inquiry. The conclusion of the committee's report states -

Had the Board been more proactive, the current uncertainties may have been avoidable, particularly because the majority of the Board membership is drawn from the industry itself. Whatever its structure and composition, it is difficult to escape the conclusion that an industry - dominated successor to the HRB would fare no better.

It is considering a new make up of the board rather than doing away with the board completely. In my dealings with the Minister and departmental staff handling this matter it has been made clear that the Government is willing to go only to a certain extent in amending or dealing with this Bill.

The Leader of the House mentioned yesterday that the Minister for Employment and Training wanted to put forward amendments; however, those amendments were ruled out of order. I am aware of those proposed amendments and their intent. I have made it clear to the Minister's officers that even if those amendments were introduced, they would go only part of the way towards resolving some of the problems that exist with the board. It has been made clear to me that the Government has no intention of working towards a renewed board that can act effectively in this industry. The safeguards that were supposed to be implemented if the board were done away with included the establishment of a hairdressing industry training council.

The PRESIDENT: Order! I remind Hon Norm Kelly that we are dealing with a motion that a certain order of the day be discharged from the Notice Paper and referred to the Public Administration Committee. That is the matter the member is meant to be addressing now. He should not go back into whether there should be a Hairdressers Registration Board. If the member brings himself back to address that specific question, he will not get any more complaint from me.

Hon NORM KELLY: I am looking at whether anything is to be gained from the Bill being referred to a committee. Members have heard the history of the board and the Bill. The board has had 10 years in limbo, not knowing what its future is. I am fearful that sending the Bill off to a committee would prolong that state of affairs for another couple of months. The proposal to report back on 20 November would allow only one week for the Bill to be dealt with before the end of the spring sitting. It is for these reasons I question the Leader of the House about what can be gained by sending the Bill to a committee, considering the work the previous committee did.

Hon Bob Thomas: The Minister's amendments were rejected.

Hon NORM KELLY: That is right. Not only were the amendments rejected, from the dealings I have had with the Minister's people it has been made clear there is no intention to do the hard yards and work constructively on dealing with the hairdressing industry and maintaining a board that is relevant for the 1990s. For those reasons I find it difficult to understand what can be gained by this motion. I would be loath to support its being sent to a committee unless I could see true justification that that would be a useful and relevant act.

**HON GIZ WATSON** (North Metropolitan) [8.07 pm]: I, too, have been following closely this Bill over the past few months. Given that we have been in discussions with all parties involved in this matter, it would have been useful to know that this proposal to refer the Bill to a standing committee would come about so we had a chance to discuss that as an option, rather than having to deal with this matter in the past two minutes. If the House could reach a resolution or provide some concrete outcomes to resolve the remaining problems associated with this Bill, the Greens would support it. I need more convincing that we will get such a result from the standing committee. Depending on that, we will vote accordingly.

**HON HELEN HODGSON** (North Metropolitan) [8.09 pm]: I have not been handling the carriage of this Bill for the Democrats. I am now speaking from the perspective of a member of the Public Administration Committee. I have some reservations about the true value of referring this Bill to the committee. As I understand it, one of the issues the opposition parties have raised is whether to abolish or restructure the board. If that were properly within the terms of reference of the committee, there could be a useful outcome.

However, if the terms of reference are such that the committee cannot consider any restructuring option and can consider only the option of abolition of the board, I do not think anything useful would be gained from referring it back to the committee. The Bill has already been through the committee process once.

Question put and a division taken with the following result -

Ayes (16)

Hon E.J. Charlton  
Hon M.J. Criddle  
Hon B.K. Donaldson  
Hon Max Evans  
Hon Barry House  
Hon Murray Montgomery

Hon N.F. Moore  
Hon M.D. Nixon  
Hon Simon O'Brien  
Hon J.A. Scott  
Hon Christine Sharp

Hon Greg Smith  
Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon Giz Watson  
Hon Muriel Patterson (*Teller*)

Noes (11)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon N.D. Griffiths  
Hon John Halden

Hon Tom Helm  
Hon Helen Hodgson  
Hon Norm Kelly  
Hon Mark Nevill

Hon Ljiljanna Ravlich  
Hon Ken Travers  
Hon Bob Thomas (*Teller*)

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Pairs

Hon Ray Halligan  
Hon Peter Foss  
Hon B.M. Scott

Hon E.R.J. Dermer  
Hon Cheryl Davenport  
Hon Tom Stephens

Question thus passed.

**WESTERN AUSTRALIAN COASTAL SHIPPING COMMISSION AMENDMENT BILL**

*Second Reading*

Resumed from 16 September.

**HON TOM HELM** (Mining and Pastoral) [8.12 pm]: I was about to wind up my speech last night when time caught up with me. The tenor of my remarks last night was that the Bill was presented to this House in the old way, with hardly an explanation and only a couple of pieces of paper. The Bill was presented to the House as though the Government had the numbers and it did not matter what we thought or said. The Government reverted to the old routine of rule 16:17. It was, "Sit down Tom, no matter how long you flap your gums you will lose this." I hope the lesson eventually hits home with Ministers and their bureaucrats that the Opposition requires more detail in second reading speeches as to the intention of the Government. It is not unusual for the coalition Government to be tardy with its explanation, but the Opposition will continue to ask questions and to probe.

I read the speech that I made last night, and it was reported a lot better than it was presented; but that is always the case. I missed a golden opportunity to respond to an interjection by the Minister for Transport during the contribution made by Hon Ken Travers. The Minister stated that the Opposition should be working towards the cheapest possible method of delivering services to the people of the State to reduce the burden on the taxpayer. It was brought to my attention that if the Minister pursued the argument that shipping services would be provided by foreign flag vessels with foreign crews he would have us go back to the days of the British Empire when coolie labour was used to build, maintain and run its railways. We could have imported labour.

Hon Ken Travers: That occurred in Queensland.

Hon TOM HELM: Yes, blackbirding. I am saying this facetiously, of course, to a certain extent. If the Government uses the same argument that it is pursuing on foreign flag ships it would have us go down the track of employing foreign labour.

It is rare that members have the opportunity to think about what they have said and to better present their case. I was talking to some elders of the Bunaba people whose land will be drowned if a dam is built across the gorge in the Fitzroy Valley. They went to great pains to explain to me that development in the Kimberley was good for the future of their children as it will provide jobs so they can get off welfare. They discussed the issue in depth so I understood fully what they were saying to me. One old bloke asked whether it was true that the person who builds the dam and the canal down the Fitzroy Valley will own the water. I said that he was right and he fell about laughing. It was the funniest thing he had heard. It dawned on me that the concept of owning water is alien to them, although to my western way of thinking I saw no problem with it. Those people thought it was a preposterous statement. I thought it was a useful lesson, perhaps one that could be related to this legislation. It not only underlines the destruction of the Stateships enterprise but also does not offer comfort to people by indicating that financial assistance will continue after 1999 for shipping lines to ply the north west.

The Bill states that after 1999 the Government will absolve itself of any responsibility in that regard. We have always stated categorically that the Government has a mandate to govern. That has never been a secret. The Government has pursued its agenda and Stateships has disappeared. We could be criticised if we prevented the Government from fulfilling its role -

Hon Tom Stephens: Who owns the water?

Hon TOM HELM: No-one owns the water. I understand how Aborigines feel -

Hon Ken Travers: It is for all to use and drink.

Hon N.D. Griffiths: Hon Derrick Tomlinson is talking about riparian rights.

The PRESIDENT: Order!

Hon TOM HELM: It takes such a simple statement to bring home to us the exact effect of the provisions we are being asked to agree to. Had the Minister lived up to his promise made in the second reading speech and put it into practice in the legislation, I would have less to say. I urge the House to vote against the Bill because the contents of the second reading speech are not reflected in it.

**HON J.A. SCOTT** (South Metropolitan) [8.23 pm]: This Bill is an example of false pretences. It seeks to close down the operations of the Coastal Shipping Commission but in order to insure the past actions of the commission the Bill is pretending to allow the continuation of its functions. One could not call that a high ethical standard. At times we should look closely at ethical standards in this place, especially when we pretend to do something in order to achieve a financial gain. I am not against the continuation of insurance to protect any workers or persons who suffer from the actions of Stateships' past operations, but we should consider the way in which this is to be done.

Many other serious matters are addressed in this Bill. The Minister has indicated in discussions with me that he is prepared to consider an amendment to ensure that a shipping service to the north west of the State and to Darwin continues. The amendment will include a provision that the commission will have no duty to operate such a service. The Greens (WA) party wants such a service to continue, because it is vital for many interests in that part of the State. We are happy to consider an amendment on that basis, but at the same time we are very concerned about the effect of this legislation on local jobs.

The Minister has pointed out that the cabotage period is over, and that we will be able to achieve competitive prices for spot cargoes being delivered to the north on foreign vessels which might be plying the route between Fremantle and northern ports. In reality, there is no federal policy to abolish cabotage. It was mentioned in the Mansar report but it is not a fact of life, and we must take into account that it might not eventuate. We should not rely on that happening. We must ensure that some form of service is provided to the north west.

If we start using foreign vessels it will result in a loss of jobs, and I would never be pleased about that happening. If we cannot run services in an efficient way, with fair conditions for people who work in the industry, there must be something wrong with the management of the industry. We must consider that. As part of another route, cargo can be dropped off at a cheap price, but foreign vessels do not even run intermittently between Fremantle and Darwin. Therefore, I cannot work out how spot cargoes can be moved. Some sort of boom in trade in the region would need to occur before that could happen.

I am not in favour of the continual handing over of government enterprises to private business, or the notion that somehow private enterprise has a magical quality of always being better than a government run service. In some cases, that may be true, but the difference is the management. If the management is poor - and the Government tells us that it is a good manager - surely the Government can outdo private enterprise. In the past, government services were run very well; an example is the government linen service. For a long time the Government tried hard to sell that service, but it could not sell it because private enterprise could not match the unit price. Therefore, the

Government had to consider other ways to sell that service.

It might have been better to allow the service to compete with private business, which was less efficient, and make the service more profitable and more efficient than before.

Yesterday I read an article which pointed out the growth in the number of Australian businesses which are being taken over by overseas investors. In the past that has been balanced by Australian ownership of foreign businesses and operations. Currently, however, we are losing the farm and Governments are very much a part of the problem as a result of their privatisation programs. When a private business is sold to another private business, generally goodwill and other assets must be bought. The problem which arises in cases such as Stateships is that when it is shut down there is a loss of value. The public purse has been raided as a result of many businesses being sold overseas. Sure, Stateships costs money to run, but so do roads. The Minister for Transport will be aware of studies which show there are hidden subsidies of about \$140m a year for transport in this State. That is a sizable sum of money. The reality is we ignore those hidden subsidies and look at the obvious ones, as occurred with Stateships. Of course, the subsidy is continuing at the moment.

Government businesses should be able to operate as efficiently as private businesses, provided there is a level playing field. The problem arises when we want to provide a service which gives a benefit to some people; for example, those living in the north west. The Government must give assistance to keep down the price of transport for those people. All of us living in the metropolitan area should be prepared to pay for that because the subsidies that we get for living here are far greater overall than anybody gets in regional areas. We get the benefit of the wealth of resources that are taken out of those regional areas, through royalties, and little of that goes back to the regions. Handing a little back now and then is a small price to pay. We must be prepared to do that if we are serious about development in this State.

Hon M.J. Criddle: Give us the infrastructure.

Hon J.A. SCOTT: Exactly. I totally agree.

Another matter which concerns me is that it was indicated the Government was looking at decreasing over time the subsidy to the service. I hope that is not an economic rationalist position and that it will only come about through efficiencies. I hope it will not be a political decision to create a user pays situation for the people living in remote areas. I am often struck by the paradox that the areas of the north, which supply all our fuel and from which we get royalties, must pay so much more for that fuel than we do in Perth. That is despite the fact that we are a long way from the region where the fuel was discovered. The real subsidy is coming to the metropolitan area because we are not paying for the fuel to be transported here. The people in the north are paying for the fuel to be brought down here and then taken back.

Before I can support this Bill I want an indication from the Minister that every effort will be made to ensure jobs stay in this country and are not given to foreign shipowners. As I pointed out, there is no indication that any such ships are available at present. Secondly, I want the Minister to indicate that he is looking for increased services in the north west, particularly direct services between there and Asia. I hope he will not destroy the service by withdrawing the subsidy, basing his decision on economic rationalist principles, and that people in the north west will be able to continue to live there. If I can get those assurances, I will be happy to accept the amendment he has put forward to keep the service operating. Otherwise, I will be very concerned about allowing this Bill to go through in its present form.

**HON NORM KELLY** (East Metropolitan) [8.36 pm]: The Australian Democrats have some serious concerns about the Bill in its present form. On face value it has been presented as a way of ensuring that insurance liabilities are covered. When I was briefed on this Bill it was presented as a need to maintain the Shipping Commission to ensure that any future insurance claims could be covered. The Bill goes much further than that and the implications of its passing in its current format could be serious indeed for not only Western Australian shipping services but Australian shipping in total.

When we look at the operation of the Coastal Shipping Commission, we should examine the future of shipping in Western Australia and, more importantly, how this Government will support regional interests. Before the Australian Democrats could support this Bill we would want an assurance that it will provide an iron clad guarantee that a regular shipping service will continue to operate to the north west in particular. We also want an indication whether there is any scope for reintroducing an extended shipping service to Asia. It is a serious concern to us that if we start restricting services, further reductions will become a self-fulfilling prophecy; demand will drop because the service is being reduced. We must determine what level of government support will be provided through subsidies and other methods to enable an expansion in the export trade from Western Australia. If a regular shipping service is provided, not only is there some incentive for the provider of the service to maximise it and make it as profitable as possible,



but also it gives surety to people who want to use the service that it will be ongoing for years to come. They will be more willing to commit capital to their own ventures to develop export potential.

I have a copy of a letter sent from the Minister to the Leader of the Opposition in response to concerns expressed by Hon Tom Stephens about a service continuing to be provided. Those concerns are along the same lines as those I expressed to the Minister. In this letter an assurance is given that when the Act is amended the Minister for Transport could direct the Western Australian Coastal Shipping Commission to provide a shipping service and it would have to comply with that direction. That does not necessarily ensure a service will be maintained, and it seems to contradict the amendment in the Bill that will repeal section 18 of the Act. Section 18 gives the Governor powers to direct that a shipping service be operated to meet whatever requirements are deemed necessary. There appears to be a contradiction between the Minister's letter and the Bill before the House. I would appreciate clarification of that and the reason for repealing section 18.

Hon Ken Travers spoke last night about the amount of trade between Western Australia and Asian markets, particularly in refrigerated containers. According to Hon Ken Travers, there is an annual trade of 11 000 reefer boxes to Asia, with 10 000 returning to Western Australia. That in itself provides a substantial trade for a shipping service provided by the Government - either run by the Government itself, which is the ideal situation, or by the Government ensuring the service is provided by someone else. That would give a reliable and strong flow of trade that could sustain such a shipping service. If the Government made a commitment to support such a service and work on expanding the demand for such a service, benefits would flow to this State.

Under the current Act there are no guarantees for a shipping service to the north west region or specific ports. There are dangers in that. I have spoken to the Minister about amending the Bill before us to give an assurance that a shipping service will continue to be provided. I still cannot see any guarantee of the regularity of the service, or the extent to which the Government is willing to subsidise such a service. It is possible that the term "shipping service" is somewhat broad, and regularity is needed to improve such a service. The current 17 day turnaround period gives some regularity to the service but, if the Government reduced its subsidy to the service that could result in a less frequent service. It could also place restrictions on the ports to which the service would be provided. In essence, the Government would still be able to restrict the benefits provided to the north west region. The crux of the matter is the future of the north west and how the region can be supported in the best possible way. One way of increasing trade north of Perth is by building a new port at Oakajee. This will create more demand for a service in the north of the State. I am glad that some benefits could result from a port, the existence of which is highly questionable in terms of its location and the way in which it will be funded.

These are my major concerns about this Bill. The Australian Democrats would like to support it, but it will further investigate details in Committee with regard to the wordage and the guarantees implicit in that wordage. Apart from the concerns I have expressed, the Democrats support the Bill.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [8.45 pm]: The Labor Party is strongly opposed to the legislation before the House. Nonetheless, I thank the Minister for the courtesy he extended to the Opposition in providing a quality briefing from senior officers. They explained the reasons for the Bill, the original intention of the Government, and the reason that the Bill has been produced in its current form. Instead of wiping out the whole existence of the Western Australian Coastal Shipping Commission, the Minister has introduced an amending Bill that will preserve the commission but remove from the Government the obligation to run a shipping service.

Regrettably, there is little to commend the passage of this Bill through this place. I appreciate that my colleagues, Hon Ken Travers and Hon Tom Helm, have placed on the record the reasons that the Labor Opposition opposes this Bill. I will not cover the same territory despite the fact that I am technically the lead speaker for the Opposition, although I am speaking at the end of the debate.

Hon Derrick Tomlinson: Some people lead from behind.

Hon TOM STEPHENS: I find it a regularly interesting exercise in which to engage.

Hon Mark Nevill: Has Hon Derrick Tomlinson found his followers yet?

Hon Derrick Tomlinson: I always bring up the rear.

Hon TOM STEPHENS: I appreciate that members in this House have tonight had the opportunity to speak to representatives of the Maritime Union of Australia about this Bill. I understand the other non-government parties have also had this opportunity. The comments by the union on how this Bill will affect the people associated with the union, in their efforts to provide a service to the people of this State, and the union's insights into this legislation are valued. Those comments were provided by Wally Pritchard and Dean Summers.

I also appreciate that this Bill has been subjected to the scrutiny of many people in my electorate, and even closer scrutiny by at least one of my constituents whose visit to this place coincides with the processing of this Bill through the House. This Bill will have an enormous impact on the community I represent as a member of Parliament, and of which community my constituent is a member. She knows, as I know, how strong passions have raged within that community over the initiatives of this Government that have removed quality services that used to exist for the people of the Kimberley and the north west. This service has not been self-serving. It has existed not just to provide jobs for people in the Maritime Union, although there have been plenty of jobs for those people in the past and the number of jobs will be reduced by virtue of the changes in this industry. It is important that those jobs continue to exist.

It is also important to this State that the people of the north west are provided with a shipping service. The coastal shipping service to the north west has changed dramatically since this Government has arrived on the Treasury benches and since this Minister has taken control of the Transport portfolio. The Coastal Shipping Commission has had a great impact upon the lives of the people of the north west. It has reduced their cost of living, and it has guaranteed the generation of employment by allowing industries in the north west to continue to access the produce of the south of the State upon which they are so dependent and to gain market opportunities in the Northern Territory and South East Asia.

Changing government policy and philosophy is often like correcting the movements of a big ship. However, in pulling on the tiller to change direction, Governments sometimes move too far from a balanced operation of the activities of government. This Government is hellbent on pursuing the ideology of reducing its involvement in the delivery of services and privatising many of the activities of government. It has clearly done that with regard to the operation of the Coastal Shipping Commission. It appears to the Labor Opposition that the balance has been completely distorted and that it is time to redress the balance and for the Government to become involved in providing core services for the community such as transport and communications. The Labor Opposition believes that there is a role for the Government to maintain and protect the livelihoods of people in this State, to provide economic opportunities for the people of this State, and to guarantee the expansion of industry so that jobs will continue to be generated throughout the length and breadth of this State.

I recently asked the Minister for Transport a question in this House about what consideration the Government, and the Minister in particular, were giving to the proposal, which appears to be alive, if not well, for the development of a rail link between Darwin and Adelaide and what impact that would have upon the economy of Western Australia. Many Western Australian producers who have relied upon markets in the Northern Territory and South East Asia may be faced with a competing rail link which will disrupt their market opportunities. They are the people whom this Government regularly claims to support and protect. The diminution of the Government's responsibility to provide a coastal shipping service proves the inaccuracy of that claim. The Labor Opposition is committed to industry not just for industry's sake but because that will be of benefit to the working men and women of Western Australia. If industry is not encouraged to grow across a range of areas, many people in Western Australia will suffer.

The great quantities of produce that are shipped into the Kimberley from the limited manufacturing base in Western Australia include mattresses, which one can hardly imagine could be otherwise carted economically up and down the country; beer; materials and prefabricated goods for the building industry; and a range of goods that are used by primary producers. I remember that a chicken farmer in Kununurra, councillor Keith Wright, was one of the most vocal critics of the current Minister when he disrupted the operation of the coastal shipping service to the Kimberley, because Mr Wright was concerned that he would lose a reliable supply of chicken food for his small industry. Many other people are dependent upon the Coastal Shipping Commission to supply goods to the Kimberley and the north west at a rate that is more economic than is carting goods by road.

Some parts of my electorate, such as the Murchison region, are already overwhelmed by the volume of road transport that is tearing along, regrettably, on roads that are still not double width. The 42 kilometre Karalundi section of road north of Meekatharra is still a single lane of bitumen where great numbers of trucks and trailers hurtle past and compete with tourists during the wildflower season in a most dangerous way for the tourists, the truck drivers and the residents of the region. Those roads can ill afford the pressures to which they are currently subjected. The Government claims that it is strapped for cash in delivering an improvement of those roads -

A member interjected.

Hon TOM STEPHENS: This Government has not given Great Northern Highway the same priority that we attached to it when we were in government. That road was due for completion in 1994, but regrettably this Minister has been channelling funding into the Northbridge tunnel, the wheatbelt roads and other roads -

*Withdrawal of Remark*

Hon E.J. CHARLTON: Mr President, I ask the Leader of the Opposition to withdraw the statement that I have

channelled money from Great Northern Highway into the Northbridge tunnel, because one is a national highway funded by the Federal Government and the other is a state highway. His statement is totally wrong.

The PRESIDENT: There is no point of order. It may be that the Leader of the Opposition is not correct in the Minister's view, but there is no point of order,

*Debate Resumed*

Hon TOM STEPHENS: Regrettably this Minister for Transport has directed his efforts away from that road. The Minister well knows that that road could have continued to attract commonwealth funding had he not reassigned the priority that had been given to that road.

Hon E.J. Charlton: Where is it?

Hon TOM STEPHENS: Maybe the Minister would like to spell out -

Hon E.J. Charlton: You're telling the story.

Hon TOM STEPHENS: For instance, I would start with the Eyre Highway reallocation which came with the arrival of the Minister in the Transport portfolio. This saw efforts moved away from the Great Northern Highway and the Murchison. As far as I am concerned, the priority was set with the Minister's arrival and reduced support for the Murchison and the Great Northern Highway. The end result is that with the combined attack on the transport infrastructure to the people of north west - that is, to the state shipping service and the road which serves the people of the north west - the Minister has put the community in a double jeopardy. My view is shared by many people in my electorate. I hope eventually that the Minister will be taught a lesson by the people of the north west indicating how grimly they regard his attitude to their great transport needs, both with the coastal shipping service and the provision of adequate road infrastructure.

Hon E.J. Charlton: I must talk to different people from you.

Hon TOM STEPHENS: I understand that some people from the north west have spoken as vocally as possible to the Minister, but regrettably it would seem that their vocal protestations fell on deaf ears or a dull heart.

Hon E.J. Charlton: You spend too much time in Peppy Grove rather than in your electorate.

Hon TOM STEPHENS: I do not have the opportunity to spend time in Peppermint Grove - unless the Minister has something on offer!

The PRESIDENT: Order! The Leader of the Opposition will address the Bill through the Chair.

Hon TOM STEPHENS: This Bill should not be before the House until this Government comes clean about the cost it inflicted on the people of Western Australia through the changed arrangements with the state shipping service.

Over the four years since this Minister has been in office, details have gradually leaked out about the arrangement the Minister put in place with Mr Buckeridge and the then Westpac buy out.

The Opposition does not believe that the total cost of the rearrangement of the Coastal Shipping Commission has ever been adequately explained to the people of Western Australia. They have not been totalled up to demonstrate the full cost of the decisions with which the Minister has been involved. Regrettably, we have seen the Minister's willingness to involve himself in a costly buy out process. He was ideologically driven with the Westpac arrangement, and he involved himself in arrangements with Mr Buckeridge which involved a cheque for \$1m, I believe, finally change hands. We do not know whether that was the end to the matter for Mr Buckeridge; who knows what other core business of government will pass across to Mr Buckeridge in settling these arrangements.

The people of the north west and the people of this State were best served by the arrangement in place prior to the arrival of this Government on the Treasury benches; namely, a State operated shipping service. Regrettably, that has been dismantled with this Bill. We suggest that the Act still retain an obligation on the Government to not only maintain a coastal shipping commission but also maintain and operate a shipping service. It is for all of those reasons that the Labor Party would prefer the Government to withdraw the legislation before the House, and urges other non-government members to support the Labor Party in opposing the legislation.

**HON E.J. CHARLTON** (Agricultural - Minister for Transport) [9.05 pm]: I thank members for their comments. I am disappointed that members could not concentrate their remarks on the Bill, but obviously that was too much to expect. The Labor Party in its comments was driven by its belief and position relating to the union movement, rather than talking about the shipping operation. In fact, this Bill proposes amendments to ensure that coverage is given to people's health issues into the future. It is not about running and operating a shipping service, a decision which has been made by the Government. With respect, apart from the comments of Hon Norm Kelly and Hon Jim Scott,

the issues have mostly been irrelevant.

Hon Ken Travers: The Bill removes your obligation to provide a shipping service.

Hon E.J. CHARLTON: Comments have been made on other issues. Hon Ken Travers suggested that no discussion took place with local people on the shipping service into the north west community. In fact, 1 200 businesses were consulted before and during the decision making process. Those people said they wanted a shipping service retained.

Hon Tom Stephens: Exactly.

Hon E.J. CHARLTON: They have a shipping service as it is retained.

Hon Ken Travers: Under this amendment, you have removed the obligation to provide a shipping service.

Hon E.J. CHARLTON: The shipping service being provided has nothing to do with the Bill. The Government has already made that decision. It has nothing to do with the legislation. The member is referring to the fact that the Bill will remove from the principal Act the requirement for it to operate and provide a shipping service. We have put an alternative shipping service in place which is servicing the people of the north west. The people who operate that shipping service are looking forward to the day when, if they receive more support and greater demand, they will provide a larger vessel. We totally support that concept. We would like 10 ships operating to the north west.

The previous problem - I do not intend to go far into the historic factors - was that two ships providing a service to the north west were partly loaded on the way up and about 10 per cent loaded on the way back. Nobody should be expected to provide that sort of a shipping service when obviously the demand did not exist for the service.

A range of commodities were deregulated, not by me, and not by this Government, but by members opposite when in government. People were not required to send their product by sea, so people in the north west decided they wanted a service which provided some continuity. We made enormous changes. They wanted a same day service so that it always reached port on the same day so that they could budget or they said they would put it on road with a daily service in and out. We cannot provide a daily shipping service until we can further develop the north west.

A person said to me last week, "Look, we would love to employ more people and increase our operations, but we are frustrated. We try to run our business as a family business, and we could employ additional people, but by the time we have filled out all the documentation with workers' compensation, paid for this or that and put in other returns, I, as the owner of this business, am taken out of the workplace altogether; I become an office administrator." That is a pointless exercise. We should be bending our mind to make it simpler to employ people by putting some options and exemptions in place so people will provide additional employment opportunities. They should not be burdened with the current disincentives.

Hon Tom Helm gave us a bit of a history lesson, but the one valid point he raised was what happens after 1999. I know what will happen before 1999; expressions of interest and tenders will be called again for the continuation of the service to the north west. We will see which shipping operators are out there providing a service and at what cost to the Western Australian taxpayers. We want to ensure that we do two things: Provide a shipping service to people in the north west and not pay any more than we have to to ensure that it happens. It is a simple equation. There is no hidden agenda or philosophy; it is to provide a service.

Hon Tom Helm: Why was it not referred to in the Bill?

Hon E.J. CHARLTON: We have already passed the Bill to end the operations of Stateships. In doing that, as I said in the second reading speech, it was pointed out to us that we needed to have the shell of an organisation left in place to provide some coverage. That is what this Bill is all about and why we have in the Bill an amendment to the current Act to provide for the operation of a shipping service. That is because the Government does not intend to operate a shipping service through Stateships. All that administrative dealing will be done through the Department of Transport. The commissioners who remain in place will be from the Department of Transport. The Government has the same commitment it has always had. We will ensure that the Department of Transport monitors the needs of people in the north west. We have an advisory group to do this.

Hon Tom Helm interjected.

Hon E.J. CHARLTON: It is a very good working relationship. We have no criticism of that. Marketing has been increased by the operator to its benefit and ours because every extra tonne on the ship is money in the operator's pocket.

Hon Norm Kelly sought to raise these issues in discussions with me directly. I am very happy to amend the Bill when we get to the Committee stage. Proposed section 13 currently reads -

The Commission has no legal duty to operate, or provide for the operation of, any shipping service.

I will take out the words "or provide for the operation of", and then it will read, "The Commission has no legal duty to operate any shipping service." That will give comfort to those who require to be assured that the Government will provide a shipping service into the north west. If they want that comfort, they can have it in that way.

Some of the other aspects raised by the Opposition did not relate to the Bill. I will not respond to the Leader of the Opposition's point about road funding. That has nothing to do with it. This is about the whole operation and the commitment of the Government to the people in the north west. We have reopened the port of Derby and put in place a plan to increase the export of live cattle out of Wyndham. We have seen the absolute inequity of Wyndham port over the years.

When we first came into government we found that damage had been incurred and maintenance had been put off for years. We have put local people in charge of managing the operation. We have done the same in Broome. We have got a group of people to see how we can bring back the export of cattle through Wyndham not only out of the Kimberley but also from as far as the Northern Territory and Queensland.

I am disappointed with the unfounded, total misinformation that has been put forward by some members opposite for nothing more than political reasons. It does not do them any justice and will not give them any credibility. Irresponsible and outlandish statements will also not win them any votes. We are spending \$10m on upgrading the sugar roads in Kununurra so that producers can more easily get their product to the port of Wyndham. We have sealed the airstrip of Halls Creek and of Fitzroy Crossing, something that people there had been waiting for for years and years. Those people had been denied even what might be termed basic human rights with those services. This Government did that with no seats, apart from the upper House members, at the top end. There were no politics involved. We did it because the people deserved to have it done.

I thank members for their comments. This Bill will put in place an organisation under the Act which will ensure that Stateships' previous employees will have their insurance coverage maintained so that they will have total security from the health point of view. We intend to keep the operation of shipping services under the guidance of the Department of Transport.

I will move an amendment in Committee to give some comfort to people who want to ensure there will always be a shipping service. I give that undertaking. We look forward to expanding the shipping operations in the north west. There is one essential thing for that to happen: We must have flexibility and continuity of operations so that people who want to do business with the waterfront can do it. If they face impediments, they will turn to road transport and not come back. I commend the Bill to the House.

Question put and a division taken with the following result -

#### Ayes (18)

Hon E.J. Charlton	Hon Murray Montgomery	Hon Greg Smith
Hon M.J. Criddle	Hon N.F. Moore	Hon W.N. Stretch
Hon B.K. Donaldson	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Max Evans	Hon Simon O'Brien	Hon Giz Watson
Hon Helen Hodgson	Hon J.A. Scott	Hon Muriel Patterson
Hon Barry House	Hon Christine Sharp	<i>(Teller)</i>
Hon Norm Kelly		

#### Noes (9)

Hon Kim Chance	Hon Tom Helm	Hon Tom Stephens
Hon J.A. Cowdell	Hon Mark Nevill	Hon Ken Travers
Hon N.D. Griffiths	Hon Ljiljanna Ravlich	Hon Bob Thomas <i>(Teller)</i>

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#### Pairs

Hon Ray Halligan	Hon E.R.J. Dermer
Hon Peter Foss	Hon Cheryl Davenport
Hon B.M. Scott	Hon John Halden

Question thus passed.

Bill read a second time.

[Continued below.]

**SITTINGS OF THE HOUSE - BEYOND 10.00 PM**

*Wednesday, 17 September*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [9.22 pm] - without notice: I move -

That the House continue to sit beyond 10.00 pm.

I hope we will be able to deal with Orders of the Day Nos 6 and 9 this evening. Then, because there are not many other items of the business on the Notice Paper, the House will not sit tomorrow. Assuming we can deal with those items this evening, that is my intention. I am asking the House to sit beyond 10.00 pm, if necessary, to deal with those Bills.

Question put and passed.

**WESTERN AUSTRALIAN COASTAL SHIPPING COMMISSION AMENDMENT BILL**

*Committee*

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

**Clauses 1 to 3 put and passed.**

**Clause 4: Section 5 amended -**

Hon TOM HELM: Can the Minister assure me that my suspicions are unfounded and that these additional clauses will not be used to avoid the scrutiny of this place? Perhaps he can advise us how he intends these additional clauses to be used.

Hon E.J. CHARLTON: This clause deals with the establishment and constitution of the commission to give the Minister power to direct the commission. This is included because of the winding down of the commission. Crown Law has advised that this is a common step in winding down a commission's entities. One needs this power when no action is being taken. In reality, it has almost all been done; most of the assets have been sold. However, there must be some power resting with someone to ensure that directions can be given.

Hon TOM HELM: I understand that and I have no problem with subclause (5). However, subclause (6) states -

The text of any direction received by the commission under subsection (1) shall be included in the annual report submitted by the accountable authority . . .

If we suspect that a future Minister has asked the commission to take some sort of action, does this allow that Minister to say that, because the commission is at arm's length, he is not obliged to provide the information because it can be established by reading the Financial Administration and Audit Act or the annual report?

Hon E.J. CHARLTON: It does not mean that. The Minister is obviously still responsible for anything relating to the commission, because it will remain in place. It might have one employee under its charter or that responsibility might be taken up by the Department of Transport. That is happening now because there is not enough work to justify its continued existence in its own right. It has been downsized over the past few months as those responsibilities have been taken over. In addition, the operation of the service to the north has been carried out by the Department of Transport and not by the commission. That is part of a total transport strategy and responsibility for all facets of transport. Obviously the Minister responsible is still required to answer any questions in line with this legislation as with other legislation.

Hon NORM KELLY: The Minister said that this clause has been included to facilitate the winding down of the Western Australian Coastal Shipping Commission. Is the Government also intending to wind down the Small Business Development Corporation, because there is an identical clause in its amendment Bill? If that is correct, the SBDC should be very worried. The wording of this clause suggests that the directions are not necessarily made public until the publishing of the annual report. The Minister can make a direction on 1 July but is not required to make it public until the following year - perhaps in September or October the following year. So, if it is not in Minister's interests, the direction is not made public for 16 months after the direction has been made and acted upon. The implications of that could be horrendous if we do not have a responsible Minister in charge. It is of serious concern that accountability is to be thrown out the window because of that possible time lag.

Hon MARK NEVILL: If the wording of clause 4 is a problem because it requires the Minister to give directions in writing and have them published in the annual report a solution would be to move an amendment providing that directions be tabled in the House within 14 days. That would overcome the problem of waiting up to 16 months.

Other legislation contains that clause.

Hon E.J. CHARLTON: It is a valid point and accurately put by Hon Norman Kelly. I acknowledge the proposition put by Hon Mark Nevill. I understand it applies across government and it is no different from any other of my portfolios. If I give a direction to MetroBus, Main Roads, Westrail, etc, it must be recorded.

Hon Mark Nevill: They occur very rarely. One was given to Western Power in four years.

Hon E.J. CHARLTON: There has not been any within my responsibilities. Accountability is required by the Auditor General and the Financial Administration and Audit Act and is consistent with other responsibilities. I do not think we will add words to this clause. There are probably 1 000 reasons for having a different procedure in Westrail, MetroBus, Main Roads or the ports. Now that the Western Australian Coastal Shipping Commission is not operating a day-to-day service, the Minister's role could involve no more than procedural issues such as dealing with assets or claims. A couple of claims have been made in the court. I see no reason to have any other restriction placed on the Minister. The clause was included by Crown Law and parliamentary counsel as a procedure which is consistent with other activities throughout government.

Hon NORM KELLY: The Minister can call me suspicious, but I am concerned about the Minister's earlier comments relating to the winding up of the commission and the apparent anomalies in between legislation for various authorities. I am suspicious about the real intent of the clause, given it is in legislation relating to other authorities or corporations which we hope will last for quite some time.

Hon E.J. Charlton: I have no advice on which I can base a response to the member.

Hon NORM KELLY: It was only when the Minister referred to winding up that I wondered whether there was an anomaly with the SBDC amendment Bill.

Hon E.J. CHARLTON: According to Crown Law advice it is a common step in the winding down of a government entity. That comment obviously alerted Hon Norman Kelly to that concern. As I said, the Coastal Shipping Commission is not an operating entity, therefore procedural matters must be undertaken. That is why parliamentary counsel and Crown Law included the provision.

Hon NORM KELLY: I realise that the Minister might need time to deal with this matter, but my notes on the Small Business Development Corporation Amendment Bill relate to an almost identical clause. It refers to a request from state Treasury. I am not sure therefore whether the influence has come from the same avenue concerning this Bill. However, once again it seems to apply not only to operations being reduced but also to operations that are ongoing.

Hon E.J. CHARLTON: This comment is speculative, but that authority is provided when financial factors are involved. In this case the sale of ships took place and containers, etc were left, some of which remain.

Hon TOM HELM: I understand the Minister's dilemma and find comfort in his words. As we were advised by Hon Mark Nevill, these direction provisions are rarely used. Is the Minister prepared to assure the Chamber that if he needs to give a direction it will be followed by, for example, a ministerial statement in Parliament.

Hon E.J. CHARLTON: Yes. I would be very happy to do that. If any directions were given by me I would want to report them to the Parliament.

Hon MARK NEVILL: I referred to tabling directions, but they would not be subject to disallowance. However, I bring to the attention of members the thirty-sixth report of the Standing Committee on Government Agencies, which includes the draft State Agencies Bill. Part 6 covers ministerial directives. It is worth considering because under the Energy Coordination Act, Western Power is a statutory authority and has a responsibility to its Act before it takes note of what the Minister or the Government of the day wants. That was a point at issue concerning Wittenoom. Western Power may want to build a 300 MW power station at Collie, but the Minister could quite correctly direct it to build a 1 000 MW power station. The problem is that by a ministerial directive he could lock a statutory corporation into massive debts and do something that is absolutely anathema to the corporation's interests. There is nothing compromising about Ministers' tabling directives within, say, 14 sitting days after they are made. There is usually very good reason for them. The Minister might as well face the music then as later if he is trying to finesse someone politically. Clause 30 reads -

(3) The agency shall consider a directive within 14 days of its receipt and if it forms the opinion that the directive is outside the power or otherwise unlawful, it shall notify the Minister of that opinion and the reasons supporting it and, unless the agency is required by the minister's written notice that the directive is to be given effect, the directive lapses.

(4) Adherence to the minister's notice given under subsection (3) does not cure any illegality or defect

inherent in the directive or acts done by the agency in giving effect to the directive, but no action lies against the agency for anything done in conforming with the directive.

(5) A directive, an agency's notification to the minister under subsection (3), and the minister's notice insisting on adherence to the directive, shall be laid before each House of Parliament within 7 days of the making of each instrument.

I do not agree with a lot of the folklore of the 1980s, but perhaps that provision might have been appreciated by the Government Employees Superannuation Board or the State Government Insurance Commission. It is something we should seriously consider because perhaps not every ministerial directive is in the State's interest. The involvement of those two statutory corporations in the rescue of Rothwells Ltd actually postdated the departure of Premier Brian Burke, yet he is the one who wears the odium for that. There is some merit in having the directives tabled and it is good that the Minister has given that assurance. Members should seriously look at the work of the committees of this place and include their recommendations in Bills. Perhaps this is not as important as some others, but these authorities should be given some capacity to object to these directions.

Hon J.A. SCOTT: I refer to line 20 on page 2 and ask the Minister who will be the accountable authority of the commission?

Hon E.J. CHARLTON: It will be the Department of Transport.

**Clause put and passed.**

**Clause 5: Section 13 amended -**

Hon E.J. CHARLTON: I indicated in the second reading debate in response to members' concerns about continuing a service to the north west that I would be happy to amend this clause. I move -

Page 2, lines 28 and 29 - To delete the words ", or provide for the operation of,".

Hon KEN TRAVERS: I support the amendment. Would the Minister explain why this clause is necessary? It will remove the legal duty to operate a shipping service. It is my understanding that the Western Australian Coastal Shipping Commission currently does not operate a shipping service. Is it operating illegally by not operating a service?

Hon E.J. CHARLTON: A shipping service is being operated by the private sector and a financial assistance package is in place to enable that to occur. It is a matter of some debate whether the commission is seen to be operating a service. We want to clarify that situation and this amendment will ensure that a shipping service is being provided and will continue to be provided.

Hon Ken Travers: Is there a question mark over whether the commission is operating illegally by not operating a service?

Hon E.J. CHARLTON: It would come into question if there was not a shipping service. The question would then revolve around the point that the legislation states it should be operating a shipping service. Currently that is not the problem. A vessel continued to be in the Government's charter and was sub-chartered to another organisation and that company chartered in its own right. The answer is no and we are simply clarifying the situation.

Hon NORM KELLY: I appreciate the Minister's intent and his explanation. My concern is with the legal enforcement of that intent and whether this is the best way to ensure that intent is met. If the amendment is passed, proposed section 13 would read, "in such manner and to such extent as the commission thinks fit but the commission has no legal duty to operate any shipping service". It is clarifying the duty, but by omission the Minister is saying that the Government must provide for a shipping service. It might be better stated in an amendment which reads that the Government has a duty to provide for a shipping service. If we are saying there is a duty to provide for a shipping service, to what extent can that be enforced? Does that mean a service must be operating?

Hon E.J. CHARLTON: When four ships were operating under the existing Act a decision was made for two ships to do the South East Asia run and two to do the north west run. The scheduling was varied from time to time and there was never an operating requirement. Stateships could have sent four ships to South East Asia and not had any ships on the north west run. It could have operated on a three to one basis. There was total flexibility under the current Act. We are simply making sure that the commission ensures that a shipping service is provided. The standard of shipping service gets back to what I said earlier with regard to the community. No company will operate a shipping service in poor economic circumstances; for example, if there were a downturn in the Ord River operation - it will be quite the contrary, we hope. We expect it to go the other way with stage 2 of that project coming up. With other changes in shipping around the world we might see ships going around the coast of Western Australia. At one



stage we looked forward to a shipping company providing an additional service, operating out of Darwin and travelling down the west coast. That did not come to pass. Obviously the issues regarding Cocos and Christmas Islands could be incorporated in this process. We have checked this provision with the parliamentary counsel to ensure that this wording is correct. If the wording is not correct, when the Bill is reprinted and goes to the other place, other wording might be included.

Hon Norm Kelly: That wording is correct then?

Hon E.J. CHARLTON: Exactly. That is the way business is done in this place. We must ensure we have the right words to reflect the meaning of what is being done in this amendment.

Hon J.A. SCOTT: In making this amendment, we must look at section 13(a) of the principal Act which talks about maintaining and operating shipping services carried out by the State Shipping Service before the coming into operation of that Act. It seems to be a little contradictory.

Hon E.J. CHARLTON: I can only respond as I have already; that is, the parliamentary counsel provided the wording for this amending Bill. The use of the wording covering the provision and operation of the service obviously does not change the meaning of the clause. As I said earlier, if any contradictory factor is involved, it will require an appropriate consequential amendment. However, the parliamentary counsel has not drawn that to our attention at this stage.

Hon TOM STEPHENS: The Opposition would prefer that there were no words before the Chamber to amend the coastal shipping legislation. However, now that that option is not before us because of the decision of the Chamber, we support the proposed deletion of these words from the Bill. At least it provides some prospect of leaving a legal obligation on the commission to continue to provide for the operation of the service. I think the Minister has assured the Chamber, at least once or twice already, that the deletion of these words will effectively leave with the commission with an obligation. If the Minister is confirming that, we will take some comfort from it.

Hon E.J. CHARLTON: As the Leader of the Opposition said, I have said that about three times. We are confirming what is already happening. We are providing the people of the north west with a shipping service. The Government intends to do that. We look forward to that service being provided by a totally viable operation without the need for any financial assistance. That is the ultimate aim. In the meantime we have a contract in place until March 1999. We are continually negotiating with those people about the service that is being provided; how it can be improved; how we can encourage other freight onto that service -

Hon Tom Stephens: Would you allow for the service to be reduced to a lower level?

Hon E.J. CHARLTON: That question came up in the second reading debate. Obviously, if a minimum service is not provided, we will have no service at all. We would like to see a bigger, faster ship on the run so that the turnaround time can be reduced and a better service can be provided. That is an option, but it must be viable to encourage an operator to take it on. That is why we can scarcely wait to see stage 2 of the Ord River project beginning or other mining developments starting up in the Kimberley. That is why we are encouraged by the development of another mine by Western Metals NL which is shortly to come on stream in the Pilbara. I have no doubt that day will come. It is not a matter of if, but when. The answer to the first part of the question is that it is about ensuring that a service is provided in the future. The current contract is for about \$4.9m, reducing to \$4.6m and finally to \$4.3m. We look forward to that amount being reduced.

Hon NORM KELLY: Following on from the question of the Leader of the Opposition, does the Minister regard the current service to be a minimum service?

Hon E.J. CHARLTON: The service cannot be any less. If it is not at the current level, there is no service. If the ships went to Cairns and it took twice as long and instead of taking 17 days it took 30 days, it would not be used. That is not an option. The short answer is yes.

Hon KEN TRAVERS: I refer to section 13(a) of the principal Act, referred to earlier by Hon Jim Scott, and the requirement to maintain and operate the shipping services carried on by the State Shipping Service before the legislation comes into the operation. It is my interpretation that that is an indication that the commission is required to operate a shipping service under Australian flags. I wonder whether this amendment will have any effect on the requirement to provide the service under Australian flags, or whether it will allow the Government to provide a service by ships carrying flags of convenience.

Hon E.J. CHARLTON: That is not an issue in this amendment; it has nothing to do with it. That is a decision by a Federal Government. Those policies about Australian shipping operations will be determined in that forum.

Hon KEN TRAVERS: Surely under the current arrangements for the shipping commission being required to operate

a service, it would operate under an Australian flag service. If that were removed and the Federal Government was to change its position on the need for Australian crewed ships between Australian ports, would this amendment allow the State Government to use flags of convenience? Other members also raised this issue during the second reading debate: If there was a change in Federal Government policy, would the State Government change its policy as well?

Hon E.J. CHARLTON: With respect, I do not think that has anything to do with the policy of the State Government. If some other Government is in office, it might want to do things differently; it might want to operate ships in the future. That would be a decision for that Government. The policy of this Government is that we want to provide the best service we can to the people of the north west, at the least cost to the taxpayers of Western Australia. That is what we are doing. If there is any change in the way shipping operates around Australia, and there is an opportunity for this Government to provide the people of the north west with a better service at a cheaper cost, we want to see that happen.

Hon Ken Travers: Not if that means losing Australian jobs.

Hon J.A. SCOTT: I add my concern about using flags of convenience-type vessels because many of those are rundown tubs that threaten the existence of fishing industries on the coast and the environment of the coastal areas and some ocean areas and reefs as well. I understand that is not likely to be the case, at least for some time, because no such ships ply those routes. However, I would like an indication from the Government that it would use Australian crews on those vessels.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 6 and 7 put and passed.**

**Clause 8: Sections 18 and 19 repealed -**

Hon TOM STEPHENS: Prior to the debate coming on I sought an assurance from the Minister through his officer on the opportunity for a Government to direct the continuation of Stateships. In a facsimile to me, dated 8 September, the Minister stated -

I refer to the matter you raised during a briefing on the Stateships Bill, as to whether or not the amendments to the Western Australian Coastal Shipping Commission Act preclude a Government of the day operating a shipping service.

Advice from Parliamentary Counsel indicates that when the Act is amended the Minister for Transport could direct the Stateships' Commission to provide a shipping service and it would have to comply with that direction.

If section 18 is deleted, what section of the Act will the Minister rely on to have the power to direct the commission to provide a specific, or any, shipping service?

Hon E.J. CHARLTON: I think it will still come under section 13, which concerns the functions of the commission. I cannot be sure about that; I will double-check it. The Minister will still have the power to direct that one or the other occurs, but it must be reported in an annual report.

Hon TOM STEPHENS: If it is in that section - the Minister is not sure it is - why bother to delete this section?

Hon E.J. CHARLTON: The Bill will take away the requirement that the shipping service be operated, for the reasons I mentioned before, and put in place a provision by which any Minister - I do not think it will be me - can direct somebody to operate a state shipping service if that is required.

Hon NORM KELLY: I also have a problem with this clause. I cannot see how section 18 would diminish the ability of this legislation to operate if that section were to remain in the Act. As I mentioned in the second reading debate, there seems to be conflict between this section and the assurances the Minister gave in his letter to Hon Tom Stephens. Section 18 gives the Governor a discretionary power, which obviously would be on the advice of the Minister or the Government. I appreciate the Government's desire to lessen the workload of the Governor in preparation for a republic; however, I cannot see how keeping the section in the Act would make it more difficult for the legislation to operate.

Hon E.J. CHARLTON: This amending Bill seeks to do two things. It is principally to ensure that past employees are covered by insurance and to delete from the Act all the things related to operating the shipping service. The Government was advised in the legal representations it sought, mainly in London, that this requirement must be put in place to deliver the continuation of that insurance and to not have in place any conflicting situation for the

operation of a shipping service. Although I am sorry I cannot give a more specific answer to that question, I am keen not to jeopardise the intent of this Bill. This Bill is about ensuring continuity of cover for those people.

The Government was of the opinion that the previous Bill could provide all that coverage and all those safety factors to past employees by simply transferring that responsibility to the Department of Transport and the Government would still pay the premium. The Government received legal advice on that and it was pointed out there was some question mark about it. To be 100 per cent sure we were told to do it this way. That is why we have responded in this way with the legislation. I am not keen to delve into that matter. I believe the amendment that was included earlier will not cause a problem in what we are doing. Obviously we wanted to take out all the other aspects so there was no come back to say the service must be operated. At the same time, we could have taken a lot more out of the Act and left a shell; however, we were advised not to do that because it could jeopardise the insurance cover. This clause is about the operation of the service. If the Government does not take out these provisions, it may as well leave the Act the way it is.

Hon NORM KELLY: I appreciate the Minister's comment. Although all these clauses relate to the issue of ongoing insurance cover, I am concerned that by amending clause 5 we have altered the intent of the Bill, and also shifted the emphasis on whether section 18 needs to be deleted from the Act. As we have worked through the Bill we have shifted a critical aspect of the Bill that is instrumental to whether the Bill is passed. We are now dealing with something that is consequential to that shift. I would be concerned if we allowed this section to be repealed without the Minister's guarantee that we need to repeal it. The powers within section 18 of the Act are discretionary, so that does not force the Government to act except upon a direction from the Governor.

The Act provides that the Governor may direct the commission to establish, maintain and operate, or to continue to maintain and operate, a shipping service for the purpose of meeting those requirements. I am not sure whether that needs to be amended to ensure that such a service is provided. I would be loath to agree to this clause without a guarantee that it follows the true intent of our previous amendment.

Hon E.J. CHARLTON: We obtained legal advice on how this Act should be amended and what should be retained to implement the Government's decision not to maintain a state shipping service. I could have provided Hon Norm Kelly with that commitment in a number of ways that would not have been as watertight as this approach. This Act will retain the provision that the commission will ensure that a service will be provided. We could have amended the Transport Co-ordination Act, which I hope will be in this place in this session. That Act covers bus operations, the taxi industry and a range of other transport issues.

I decided not to handle this issue in that way, because I believed it would satisfy the Opposition and would not be a matter of having to trust me. Parliamentary counsel did not believe the previous amendment would have any detrimental effect on the Bill. The amendment also gave members who were concerned about the future of shipping services to the north the comfort of that guarantee. I would not want to play around with the Bill any more. However, if members have any concerns about consequential problems, I undertake to check them out and if any further amendments are required I will ensure that they are included in the other place.

Hon NORM KELLY: Striking out this clause would not affect the Act. I want to understand how it will affect the workability of the Act if it remains.

Hon KEN TRAVERS: I would have thought that the Minister's advice would be about the minimum to be left within the shell, not what had to be taken out. I assume that if the matter is currently in the Act and employees are currently covered by insurance, our leaving these sections in would not affect in any way the rights of people to claim on insurance. On that basis I concur with Hon Norm Kelly that at this stage these sections should be left in the Act.

Hon E.J. CHARLTON: This will ensure that the Government is no longer required to operate a shipping service. If members cannot live with that it was pointless my agreeing to the previous amendment. The bottom line is that we want to delete all matters pertaining to a requirement for the Government to operate a shipping service. That provision is still guaranteed and if I were the Opposition I would be happy with that situation.

Hon J.A. SCOTT: I can see both sides of the argument. Leaving that amendment in might create some conflict in meaning. The other suggestion is to replace "establish, maintain and operate, or to continue to maintain and operate, a shipping service" with "to provide a shipping service". That would take away the Minister's worries.

Hon NORM KELLY: My main concern with the general thrust of the Bill is that there will be a reduction in services. I appreciate that the Governor acts on ministerial direction, so in that sense I can understand that either with or without that it will not make a big difference.

However, my concerns relate to the change we have made in this Bill tonight and how it will impact on other aspects of the Bill and the Act. I am happy with the Minister's assurance that he will further look into the issue. I trust that

he will have the Government act accordingly in the other place if necessary.

Clause put and a division taken with the following result -

Ayes (14)

Hon E.J. Charlton  
Hon B.K. Donaldson  
Hon Max Evans  
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 Greg Smith  
Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon Muriel Patterson  
(*Teller*)

Noes (11)

Hon Kim Chance  
Hon John Halden  
Hon Tom Helm

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

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

Pairs

Hon Ray Halligan  
Hon Peter Foss  
Hon B.M. Scott

Hon E.R.J. Dermer  
Hon Cheryl Davenport  
Hon N.D. Griffiths

**Clause thus passed.**

**Clause 9: Section 30 repealed and a section substituted -**

Hon NORM KELLY: On face value, this clause gives strong powers to the Treasurer. I can understand that, with the commission being wound up, but the commission can be reactivated and become a larger concern. I hope that in future it will be. I am concerned about the powers being vested in the Treasurer.

Hon E.J. CHARLTON: As the commission will be a non-operating entity, we must have a mechanism to ensure that any funds are paid to Treasury, as appropriate. Therefore, the repeal of section 30, which deals with the operations of a trading company, will provide an opportunity for the funds to be transferred to Treasury rather than remaining in an operating account of Stateships.

Hon NORM KELLY: Does that mean that if the State were to resume the operation of the shipping service a further amendment would be required to remove those powers?

Hon E.J. CHARLTON: Treasury has never received large amounts of money from Stateships. It only paid out money at the rate of \$17m a year for that purpose.

If the Government decided to resume operating a state shipping service it would not be necessary to amend this legislation. That could be done through an allocation by the Department of Transport, as it does now to the bus operators, or there could be other assistance through the Transport Co-ordination Act. We will have other options.

Hon Norm Kelly: Could it make a profit?

Hon E.J. CHARLTON: The member is being highly optimistic and visionary! If that happened, we would have a number of options.

Hon J.A. SCOTT: My concern relates to whether a Government may at budget time allocate significant funds to subsidise the operations of a shipping service, but after an election decide it would not subsidise in that way, and return the funds to Treasury. Would that be possible under this clause?

Hon E.J. CHARLTON: That is another hypothetical question. As I said in answer to the previous question, in government we have an opportunity to set up certain operations, as we did with the Airfreight Export Council and the Seafreight Council. They were allocated funds from the Department of Transport to assist in the expansion of trade and business. Therefore, we have ample opportunities to do certain things, but ultimately it must be recorded and we must account for every dollar.

**Clause put and passed.**

**Title put and passed.**

*Report*

Bill reported, with an amendment, and the report adopted.

*Third Reading*

Leave granted to proceed forthwith to the third reading.

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

**WESTERN AUSTRALIAN LAND AUTHORITY AMENDMENT BILL***Second Reading*

Resumed from 10 September.

**HON MARK NEVILL** (Mining and Pastoral) [10.30 pm]: The Opposition supports this Bill. It contains only three clauses and essentially it extends the date in the sunset clause by one year to 1998. Section 52 of the Act was inserted by those perspicacious members from the wheatbelt, the National Party members, in 1992, and in so doing they caused the problems we are trying to overcome. The first speaker to the Bill unfortunately has retired. I refer to Hon John Caldwell, who has left his mark in the amendment to the Act. He was the recipient of the SPIEL award, The Society for the Protection of Injury to the English Language many years ago for his mixed metaphor "green behind the ears", which was a mixture of wet behind the ears and green about the gills!

The sunset clause in this Bill says the Act shall, subject to this section, continue in operation until 31 December 1997 and no longer. At the end of this year the Western Australian Land Authority Act would disappear and so would LandCorp, the trading corporation. Unfortunately, section 48 of the same Act contains the review provisions. Section 48(1) says the Minister shall carry out a review of the operation and effectiveness of the Act as soon as is practicable after the expiration of five years from its commencement, and in any event not later than one year after that expiration. That section of the Act was proclaimed on my birthday, 1 July 1992, and therefore it expired five years later on 1 July 1997. That means the Minister can only carry out that review as soon as practicable after the expiration. He could not legally start the review until 1 July. It means that between 1 July and 31 December he must set up the review; it must complete its work and decide on amendments to the Act; and they must be drafted by parliamentary counsel and passed through both Houses of Parliament within six months. That is very difficult given the other pressures on the legislative program.

The National Party certainly did not do the legislation any favours by moving to insert that sunset clause. What did that clause really achieve? It has achieved nothing. We have had to bring in an amending Bill to disable it for another year. During the debate I referred to, Hon John Caldwell said that the sunset clause would make the Western Australian Land Authority more accountable. I do not see that it does because there is a review clause anyway. He said -

There will probably be a review of the legislation just prior to its coming before the Parliament, and Parliament can then decide whether the authority should continue or be altered in some way. It is a commonsense clause which should be adopted.

That is typical National Party commonsense!

Hon E.J. Charlton: I will phone Hon John Caldwell at six o'clock in the morning and let him know.

Hon MARK NEVILL: Hon Barry House was magnanimous in his support for the sunset clause. He said -

We support the new clause because there is a need for a sunset clause and also it reflects the concerns of the Real Estate Institute of Western Australia, that the review date is not specific enough.

It is pretty specific. It starts on 1 July and it must be done within a year. It is good to see that Hon Barry House was prosecuting the interests of the Real Estate Institute of WA in 1992.

Hon Peter Foss could not keep out of the act. He said -

Hon John Caldwell has shown the eminent good sense he always shows.

I agree! He went on -

We seem to have the best of both worlds in this case.

They certainly did. When they were mixed together, it was a mess. Hon Peter Foss went on to say -

In the past we have had one of two provisions: Either a review clause or a sunset clause.

This time there were both and they do not work together. That is enough said about the National Party's legislative effort, which had the support of its coalition partner in Opposition.

The sunset clause has achieved nothing. Other than a brief interest in sunset clauses in 1983, I have been firmly against them since about 1984. They are very blunt instruments and they are not really effective. They are good in theory but they do not work in practice. When an agency approaches its sunset, people start looking for jobs and abandon ship, and there is instability and insecurity. It also affects strategic behaviour. People are doing things to ensure the survival of the agency rather than doing what should be done under its charter. Sunset clauses distort the whole workings of an agency which people are supposed to be sharpening up.

LandCorp is one government agency of which we can be very proud. I hope it has not lost any good staff over the past year. I do not think it would have because there is really no option for the Government but to continue either with LandCorp or a similar body. I hope we do not get a new body with a new name to do the same job.

The review is being done by Mr Gerry Gauntlett. He seems to be a person with the appropriate commercial experience. I hope he has sufficient understanding of the role of government in this area and that it is appropriate for the Government to have that role. Obviously the Government will continue to develop industrial land. Who in the private sector would develop the Mungari industrial estate at Kalgoorlie? There are many areas where the Government should be involved. Some people in private industry say the Government should not be involved in the development of residential land. I disagree. This year I believe about 60 per cent of the residential land developed by LandCorp will be in conjunction with private developers. It ensures that land is not withheld from the market in certain areas to force up the price, and it provides good, strong competition. LandCorp's annual report for last year shows that it made a profit of \$80m over the past four years with dividends and earnings. It is good revenue for the Government to meet its various budgetary requirements.

The Opposition could have moved an amendment to delete clause 52, which would have got rid of the sunset clause. However, there is no point in doing that because it would have meant the Bill going back to the Assembly for its agreement and then being returned to this place. I ask the Minister to give an assurance - I hope the people at LandCorp will read that assurance - that whatever happens with this review a large part, if not all, of LandCorp will continue in some form or another, simply because the Government has joint ventures with private companies and it must develop surplus crown land. It has involvement in the Joondalup area. When the Western Australian Land Authority was formed in 1992, it incorporated the Joondalup Development Corporation, the Industrial Lands Development Authority and some of the Western Australian Development Corporation's holdings.

Hon Max Evans: They took land from BankWest when it was sold.

Hon MARK NEVILL: Yes. The other point I make is that when the McCarrey commission made its report it destabilised LandCorp to some extent because it stopped purchasing land at the rate at which it was selling it, in anticipation of some changes. That led to a fairly critical shortage in the 1995-96 financial year and, as the Minister said, it bought the land holdings of BankWest and became involved with the Golden Bay development and a number of other joint ventures.

These commissions and sunset clauses can affect the orderly business of these authorities. Despite those distractions, we can be very proud of the work LandCorp has done. The review by Mr Gerry Gauntlett I presume will recommend whether or not the Western Australian Land Authority should cease to exist. I doubt very much whether it will happen, so that makes the sunset clause even more redundant. LandCorp has a very wide scope in this State. It is involved in many developments, for instance, Kemerton, the Exmouth boat harbour, the Bunbury tanks area, the Albany foreshore, Joondalup, Clarkson, a joint venture at Port Kennedy, Minim Cove at Mosman Park which has had heavy metal contamination problems, St John's Wood Estate in Mt Claremont, the Rocky Bay development and many others. I have in my notes that I took at a briefing the acronym "BANNANA", underneath which is "builds absolutely nothing near anything near anyone". I do not know what it means but it relates to notes taken during a briefing, presumably by LandCorp, some years ago! It is an interesting acronym.

The other point I make is that LandCorp does not have a competitive advantage any longer. Since the Hilmer reforms of July 1996 LandCorp has had no competitive advantage. It is no longer tax exempt, and it pays taxes to the Government as any private company would. It does not have the advantages for which it was criticised some years ago.

The only disappointing thing about LandCorp that must be said relates to its newsletter *Landline* of Autumn 1997. It is disappointing because all the articles seem to be about major activity in the Government's marginal seats. That may be a coincidence. It features the Alkimos land at Joondalup.

Hon Max Evans: When you have as many seats as we have in government, it is hard not to cover our territory.

Hon MARK NEVILL: It may have been fortuitous. Reference is made to the development in Victoria Street in Bunbury, the Geraldton Batavia Coast marina redevelopment, and the Mandurah marina. I recognise that it may be a coincidence but on the front page is a nice picture of Minister Shave, and on the back page is a picture of Lands Minister Doug Shave presenting a \$1m cheque to Stuart Morgan of the South West Development Commission. Next to him is Mr Ian Osborne, the MLA for Bunbury. Under that photograph is another one of Lands Minister Shave with Joondalup MLA Chris Baker photographed outside the Lakeside building at Joondalup. I cannot find pictures of any Labor members of Parliament but all these government members in marginal seats are featured in *Landline*. I hope there will be some balance.

Hon Barry House: There are no Labor members in Bunbury.

Hon MARK NEVILL: There are many more Labor members in marginal seats than there are Liberal members. I hope some Labor members in marginal seats will be featured in future editions of *Landline* or that no local members of Parliament will be featured, particularly those from marginal seats. That is not appropriate use of this publication.

Hon Barry House: Bunbury is a safe seat.

Hon MARK NEVILL: Is it? I do not think there is any such thing as a safe seat these days. The swings are becoming deeper and more fickle as time goes by. I hope that is an aberration for *Landline*, and that it will not occur in future. In future there should be at least a sprinkling of opposition members. I freely volunteer my services to the Minister if he cannot find anyone to take him up on the offer.

It appears all these LandCorp activities are taking place north of the river, particularly in Joondalup. The newsletter indicates there are plans for a \$15.5m, six screen cinema complex in Joondalup; about 400 new jobs will be created at the Joondalup health centre; the Joondalup health campus' new accident and emergency service is scheduled to be completed this year; and the first stage of the Wanneroo civic and cultural precinct is running to schedule with the library, civic facilities and council chambers planned to open about now. The newsletter also indicates that the Neil Hawkins Park is to receive a \$400 000 facelift aimed at attracting more tourists and building better facilities for local residents, and a \$4.5m aquatic centre is planned for the Joondalup area.

The PRESIDENT: Order! While I am sure that is relevant and important to LandCorp, we are discussing whether a figure should be deleted and another inserted.

Hon MARK NEVILL: I appreciate that I am straying from the Bill, Mr President, but I have only one paragraph more. I wanted to contrast those developments north of the river with what areas the south of the river will get - a tollway to Mandurah.

**HON NORM KELLY** (East Metropolitan) [10.50 pm]: The Australian Democrats support the Western Australian Land Authority Amendment Bill. It is unfortunate that we need to amend this Bill to extend the sunset clause by one year. I appreciate that the Gauntlett report will be available shortly - I believe in the next few weeks, and at the latest before the end of the spring session - and we look forward to the release of that report.

The Australian Democrats believe that sunset clauses should be used in a number of instances and on a case by case basis. It is important to provide a review mechanism when authorities such as LandCorp are established because it allows the Parliament to scrutinise the operations of government in certain areas. However, it is necessary to be careful about the time frame that is imposed with regard to reporting dates and the like.

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [10.52 pm]: I appreciate the support of the opposition parties for this legislation. As Hon Mark Nevill said, some of these sunset clauses do need to be looked at so that we do not put them in for the sake of putting them in but consider the nature of the business that is involved.

LandCorp commenced business in 1993 when it purchased about \$209m worth of land. It did not have much more than that in 1996. It picked up \$50m of land from BankWest and entered into joint venture operations. The Government of the day has to decide whether to continue with LandCorp rather than cut off its operations at a certain date, because no-one can get rid of all the land overnight.

Mr Gerry Gauntlett was the managing partner of Justin Seward for many years after Justin Seward retired. He is very knowledgeable about the real estate industry and has a balanced idea of what Government expects to do.

The Industrial Lands Development Authority was set up in the 1960s when the Government decided that the State would need a supply of industrial land in the years to come. ILDA bought broad acres of land around Bunbury and all the major towns so that it could provide cheap land to help industries to become established. ILDA was then brought into a joint venture with LandCorp. There was some criticism about its engaging in residential real estate, some of which was justified and some of which was not.

I thank the opposition parties for their support and commend the Bill to the House.

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

# **BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT 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) [10.57 pm]: I move -

That the Bill be now read a second time.

A Bill to amend the Building and Construction Industry Training Fund and Levy Collection Act was passed in this House in the 1996 spring session of Parliament. That Bill was introduced and second read in the other place but did not proceed through the Assembly before Parliament was prorogued. Apart from minor drafting changes and the addition of one clause, none of which alters the meaning or effect of the relevant provision, the Bill is the same as that presented last year. The additional clause enables regulations to be made on consequential arrangements that may arise on repeal of the Act, which need to be implemented. It is a standard clause included where an Act is to be repealed.

This Bill seeks to amend the Building and Construction Industry Fund and Levy Collection Act to overcome shortcomings that have hindered the effective operation of the Act and to give effect to recommendations resulting from a statutory review of the legislation conducted by Mr Len Hitchen in 1994. That particular review, provided for under section 32 of the Act, included in its terms of reference, a requirement to review and advise the Minister for Employment and Training on the Building and Construction Industry Training Fund and Levy Collection Act, in particular -

the effectiveness of the building and Construction Industry Training Board established under the Act;

the attainment of the objects of the Act, including -

- (1) the efficient and effective collection, control and administration of the levy;
- (2) the efficient and effective formulation and implementation of the operational plans;
- (3) the extent to which the fund has improved the quality of training and increased the number of skilled persons in the building and construction industry;
- (4) the need for the Act to continue in operation; and
- (5) any changes that might be necessary concerning the future role, structure and operation of the board and the levy fund to improve the effectiveness of the intent of the Act should the reviewer recommend the continuance of the Act.

The report of the review was tabled in the Parliament on 11 August 1994. It presented two options for action but concluded that the BCITF Act had not been an effective mechanism to promote training in the building and construction industry and that, on balance, there was no need for the levy to continue. The review recommended that the levy be abolished and residual funds be used for the benefit of training in the building and construction industry. However, the review also advanced a series of recommendations designed to remedy many of the operational difficulties identified, in the event that it was deemed preferable to continue the operation of the fund.

In making his recommendations, Mr Hitchen noted that contextual issues, such as confusion and overlap between the roles of the BCITF and the then Building and Construction Industry Employment and Training Council, had hampered the effectiveness of the fund and made the process of review difficult. In addition, the Commonwealth Government acted at around this time to suspend the Australian training guarantee levy, which heightened opposition to the levy. After due consideration, which included consultation with employer and employee representatives, it was agreed that the fund would be extended for a further three years to allow the recommended reforms to be effected.

The Bill seeks to -

reduce the size of the board and enhance decision making processes through the introduction of simple majority decision making;



provide for the appointment of an independent chair and members appointed by the Minister following consultation with industry;

complete the separation of the BCITF from the Building and Construction Industry Training Council, through abolition of common membership and a new funding relationship based on a clear resource and performance contract;

amend the objects of the Act, with particular emphasis on removing the requirement for sectoral distribution of funds;

clarify the ambit of levy coverage;

institute an appeals mechanism to ensure there are no continuing anomalies in the application of the levy, with provision for a right of appeal to the Minister;

provide for an administrative and staffing structure which is independent of the Building and Construction Industry Training Council secretariat; increase accountability and institute the use of tenders in the allocation of funds;

allow organisations which establish their own training arrangements to apply to the Minister for exemption; and

incorporate a sunset clause after three years of operation.

When this Bill was debated in the other place, a new clause 14 was inserted. This provided for section 32 of the principal Act to be amended to require a review of the Act 12 months before the proposed date of expiration. The report arising from this review will be required to be tabled in this Parliament not less than four months before the expiry date referred to.

In addition, the Bill was further amended by extending the period of operation prior to the application of the sunset clause from 1999 to the year 2000. These amendments give the new board two years of operation before being subject to review and, with the other changes incorporated in the Bill, will provide an opportunity for the efficiency and effectiveness of the fund to be demonstrated. Should the review determine that the objects of the Act are being met, and that the organisation is operating efficiently and effectively, there is a capacity under the provision of the Bill for the operation of the Act to be extended through a proclamation by the Governor.

The amendment Bill makes provision for application for reduction or exemption from the levy. It is proposed under this arrangement that gazetted conditions and criteria for levy reduction or exemption, relating to training to be met by project owners, would be the basis of the application to the board. Such conditions and criteria would be developed in consultation with the board and approved by the Minister. The Minister also gave a commitment in the other place to have parliamentary counsel confirm that the wording of clause 11 was sufficiently broad to enable exemptions for charitable purposes in situations such as the construction of the Telethon home.

In conclusion, the Government is aware of the significant issues surrounding the operation of the building and construction industry training fund. Duplication of membership and functions of the Building and Construction Industry Training Council and the BCITF Board have generated major concerns about the potential for conflict of interest when the beneficiaries of the fund are also determining the disposition of the moneys. Given these difficulties, the Government has chosen to introduce amendments to allow the fund to fulfil its original object of being an industry driven initiative designed to comprehensively address the training needs of the building and construction industry. The Bill seeks to remedy problems identified in the statutory review, while encouraging the building and construction industry to progressively assume responsibility for its own training. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

#### **ADJOURNMENT OF THE HOUSE - SPECIAL**

On motion without notice by Hon N.F. Moore (Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 14 October 1997.

#### **ADJOURNMENT OF THE HOUSE - ORDINARY**

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [11.02 pm]: I move -

That the House do now adjourn

*Adjournment Debate - Ord and Dunham Rivers*

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [11.03 pm]: I will take a few moments to refer to issues affecting the river systems of Western Australia, a subject about which I have been raising concerns in a number of ways in recent times. I have previously referred to concerns about the situation facing the Ord and Dunham Rivers resulting from the discovery in the two river systems of a large number of dead fish. This led me to ask questions of the Minister for Fisheries about what was taking place in this river system and what efforts the State Government was making to ensure that this problem was appropriately tackled. I have on notice a number of questions, only one of which has been answered so far in a stalling action on behalf of the Minister. He said the matter was being investigated and my more detailed questions have yet to be answered.

Suggestions were made that the hundreds of dead fish found in the river system, if we are to go on recent reports, were killed by the pesticide Endosulfan. I asked for confirmation of the accuracy of those reports. However, I read in tomorrow's *The West Australian* the suggestion that the test results confirmed that the pesticide Endosulfan was found in the Ord River. This article reads -

The test results have debunked the theory that the Endosulfan levels found in the dead fish in the nearby Dunham River last month were caused by recent desilting operations by the Water Corporation releasing the chemical from sediment.

I am pleased to hear that! The article continues -

It was more likely they were caused by a broader problem relating to runoff from the irrigation area itself, according to the Water and Rivers Commission.

This second part of the article does not leave me and the people of that north east Kimberley with much comfort. Therefore, this run-off is part of a larger problem, not only the recent desilting operation carried out by the Water Corporation. The article continues -

Fish deaths were first noticed in July in the Dunham River which flows into the Ord near Kununurra.

Fresh samples taken from 19 sites around the Ord and Dunham rivers and irrigation drains after dead fish were found 30 kilometres downstream from the dam last week showed no detectable trace of Endosulfan.

But the Health Department has kept in place warnings not to eat fish downstream of the Ord River diversion dam until further advice.

Again, that is cold comfort.

Hon Greg Smith: Some ate one last week.

Hon TOM STEPHENS: That is right. Many people use that river system for recreational and subsistence fishing. To find themselves faced with this new reality of damage to the river system of that area is an alarming development. Downstream from the Ord River diversion dam happens to be the township of Wyndham, the residents of which rely on the lower reaches of the Ord River, which runs to the back of the town, to catch a decent size, quality fish. This health warning and larger problem is alarming news indeed.

It is a real concern that the State Government, through the Minister for Primary Industry or Fisheries, whatever hat he wears, has not yet shaken the government system, whether it be the Water and Rivers Commission or any combination of agencies such as the Department of Conservation and Land Management and the Environmental Protection Authority, to come to terms with the size of the problem. The north east Kimberley river system faces this problem as a result of apparent agricultural activity of the Ord River irrigation area.

I hope it has nothing to do with a change of practice on the Ord following effectively the privatisation of some of the activities of the Water Corporation regarding the management of the area. I hope that the Government will quickly determine exactly what has produced these large numbers of fish deaths.

That article is alarming enough in itself but it sits above another article in reference to the "Guilderton protest 'doomed'". This relates to the expectation of many people regarding the Moore River area. This is one, perhaps the last, of the great rivers of the southern part of this State. It is a beautiful river which regrettably is subject to extraordinary agriculture pressure. We saw an article in *The West Australian* detailing some of the problems the river system faces.

Hon Bob Thomas: What about the Warren?

Hon TOM STEPHENS: Perhaps I have not been that far south!

It is an extraordinary travesty to see the Moore River system degenerate to the point it has. It is a beautiful river system by any standard and deserves to be maintained. However, it is subject to extraordinary pressures, and added to that pressure is the mad cap determination to allow a substantial residential development to take place on the southern bank of the Moore River, south of the Moore River estuary, and south of the township of Guilderton. Far better areas than this land are available for urban development; in fact, land is available which is already cleared and requires no further destruction of the natural beauty of the area associated with the Moore River estuary, and its surrounding area. This is a stunningly attractive area. No evidence can be found of adequate research into the impact of the urban development plan upon on the Moore River estuary.

The exact biodiversity value of this area is unclear due to the lack of flora and fauna studies, and where plant species of environmental significance are reserved it is often in areas which are too small to ensure their preservation should further development occur. The BIS Shrapnel Pty Ltd report in 1992 recommended a buffer zone of 1.2 kilometres between any development and the estuary. Regrettably, current proposals for the foreshore reserve appear to be much smaller than this requirement. The consequent clearing of the river fringing vegetation inevitably will impact adversely on the health and beauty of that river system.

That river system is greatly appreciated by many in the Western Australian community, not least of which are my family and I, and our circle of friends. It has conservation and recreation values that deserve to be protected because of its significance. It does not deserve to have increased urban development on that southern bank. A much better option for that proposed development area would be the regional park proposal. This would be in keeping with the current values of the area. The desert area is a unique feature. It deserves preservation and to build on it would remove one of the great visual attractions of the area. Evidence exists of a culturally significant Aboriginal site that deserves protection. There are plenty of other and better areas suitable for further development. The excessive access that would come as a result of the development to what is a fragile environmental area will place the whole area at considerable risk. It should be remembered that the Hames Sharley report of 1989 found this land area was unsuitable for urban development. It should not proceed. I hope that the Shire of Gingin takes a different approach from that which it seems to have adopted. In the newspaper - even before the close of submissions - somebody from the Shire of Gingin announced that no matter what is said they will not take any notice. That is a tragedy.

*Adjournment Debate - Letter to Editor on Princess Diana*

**HON TOM HELM** (Mining and Pastoral) [11.12 pm]: I have been instructed by my wife to thank the staff and members for their support of her letter to the editor that appeared in *The West Australian* on Monday entitled "Diana was no saint". Those people who read that letter would understand that she was not attacking the royal family or Princess Diana. She was commenting on the hypocrisy of the British Press who had attacked Diana, Princess of Wales. She said that we should take a balanced view. It is tragic that a young woman of 36 should die and leave two young children; however, tragedies like that occur every day. She wanted people to take a balanced view of the tragedy rather than make it into the circus it was then and still is.

We received six telephone calls at home, three of which were abusive. In particular one person with a strong Cockney accent asked me if I was Debbie's husband.

Hon E.J. Charlton: Could you understand him?

Hon TOM HELM: Yes, I could. He instructed me to tell my wife that she was a whingeing Aussie wimp and then he put the telephone down. I did not have the chance to tell him that my wife was born in Cardiff, Wales, and could be described as somewhat of a royalist rather than a republican like me.

I again thank members and staff of the House for their support for my wife's letter to the editor - now she will not hit me when I get home.

*Adjournment Debate - Workers' Embassy*

Hon TOM HELM: The other item I want to bring to the attention of the House and to make some comment on is the workers' embassy over the road. On Friday the 90 days' notice to abandon the embassy expires. I understand some discussion has occurred between the Premier, Minister Shave and Tony Cooke of the Trades and Labor Council to resolve the issue of the embassy, which is now called solidarity park. It is good to see that both the TLC and the State Government have come to some amicable arrangement. There will not be any bulldozers appearing on the doorstep of Parliament House and there will be no need for us, thank God, to man a picket line. I would be glad to join a picket line. I hope there will be no need.

This issue of solidarity park will be resolved amicably. There is a recognition by all sides of the monuments that have been erected, particularly the monument to young Mark Allen, who was a Builders Labourers, Printers and Plasterers Union organiser who died tragically one year ago doing his job on a building site. His mother works for the

Amalgamated Metal Workers Union in Hay Street, and is a personal friend of mine. Those sort of monuments are a reminder to us all that safety in the workplace is the responsibility of us all. It is a tragedy of immense proportions when a fellow worker dies.

We should recognise the end of that phase of the TLC campaign, and that those among us with level heads can come to an amicable arrangement. We recognise that workers who have died at work - no matter where the fault is sheeted home - should live in our memories not only as people but as lessons we need to learn about occupational health and safety in the workplace.

*Adjournment Debate - Minim Cove Clean-up*

**HON GIZ WATSON** (North Metropolitan) [11.16 pm]: I wish to speak on an issue of concern in my electorate; that is, the McCabe Street contaminated site at Minim Cove, Mosman.

The Environmental Protection Authority has finally recommended off site disposal for the additional contaminated material that has been discovered at the McCabe Street site. This is in accordance with the findings of the technical review committee that the most acceptable environmental and social solution is the disposal of contaminated material at a secure site well removed from urban development.

Unfortunately, the shifting of additional contaminated material does not clear the neighbourhood of the toxic waste and there remains a cell of about 240 000 cubic metres of waste which is of even higher toxicity than that which is to be removed. The EPA has stated that it will continue to monitor these cells for leakage into the Swan River. If leakage does occur it will cost the Department of Land Administration, and therefore the taxpayer, an estimated \$150m to empty and take the waste to Mt Walton near Kalgoorlie, which is the only place currently licensed to deal with such a level of toxic waste.

The contaminated cell was originally designed to take 170 000 cubic metres of waste. The quantity of waste proved to be 300 000 cubic metres. There was a gross underestimation of the waste contained on that site. The first excess material found was referred to as the "first extra findings" which equated to a total of 240 000 cubic metres. Work began without any approval to enlarge the pit to add a further 20 metres extension before it was brought to the EPA's attention.

The Webster committee was established to look at the 20 per cent extension, and its brief was to assess whether the already dug expansion was acceptable in size - that is, whether the waste would fit in. This committee, which sat in January-February 1996, did not have the option to examine the technical or environmental acceptability of the existing pit. This containment cell is effectively a class 4/5 hazardous waste dump located next to a primary school and 5 metres above an aquifer which drains into the Swan River. Further, massive amounts of waste which had been buried and then covered in limestone were then found. This second extra amount of material, or additional contaminated material, was classed at 3/4. This waste, a further 60 000 cubic metres, or 80 000 tonnes, could not fit into the pit. To get some idea of the scale about which we are talking, the ocean going liner the *Queen Mary* is 80 000 tonnes.

The developers, LandCorp and Octennial, started without EPA approval to stockpile this waste in several areas over the site, including on top of the pit. The EPA has so far failed to prosecute over this alleged breach and 12 months later it is still considering whether to take action against LandCorp for this breach. The waste piled on the pit has meant that the pit cannot be capped, as planned. By the time the stockpile is removed, two winter rains will have entered the cell - approximately two metres of water. This is truly a horror story, as scientists on the committee had warned that it was imperative that the pit be capped and the contents kept dry to avoid cyanide and heavy metals leaching into the Swan River. There are estimated to be between five and 10 tonnes of cyanide, and the EPA has evidence that it can leach freely through limestone.

Meanwhile, the plot thickened as local residents, concerned about visible contamination on the foreshore, pressured the Swan River Trust to conduct an examination of the foreshore in front of the site. The trust found contamination and reported this to the EPA in February 1996. This was posing a serious threat to health and safety, and immediate action was taken, bypassing normal procedures, under an emergency section of the Environmental Protection Act. This foreshore waste is currently being stored on the foreshore, lined with plastic above and below. It is intended that this waste be removed to the new Red Hill waste facility as soon as possible. It is interesting to note that the EPA's temporary stockpile is superior in design to the permanent LandCorp storage cell.

The EPA needed to assess the management of the second extra findings - additional contaminated material - which it has done in its recently released July 1997 report and recommendations. In this report the EPA has now advised the Minister to reject plans by the government developer, LandCorp, to bury further waste on the Mosman Park site. This is excellent news but raises further questions about the credibility of its earlier decisions to bury the previously more contaminated waste. The EPA is left with a paradox: In advising off site burial for the second excess findings

of lower grade toxic waste - level 3/4 - how can it justify the existing higher grade 4/5 waste being left in the cell?

Another major problem is that Halpern Glick and Maunsell has provided two environmental reports which have given estimates of the amount of waste on the Octennial site. These estimates proved to be wildly inaccurate, with an extra 130 000 cubic metres of waste being found incidentally. This partly reflects the level of investigation but also the degree of difficulty in assessing this site.

The 1993 EPA guidelines stated that testing to provide site clearance should be to the depth of 2.5 cm. This should offer very little comfort to prospective property buyers. Given that residents may wish to excavate up to 3 metres for cellars or swimming pools and given the difficulties of guaranteeing that this site will ever be contaminant free, it would seem foolhardy indeed to allow residential development to proceed. It has now been discovered that only metres below the surface is a strata of pyrites which will provide a lateral conduit to any contaminated material escaping from the containment cell. Although the Water and Rivers Commission has said that it does not think toxic materials can escape through crushed limestone, it bases these conclusions on water percolating down rather than sideways. Tests to date indicate that cyanide can permeate through limestone.

LandCorp/Halpern Glick and Maunsell have agreed to do two test drillings seeking leachate activity. One is to be on the McCabe Street side of the containment cell and the other on the Buckland Hill Primary School side. These would prove little at this time and it is appalling that Halpern Glick and Maunsell should be undertaking this work - a company that has made so many mistakes already, has failed to live up to its audit requirements and might find itself liable further down the track. It is imperative, if the community, LandCorp and the Minister for the Environment are to be assured of the facts, that a totally independent body, such as one of the universities, be charged with undertaking all evaluations from here.

In closing, I welcome the EPA's recommendation to move the additional material off site. However, the Minister for the Environment and the EPA should recognise that its decision to approve the class 4/5 contaminated waste dump at Minim Cove was and is totally environmentally unacceptable and one that should be immediately reversed.

Question put and passed.

*House adjourned at 11.24 pm*

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**QUESTIONS ON NOTICE**

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

**GOVERNMENT INSTRUMENTALITIES - PUBLIC RELATIONS***Expenditure*

578. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

- (1) What is the department's projected expenditure on public relations/community awareness in the 1997/98 Budget?
- (2) How does this compare to the current financial year's allocations?
- (3) How many FTEs within the Minister for Education's department are involved in communications, public relations/community awareness or media relations?
- (4) Are any of those persons journalists, and if so, how many?
- (5) What is the department's projected expenditure on advertising in the 1997/98 Budget?
- (6) How does this compare to the current financial year's allocations?
- (7) Are there any new campaigns to be undertaken by the department in the 1997/98 financial year?
- (8) If so, what is the projected cost of those campaigns?
- (9) Is the management/organisation of those campaigns to be out sourced?
- (10) If so, to whom?
- (11) How many officers from each department or agency are located permanently within the Minister's office?

Hon N.F. MOORE replied:

**EDUCATION DEPARTMENT OF WESTERN AUSTRALIA**

- (1) The Communications and Public Relations Branch of the Education Department is responsible for coordination of public relations and promotional events; the management of contact with the media; the preparation and production of Department publications; coordination of Department communications and management of print design and production. The projected operating expenditure of the branch in 1997/98 is \$477,000. This includes staff communications, in particular a fortnightly newspaper with a circulation of 29,000 and all associated printing costs.
- (2) The allocation for 1996/97 was \$477,000. Additionally, a major promotional exercise conducted during 1996 was the Pacific School Games. The expenditure on its marketing and promotion in 1996/97 was \$164,000 of which \$103,000 was donated in kind by the private sector and other agencies.
- (3) 10.5 FTE.
- (4) Four staff members are trained as journalists. One is the manager; two work as editor and reporter for the Department's internal staff newspaper; and the fourth is media coordinator involved in daily liaison with the media.
- (5) \$240,000.
- (6) Estimated expenditure for 1996/97 was \$240,000.
- (7)-(10) The Department is currently considering the use of an information campaign to explain to the community the many initiatives currently under way in education in Western Australia. This proposal is in its most formative stages of development.
- (11) There are no officers from the Education Department located permanently within the Minister's Office.

**DEPARTMENT OF EDUCATION SERVICES**

- (1)-(2) No specific budgeted allocation. Any ad hoc activity would be funded as part of normal operations.

- (3) Nil.
- (4) Not applicable.
- (5) \$6,000.
- (6) \$5,872 expected out-turn.
- (7) No.
- (8)-(10) Not applicable.
- (11) Nil.

#### EDUCATION ACT REVIEW PROJECT

This project is hosted by the Department of Education Services but funded by the Education Department of WA. The funding is separate to that detailed under the Education Department's response.

- (1) \$15,000.
- (2) \$4,000.
- (3) Nil.
- (4) Not applicable.
- (5) \$2,000.
- (6) \$5,000.
- (7) No.
- (8)-(10) Not applicable.
- (11) Nil.

#### CURRICULUM COUNCIL OF WESTERN AUSTRALIA

- (1) \$100,000.
- (2) \$29,000.
- (3) 0.4 FTE.
- (4) Yes, 1 person.
- (5) \$20,000.
- (6) \$4,700.
- (7) Yes. Consulting on the draft Curriculum Framework.
- (8) \$100,000.
- (9) No.
- (10) Not applicable.
- (11) Nil.

#### FORESTS AND FORESTRY - GIBLETT BLOCK

##### *Logging - Impact on Pemberton Mill*

610. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:

- (1) In evidence to the Legislative Council Estimates Committee, the Executive Director of the Department of Conservation and Land Management ("CALM") stated that CALM has "carried out an analysis of the impact of (the long term viability of the Pemberton Mill without the long term logging of Giblett block) at the request of the Minister". Will the Minister for the Environment table a copy of that analysis?
- (2) If not, why not?

- (3) Has the Minister made any attempt to examine alternative supplies of karri logs for the Pemberton mill to substitute for logs planned to come from Giblett block in 1997?
- (4) If so, can these results be tabled?
- (5) If not, why not?

Hon MAX EVANS replied:

- (1) Yes. [See paper No 778.]
- (2) Not applicable.
- (3)-(5) The supply situation for 1997 has been made particularly difficult due to the Deferred Forest Assessment/Regional Forest Agreement process. The areas available to supply karri sawlogs for the Pemberton Mill during 1997 are contained in the 1997 Harvest Plan produced by the Department of Conservation and Land Management for the Southern Supply Area. There are no alternative areas prepared for harvesting during 1997 sufficient to replace the karri sawlogs planned to be delivered to the Pemberton Mill from Giblett block. To illustrate this matter, I table copies of "Summary of 1997 Harvest Plan Sawlog Volumes" dated 27 September 1996 and updated 12 March 1997 extracted from the 1997 Harvest Plan for the Southern Supply Area.

#### SCHOOLS - FEES

##### *Clothing Allowance - Pressure to Pay*

- 668. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:
- (1) Can the Minister for Education confirm whether or not schools pressure students' parents into paying their non-Government funded clothing allowance to the school in lieu of payment of their fees?
- (2) If so, will the department give a refund equivalent to the amount of the lost clothing allowance to those parents who were pressured in any way?

#### SCHOOLS - SECURITY

##### *Electronic Surveillance Systems - Installation*

- 670. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:
- (1) How much has been allocated in the budget for electronic surveillance systems in schools?
- (2) Are there any other forms of surveillance used in schools, and if so, how much has been allocated to them in the budget?
- (3) Given the amount of damage done by the fire at Churchlands Senior High School, did the electronic surveillance system indicate that there were intruders on the grounds?
- (4) How long did it take for security to respond?
- (5) How many security cars are available to respond to alarms at schools on any one night?
- (6) Which security company has been awarded the contract for school surveillance?
- (7) What is the value of each contract?
- (8) What mechanisms are in place to ensure that contracts are being fulfilled?

Hon N.F. MOORE replied:

- (1) \$400,000 has been allocated in the 1997/98 capital works program for installation of electronic surveillance at existing schools. All new schools in the metropolitan area, and new schools in country centres that have the services of a licensed local security company, are fitted with electronic security as part of the building program. In addition, the government has provided an allocation of \$700,000 over four years for additional security at schools.
- (2) Several forms of security, other than electronic surveillance, are used at schools. These include mobile patrols, static guards, security policy and procedures and where supported by police, the use of cameras. These measures are funded from a \$1.7 million allocation in the budget for security. The School Watch



program plays an important role in security at schools. From the \$700,000 special allocation, it is proposed to fund a School Watch coordinator.

- (3) No, because the fire damaged the alarm system's communication links prior to the alarm being activated. Electronic intruder alarm systems installed in schools provide internal detection only, and do not detect movement outside buildings.
- (4) Security arrived within minutes of being called by the fire brigade.
- (5) This information is confidential and will be supplied separately to the Hon Member.
- (6) The major metropolitan contract is held by FAL Security. This contract is supported by a small contract in the Midland and Hills area, held by Liwil and in the far northern metropolitan area by MSA Security.
- (7) The FAL Security contract is worth approximately \$1.6 million. The Liwil contract is worth approximately \$38,000 and the MSA Security contract is worth approximately \$20,000.
- (8) Daily checks are carried out on registered calls to ensure that an appropriate response occurs. In addition, observation of patrol movements is undertaken from time to time. FAL Security is a quality assured company. The company conducts internal checks which are reported to the Education Department on a monthly basis.

#### TOURISM - TOURISTS

##### *Number*

680. Hon TOM STEPHENS to the Minister for Tourism:

- (1) How many international visitors have visited Western Australia in -
  - (a) April 1997;
  - (b) May 1997;
  - (c) June 1997; and
  - (d) July 1997?
- (2) What percentage of those visitors were from the Asian and South-East Asian markets?
- (3) How many international visitors have visited Western Australia in -
  - (a) April 1996;
  - (b) May 1996;
  - (c) June 1996; and
  - (d) July 1996?
- (2) What percentage of those visitors were from the Asian and South-East Asian markets?

Hon N.F. MOORE replied:

- (1) The Western Australian Tourism Commission (WATC) publishes information on international visitor arrivals to Western Australia on a half yearly basis through its Research Brief on Tourism. The Brief is released to the tourism industry in Western Australia to keep the industry informed of current tourism activity. This information is also published in the WATC Annual Report and Corporate Plan, and is regarded as the WATC's officially recognised estimates of international visitors to Western Australia. This is based on the International Visitor Survey (IVS) produced by the Bureau of Tourism Research (BTR) which is recognised as the accurate estimate.

The latest available accurate data the Government has on international visitors (International Visitor Survey (IVS) December 1996) shows that Singapore returned a growth of 15.2% over 1995, Malaysia 21%, Thailand 17.5% and Indonesia 12.1%. Japan showed a 9.9% growth in 1996 over 1995.

According to the IVS, the State in 1996 received for the first time in excess of half a million (529 000) international visitors. This represented an increase of 8.9% over 1995. More importantly, these international visitors stayed for in excess of 10 000 000 nights which represented an increase of 23.7% and were worth \$827 000 000 (up 19.5%) to the State's economy. However, the Australian Bureau of Statistics (ABS) does release monthly estimates of international Short Term Visitor Arrivals (STVA) which are based on a survey of Incoming Passenger Cards collected by the Department of Immigration and Ethnic Affairs (DIEA). Whilst this information is released monthly, it is considered, by the industry as a whole, to be an under-estimate of visitor arrivals to Western Australia and relatively inaccurate at the State level. However, the only way to answer the Question on Notice from the Hon Tom Stephens is to resort to using the STVA

information. Please note that the WATC has implemented a policy whereby the ABS's international STVA information is not released nor supported as accurate estimates of visitor arrivals to Western Australia.

March 1997	36000
April 1997	33000
May 1997	25000
June 1997	currently not available yet
July 1997	currently not available yet

Source: Australian Bureau of Statistics (STVA)

(2)	Country	April	May	June	July
	Indonesia	13%	12%	na	na
	Malaysia	10%	19%	na	na
	Singapore	16%	19%	na	na
	Thailand	5%	4%	na	na
	China	<1%	<1%	na	na
	Hong Kong	2%	3%	na	na
	Japan	9%	5%	na	na
	South Korea	<1%	<1%	na	na
	Taiwan	<1%	<1%	na	na

Source: Australian Bureau of Statistics (STVA)

(3)	March 1996	31000
	April 1996	32000
	May 1996	23000
	June 1996	27000
	July 1996	29000

Source: Australian Bureau of Statistics (STVA)

(4)	Country	April	May	June	July
	Indonesia	10%	12%	19%	18%
	Malaysia	11%	16%	11%	9%
	Singapore	18%	23%	26%	11%
	Thailand	7%	5%	3%	4%
	China	<1%	<1%	<1%	<1%
	Hong Kong	2%	1%	1%	2%
	Japan	8%	6%	5%	12%
	South Korea	<1%	<1%	<1%	<1%
	Taiwan	<1%	<1%	<1%	1%

Source: Australian Bureau of Statistics (STVA)

## EDUCATION - DEPARTMENT

### *Breaches of Human Resource Management Standards*

726. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Public Sector Management:

- (1) How many complaints of breaches by the Education Department of public sector human resource management standards are currently being investigated by the Commissioner for Public Sector Standards?
- (2) Which standards is it alleged the department has breached?
- (3) What is the current status of those complaints?
- (4) What is the proportion of complaints alleged against the Education Department compared to the total number of complaints about other departments or agencies currently before the commissioner?

Hon MAX EVANS replied:

- (1) One breach complaint is currently being investigated by an independent reviewer appointed by the Commissioner for Public Sector Standards.
- (2) Complaints of breaches of standards are lodged with public sector agencies in which the decision or action that is being challenged has occurred. Accordingly, the Commissioner for Public Sector Standards does not have information about complaints of breaches currently being investigated within the Education Department. This information must be obtained from the department.
- (3) Refer to response to (2).

- (4) Current information is not available. However, the Commissioner was able to provide statistical data for the financial year 1996/97, as follows:

Total breach complaints lodged	221
Number of breach complaints against EDWA	95 (42%)

#### HEALTH - PEEL HEALTH SERVICE

##### *Share in Nursing Home*

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

In the *Mandurah Mail* of July 31, 1997, it was reported that the Peel Health Campus, has taken a 50 per cent share in a new nursing home and retirement village in Mandurah. Can the Minister for Health explain how a Government owned health campus has a share in this private enterprise venture?

Hon MAX EVANS replied:

It is not Peel Health Campus but Health Solutions WA Pty Ltd who are currently negotiating a management role with Belswan Holdings planned nursing home/hostel in Mandurah. Health Solutions WA Pty Ltd have concerns about the lack of respite/nursing home, dementia and hostel beds in the Mandurah area. They therefore support the Belswan project but have not yet formalised a potential partnership with the above company. Health Solutions WA Pty Ltd is a private company.

#### QUESTIONS WITHOUT NOTICE

##### SCHOOLS - CLOSURE

##### *Pending*

**821. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:**

- (1) Has the Education Department been asked to identify those schools which might be closed in the foreseeable future?
- (2) If yes, will the Minister provide to the House the outcome of the Education Department's deliberations?

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

I thank the member for some notice of this question.

- (1) The Education Department has not been asked to identify schools which might be closed in the foreseeable future. The Education Department is developing a process which will improve educational opportunities through using resources more effectively. This process, called local area education planning, is being finalised after an extensive consultation period.
- (2) Not applicable.

#### SPORT AND RECREATION - WORLD TRIATHLON CHAMPIONSHIP

##### *EventsCorp - Funding*

**822. Hon TOM STEPHENS to the Minister for Tourism:**

In relation to the world triathlon championship to be staged in Perth in November this year -

- (1) Can the Minister confirm that EventsCorp will be providing an allocation of \$1.4m towards this event?
- (2) If yes, does this allocation include all the related costs incurred by EventsCorp in its management of this event - staffing, office space, communication costs, etc?

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

I thank the member for some notice of this question.

- (1) The Government has provided to EventsCorp a \$1.4m supplementary funding allocation for the triathlon. Currently, the projected cost of staging this event is approximately \$1.15m. It is anticipated that all costs will be covered by this amount.
- (2) Yes.

ROADS - RIPON HILLS ROAD, PILBARA

*Construction*

**823. Hon GIZ WATSON to the Minister for Transport:**

With reference to answers to questions without notice on Thursday, 11 September regarding the planned Ripon Hills Road the Minister indicated in his response that there are a number of stages to this road.

- (1) Can the Minister advise what those stages are and what areas of land will be traversed by those stages?
- (2) Can the Minister advise if this road or any of its stages will proceed without the RTZ Kintyre project being developed?
- (3) Can the Minister advise the total expenditure estimated for each of the proposed stages and what financial input third parties may have into each stage?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) It is planned to construct the road in three stages. The initial stage will involve the first 40 kilometres east from the Marble Bar road. The second and third stages consist of 36 km and 56 km respectively.
- (2) Construction of the road is not dependent on the RTZ Kintyre project.
- (3) The current estimate is \$46m, which includes contributions of \$15m from mining companies in the region. The anticipated cost for each stage cannot be provided at this time due to confidentiality associated with the calling of tenders for construction.

I should add that the tenders for the second and third stages have not been evaluated.

FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT ACT - COMPUTERISED  
REGISTRY

*Compliance with Time Frames*

**824. Hon N.D. GRIFFITHS to the Attorney General:**

In relation to the Fines, Penalties and Infringement Notices Enforcement Act and its operations through the computerised registry -

- (1) When the system was set up in the registry, were all the time frames for issuing notices complied with as set out in the Act?
- (2) If not, how many Western Australians received notices that did not comply with requirements of the Act?
- (3) How many Western Australians have had their drivers' licences suspended contrary to provisions of the Act?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) Technically, no. The original computer system allowed for 28 days plus one day for the electronic confirmation of offender details. This proved to be insufficient on those occasions when the confirmation of offender details occurred over a weekend or public holiday period. The computer program was subsequently amended to take this into account.
- (2)-(3) Unknown.

ENVIRONMENT - INCINERATORS

*Burning of Hazardous Medical Waste*

**825. Hon NORM KELLY to the Minister representing the Minister for the Environment:**

- (1) How many incinerators in Western Australia have the capacity to burn hazardous medical waste?
- (2) How many of these incinerators are currently burning hazardous medical waste?
- (3) Does the Government have contingency plans in the event of an incinerator being shut down?

- (4) Has the Government investigated alternative methods of disposing of hazardous medical waste?
- (5) If so, can the Minister please table the findings of such investigation?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) I am advised that only one high temperature incinerator in Western Australia meets the environmental standards set for incineration of clinical waste.
- (2) One.
- (3) Yes. In the event that the Stephenson and Ward incinerator is shut down, at least one hospital incinerator has been retained as an emergency back-up. In addition, there is substantial ability to store waste to cope with shut-downs of the existing incinerator for maintenance or repairs.
- (4) Yes. I am advised that staff from the Department of Environmental Protection continuously review available waste treatment technologies. In addition, proponents for a number of alternative technologies, including technologies based on microwave disinfection, autoclaving, chemical disinfection and mechanico-thermal treatment, have discussed the establishment of treatment facilities in Western Australia. In almost every case, the proponents were advised that the technology appeared to be environmentally acceptable, and that an appropriately designed and sited facility was likely to be approved. I am advised that none of the proposals based on alternative technologies has proceeded to the stage where a formal application seeking environmental approval has been lodged.
- (5) I am advised that no comprehensive report exists which reviews the range of technologies available for treatment or destruction of clinical waste.

**ROADS - SERVETUS STREET AND CLAREMONT CRESCENT**

*Upgrading*

**826. Hon J.A. SCOTT to the Minister for Transport:**

- (1) With the upgrading of Servetus Street and Claremont Crescent, will any existing intersections be either cut off or upgraded?
- (2) If yes, which roads?

**Hon E.J. CHARLTON replied:**

- (1) Yes.
- (2) Apart from Fraser and Hooley Streets, which are to become cul de sacs, access for local traffic will be improved as a result of the retention of the existing Servetus Street as a local service road, the construction of a western service road and overpass and the separation of north-south through traffic from local traffic.

I will be happy to give the member some details if he would like extra information.

**HEALTH - BREAST CANCER**

*Blood Magnet Treatment - Trials*

**827. Hon MURIEL PATTERSON to the Minister representing the Minister for Health:**

- (1) Is the Minister aware of the new blood magnet cancer treatment undergoing trials in Melbourne at the Peter MacCallum Cancer Institute?
- (2) If so, is the Health Department of Western Australia planning to introduce similar trials in this State to help sufferers of advanced breast cancer?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1)-(2) The Minister for Health has been informed of this type of treatment for patients, which involves selecting out normal blood stem cells and subjecting the patients to high dose chemotherapy. High dose chemotherapy is already being performed for patients at Sir Charles Gairdner and Royal Perth Hospitals in Perth. The numbers treated to date are small.

The use of the magnet in harvesting and testing blood stem cells is a further research component that remains experimental at this stage. Royal Perth Hospital is already involved with preclinical experiments designed to purge stem cells using alternative techniques, including magnetic beads. Sir Charles Gairdner Hospital has been a major contributor to national and international clinical trials involving breast cancer in the past. It will also soon be participating in the International Breast Cancer Study Group in a worldwide trial of high dose chemotherapy.

There are active areas of research in Western Australia and elsewhere. The treatments concerned are still experimental and expensive and carry potentially significant adverse effects because of the toxicity associated with the use of high doses of chemotherapy. Data are not yet available to conclude whether such treatment is superior to conventional therapies. Therefore, the approach in Western Australia is to examine this and related treatments in the context of controlled clinical studies that will provide evidence in terms of long term efficacy, cost effectiveness and safety.

#### PARKS AND RESERVES - RESERVES 93/25 AND 182/25

##### *Long Term Plans*

#### **828. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:**

- (1) What are the long term plans for reserves 93/25 and 182/25 near Manjimup?
- (2) Can the Minister guarantee that these reserves will not be the subject of land exchanges in the future?
- (3) Can the Minister guarantee that these reserves will not be logged in the future?

#### **Hon MAX EVANS replied:**

I thank the member for some notice of this question. This information is being collated and I therefore request that this question be put on notice.

#### ROADS - KWINANA FREEWAY

##### *Extension - Tollway*

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

I draw the Minister's attention to the coalition's pre-1993 election promise to extend the Kwinana Freeway to Mandurah by 1997, and ask -

- (1) When will the Government honour this commitment?
- (2) Are there any proposals for installation of a tollway to provide the necessary revenue for this project?
- (3) If so, at what stage is this proposal?
- (4) Did the building of a tollway form part of the coalition's election platform regarding the extension of the Kwinana Freeway to Mandurah?

#### **Hon E.J. CHARLTON replied:**

- (1) The commitment to build the Kwinana Freeway under the policy enunciated by the coalition stands. That must be provided to the community.

Hon Tom Stephens: You had better move fast - it was for 1997.

Hon E.J. CHARLTON: It is still 1997. We have ways of dealing with things!

Hon John Halden: All smoke, mirrors and tricks.

The PRESIDENT: Order, members!

Hon E.J. CHARLTON: Miracles can happen and these sorts of things are not impossible; they just take a little longer. It is a serious question.

- (2)-(4) It is not part of the Government's intention to build a tollway, and it has never been part of the evaluation of constructing the road. Everyone knows that the decision of the High Court in relation to the 8.1¢ levy has reduced Western Australia's road funding by \$25m. The Government has agreed to make up the difference from other revenues to maintain the roads budget.

Hon John Halden: Fremantle Hospital has closed now.

The PRESIDENT: Order!

Hon E.J. CHARLTON: That is totally out of order for two reasons. First, from the President's point of view and, second, from mine. The idea being canvassed by a number of people for a tollway, to raise the necessary revenue over a period to repay any loan, is an option that the community should debate and make a decision on. The Government has two options; that is, to do nothing - which I do not favour or, secondly, to find an alternative way of raising sufficient funds to build the extension or repay any loan arrangement put in place.

In the 1980s the State and Federal Governments had a plan to build the Tonkin Highway through to Armadale and the Roe Highway to the freeway, to complete the Reid Highway, and extend the Kwinana Freeway. That all came to an end when the Commonwealth Government of the day decided not to provide its 50 per cent of the funding. They were all national arterial roads and they were part of a plan. The previous Labor Government was in a no-win situation, and this Government has continued in that situation.

This Government has made a plan to bring forward the work on these roads with a \$1b road improvement program as a result of the 4¢ a litre levy. The community has said in no uncertain terms that it wants these roads completed. I have met three deputations today, one of which was from Armadale heritage country and which wants the Tonkin Highway completed within five years. Yesterday I met a deputation from the Fremantle City Council which wants the transit way built, and the community is demanding it. The Government is continuing with its efforts. I will happily receive any suggestions from the Opposition about ways to bring forward these projects.

#### SPORT AND RECREATION - WORLD TRIATHLON CHAMPIONSHIP

##### *Sponsors - Funding*

#### **830. Hon TOM STEPHENS to the Minister for Tourism:**

In relation to the World Triathlon Championship, apart from the government funding received for this event, what are -

- (a) the names of the other sponsors; and
- (b) the level of funding promised by these non-government sponsors?

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

I thank the member for some notice of this question. The other sponsors are: Qantas, which has advised that publication of the proposed sponsorship amount is to be kept confidential; Inside Communications Inc which will provide cash of \$US7 500, contra official programs \$25 000, and contra promotional pages of \$US35 000; M and D Sports Pty Ltd which will provide cash of \$10 000 and product \$5 000; Hyatt Regency which will provide \$21 000 and contra accommodation \$15 000; and other official contra suppliers which will provide \$25 000. Other revenue sources are estimated entry fees of \$225 000, and estimated fees and commissions of \$40 000.

This question is similar to a previous question in which I was asked by how much the Government would sponsor this event. If this is leading to the Opposition saying that it does not support the World Triathlon Championship, it should say so.

#### WORKSAFE WESTERN AUSTRALIA - HAIRDRESSING PREMISES

##### *Inspections*

#### **831. Hon NORM KELLY to the Attorney General representing the Minister for Labour Relations:**

- (1) How many inspections of hairdressing premises were made by WorkSafe inspectors in -
  - (a) 1995;
  - (b) 1996;
  - (c) so far this year?
- (2) How many of these were random inspections, and how many were in response to complaints?

#### **Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) (a) Two.

- (b) Six.
- (c) Twenty-one.
- (2) The two inspections in 1995 were in response to a complaint. All others were random inspections.

#### CORRUPTION - ANTI-CORRUPTION COMMISSION

##### *Chief Executive Officer - Formal Selection Process*

**832. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:**

- (1) Who was the chief executive officer appointed to the Anti-Corruption Commission without a formal selection process?
- (2) When and by whom was the appointment made?
- (3) Why was the appointment made without a formal selection process?
- (4) Is it normal practice to appoint CEOs for two years without following the process in accordance with the recruitment, selection and appointment standards?
- (5) If not, why was the failure to adhere to this process not addressed until the incumbent's two year appointment expired?
- (6) Was this matter a subject of complaint to the Commissioner for Public Sector Standards and included in the statistics for improper, illegal or corrupt behaviour?

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

I thank the member for some notice of this question.

- (1) Mr Wayne Mann was appointed under section 6 of the Official Corruption Commission Act 1988 as Chief Executive Officer of the Official Corruption Commission. Upon the creation of the Anti-Corruption Commission he continued as chief executive officer.
- (2) The Anti-Corruption Commission has advised that the appointment was made on 27 March 1996, with effect from 29 June 1996. The appointment was made by the Official Corruption Commission.
- (3) The Anti-Corruption Commission has advised that because of the specialised knowledge and experience required for the position of chief executive officer of a body such as the Official Corruption Commission, which knowledge and experience is not often found in the Public Service, it was not considered appropriate to advertise the position of chief executive officer. The Official Corruption Commission conducted an extensive executive search but chose to do so informally.  
  
The public sector standards require that a job be advertised "as appropriate". The Official Corruption Commission took the view that advertising this position was not appropriate. Further, at the time it was the view of the Official Corruption Commission that the public sector standards relating to the appointment of officers did not apply to the Official Corruption Commission. It is now accepted that those standards do apply to the Anti-Corruption Commission, and they have been applied since the inception of the Anti-Corruption Commission.
- (4) No.
- (5) See answer to (3).
- (6) According to the Commissioner for Public Sector Standards' annual compliance report 1996-97, this matter was the subject of complaint. It is recorded in the statistics appearing in appendix 5 of that report.

#### PRISONS - WOMEN

##### *Minimum Security - Location*

**833. Hon CHERYL DAVENPORT to the Attorney General:**

With regard to the possible provision of a women's minimum security prison, can the Minister advise -

- (1) Are Longmore and Nyandi being considered as suitable sites?
- (2) If so, how will the needs of minimum security prisoners be met given that these are currently secure prisons?



- (3) If these are possible sites, when will a final decision be announced?

**Hon PETER FOSS replied:**

I thank the member for asking this question.

- (1)-(3) In a theoretical sense we are looking at Longmore and Nyandi, but for the reasons mentioned by the member it is unlikely that those sites will be chosen for use as a minimum security prison. It will be dependent upon an overall assessment by Cabinet of all our prison needs across the entire metropolitan area, because the stock of current secure areas will need to be assessed for its capacity to be used; and if we did use some of that stock, it would not be available for another purpose. Therefore, we are unlikely to make that decision in isolation.

#### SECURITY AND INQUIRY AGENTS - CRIMINAL RECORDS

**834. Hon JOHN HALDEN to the Attorney General representing the Minister for Police:**

I refer to the Attorney General's answer to a question in the Legislative Council last week when he acknowledged that some licensed security agents and inquiry agents have criminal records, and ask -

- (1) How many security and inquiry agents have criminal records?
- (2) How many of those agents who have a criminal record have been found guilty of an indictable offence?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question. It is appropriate that this question be placed on notice, and I ask the member to do so.

#### FAIR TRADING - NORTH WEST REGIONAL OFFICE

##### *Dispute Resolution - Formal Complaints*

**835. Hon TOM HELM to the Minister representing the Minister for Fair Trading:**

- (1) Can the Minister confirm that the Ministry's regional office in the north west has changed the protocol for resolving disputes and providing assistance to residents so that it stresses that the office should react to official, formalised complaints only?
- (2) Can the Minister explain how the office will be able to fast track disputes and complaints on an informal basis?
- (3) How will people with limited English skills access help from this office?
- (4) Will the Minister confirm that two officers from Perth are visiting Karratha and Port Hedland at the request of the Department of Land Administration to investigate a matter; and how much will this visit cost?
- (5) Has the Minister any specific complaints about the local representative, who has held the job for quite some time, has developed trust in the community, and has wide local knowledge and a lot of experience in all aspects of the ministry's activities?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) There has been no change in protocol. Ministry of Fair Trading staff operating from regional offices have recently been reminded that it is ministry policy that they should not attempt to conciliate a dispute between two parties unless the parties have attempted to resolve the dispute themselves and a written complaint has been lodged with the ministry.
- (2) Ministry staff are encouraged to provide fair trading advice to both consumers and traders and thus to deal with inquiries informally and on a fast track basis. Advice can be provided on the telephone or in person to any caller. Consumers and traders located outside the metropolitan area can obtain advice on a free call number when a regional office is unattended.
- (3) The ministry has an arrangement with the Telephone Interpreter Service by which people with limited English skills can obtain assistance from the ministry's northern and other offices. Many of the ministry's

publications are produced in languages other than English. Where a person has difficulty in understanding and/or writing English, ministry staff will assist in completing the paperwork required to lodge a formal complaint.

- (4) Officers from Perth visit the ministry's regional offices, including that in the north west, to investigate a range of matters as part of their normal operational duties. It would not be appropriate for me to comment on specific visits that have occurred or may be planned in the course of such investigations. I am pleased to note that the ministry makes every effort to travel at the least possible cost. An air fare for one officer to visit Karratha and Port Hedland would be approximately \$706 return. Accommodation and meal allowance costs are paid at government rates, which are currently \$180 per day for Karratha and \$188.90 for Port Hedland. Where possible, transport is provided through the local office.
- (5) No.

#### ENVIRONMENT - WETLANDS CONSERVATION

##### *Northern Suburbs*

#### **836. Hon RAY HALLIGAN to the Minister representing the Minister for the Environment:**

What plans has the Government made to ensure the conservation of the wetlands in the northern suburbs?

#### **Hon MAX EVANS replied:**

I thank the member for some notice of this question. The Government has recently released its "Wetlands Conservation Policy for Western Australia", and I commend this policy to the member. The policy identifies measures to be taken for the conservation of wetlands in the State, including the northern suburbs of Perth.

I draw the member's attention to the following specific measures in place or in progress which are aimed at wetlands conservation and which are applicable to the northern suburbs: Environmental Protection (Swan Coastal Plain Lakes) Policy 1992; Environmental Protection (Gnangara Mound Crown Land) Policy 1992; environmental conditions set on ground water abstraction from the Gnangara mound; proposed regional parks amendments to conservation legislation to enable regional parks to be vested and managed by the National Parks and Nature Conservation Authority; and Perth's bush plan, due to be released this year for public comment, which will include recommendations for the protection of conservation category wetlands.

#### ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

##### *Incinerator Site - Community Liaison Committee's Report*

#### **837. Hon J.A. SCOTT to the Minister representing the Minister for the Environment:**

- (1) Will the Minister take into account the dissenting report provided by community representatives to the McComb report on the Stephenson and Ward PCB contaminated site clean up?
- (2) Is the Minister aware that the community representatives on the McComb liaison committee believe that their views have been misrepresented in the McComb report?

#### **Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) Yes.
- (2) I am aware that some members of the community liaison committee have queried certain details in the draft report produced by Emeritus Professor McComb. Professor McComb considered all concerns raised in his final report.

#### ABORIGINES - FAMILY SEPARATION

##### *Stolen Generation Report - Implementation*

#### **838. Hon CHERYL DAVENPORT to the Minister representing the Minister for Aboriginal Affairs:**

- (1) What steps are being taken by the State Government to implement the recommendations of the stolen generation report brought down by the Human Rights and Equal Opportunity Commission?
- (2) Have any additional resources been allocated to facilitate the reuniting of Aboriginal families separated through past policies of assimilation and forced removal of children?

**Hon E.J. CHARLTON replied:**

I have no answer; therefore, I ask that the question be put on notice.

HEALTH - KEMERTON INDUSTRIAL PARK

*Public Health Impact Assessment*

**839. Hon CHRISTINE SHARP to the Minister representing the Minister for Health:**

Is a full public health impact assessment part of the final draft report into the proposed expansion of the Kemerton industrial park?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question. I ask that this question be put on notice.

WATER RESOURCES - KEMERTON INDUSTRIAL PARK

*Effect of Industrial Contaminants on Ground Water*

**840. Hon CHRISTINE SHARP to the Minister representing the Minister for Water Resources:**

- (1) What effects will industrial contaminants have on ground water in the Kemerton industrial park?
- (2) Does any of this ground water feed into the Leschenault Inlet?

Hon Tom Stephens: And does the Minister really care?

The PRESIDENT: Order!

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) Due to the nature of the sandy soils under Kemerton, there is a potential for industrial discharges to contaminate the shallow watertable aquifer.
- (2) Yes.

HEALTH - ABORIGINAL AND TORRES STRAIT ISLANDER HEALTH AGREEMENT

*Implementation*

**841. Hon TOM HELM to the Minister representing the Minister for Health:**

- (1) What steps is the Minister taking to implement the Agreement on Aboriginal and Torres Strait Islander Health between the State of Western Australia and the Commonwealth of Australia?
- (2) With reference to item 3.1(a) of the agreement, what extra resources have been allocated or earmarked by the State to improve health outcomes for Aboriginal and Torres Strait Islander people in Western Australia?

**Hon MAX EVANS replied:**

I ask that the question be put on notice.

MINISTERS OF THE CROWN - MINISTER FOR TRANSPORT

*Overseas Travel - Itinerary and Cost*

**842. Hon NORM KELLY to the Minister for Transport:**

Further to my questions of 25 June and 21 August regarding the Minister's recent tour of the USA, is the Minister now, three months later, able to provide the costings and an itinerary of the tour as promised?

**Hon E.J. CHARLTON replied:**

Yes to the first question. The costs are still being submitted. Not all costs come in immediately. When they come in they will be submitted by the Premier's Department in the appropriate way. Incidentally, I will be seeking leave after question time to table the reports.

EMERGENCY SERVICES - BOARD OF MANAGEMENT

*Volunteer Representative*

**843. Hon TOM STEPHENS to the Attorney General representing the Minister for Emergency Services:**

- (1) Can the Minister confirm that there will be no elected volunteer representative on the proposed new emergency services board of management?
- (2) If so, how can this be justified given the service that some 2 500 volunteer firefighters provide to the State?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question. I advise that the response given to a question asked last Thursday in relation to the WA Fire Brigades also answers this question.

- (1)-(2) In June 1997 the Minister for Emergency Services announced the establishment of the Emergency Services Task Force to progress the implementation of a proposed new structure to improve coordination and planning across the Emergency Services portfolio. The aim of the new structure will be to achieve overall improvements in the effectiveness and coherence of policy development and implementation; a coordinated approach to planning and management matters across agencies; and an improved delivery of services to the community and volunteers by bringing together the Bush Fires Board, the Fire and Rescue Service, and the Western Australian State Emergency Service under the umbrella of one emergency services board and chief executive officer. The FRS, BFB and WASES will retain operational roles as divisions under the new structure, but will share common corporate support services.

Under the proposed structure being finalised by the task force, the importance of the contribution of volunteers from all the agencies to the decision making of the new authority has been clearly recognised and it will be catered for.

It is proposed to replace the existing FRS and BFB boards with one board of management with members appointed, not on a representative or elected basis, but for their individual expertise and experience in various areas, such as senior management, strategic focus, emergency services, finance, community education and relations and volunteerism. In addition, each of the three emergency service agencies will have a consultative committee which will include volunteer representatives. It is further proposed that additional volunteer input to the decision making of the new authority will come from a proposed twice yearly volunteer forum.

The State Government acknowledges the enormous contribution of more than 20 000 volunteers across the Fire and Rescue Service, the State Emergency Service, and the bush fire brigades, and will ensure that their interests will be protected under any new structure.

UNIONS - WORKERS' EMBASSY

*Future Plans - Consultation with Trades and Labor Council*

**844. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:**

- (1) Has the Government consulted with the Trades and Labor Council about the future of the workers' embassy.
- (2) If yes, did the Government give an assurance to the TLC that the structures erected on the site would remain in place as a memorial to those workers who lost their lives on work sites and as a place for Perth people to enjoy?
- (3) If no, will such an assurance be given?

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

I thank the member for some notice of this question.

- (1) Yes.
  - (2)-(3) No.
-