WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE COUNCIL

Wednesday, 26 November 1997

Legislative Council

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

PETITION - ROADS

Great Northern Highway - Waddington to Miling

Hon B.K. Donaldson presented the following petition bearing the signatures of 574 persons -

> To the Honourable the President and members of the Legislative Council in Parliament assembled.
>
> We the undersigned residents of Western Australia oppose the proposed major realignment of that section of the Great Northern Highway between Waddington and Miling as an extravagant duplication of roading through this district. The proposed major realignment will decimate a valuable and highly productive farming community. Maintenance of the existing alignment as a local road will place an enormous financial burden on ratepayers.
>
> We request that immediate consideration be given to directing funds towards a major upgrade of the existing alignment to the standard required of a National Highway serving the agricultural, mining and tourism industries.
>
> Your petitioners therefore humbly pray that you will give this matter consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 1103.]

PETITION - GRAFFITI

Hon Peter Foss (Attorney General) presented the following petition bearing the signatures of 20 500 persons -

> To the Honourable the President and members of the Legislative Council in Parliament assembled.
>
> We the undersigned do, respectfully, request that the Legislative Council will support legislation to resolve the problem of graffiti.
>
> 1. To, make unlawful the carrying, without lawful excuse, implements of graffiti or other articles capable of being used to deface property, between sunset and sunrise.
> 2. To, give to the police the power to search suspect persons for implements of graffiti.
> 3. To, ensure that any person convicted of any offence of graffiti damage, be required to pay costs of the damage in every respect, or in the case of a juvenile, that his/her parent or guardian pay such costs.
> 4. And ensure that the penalty for the graffiti or carrying graffiti implements must in every case be incarcerated on a graduate scale, beginning with weekend incarceration without entertainment, television, sports facilities or other privileges usually enjoyed by the persons in custody.
>
> And your petitioners as in duty bound will ever pray.

[See paper No 1104.]

MOTION - ELECTORAL COMMISSIONER

Chairman of Private School Board

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.08 pm]: I move -

> (1) That under, and for the purposes of section 5B(11) of the Electoral Act 1907, this House authorises Kenneth William Evans to hold and retain the office of Chairman of the Council of the John Septimus Roe Anglican Community School during his tenure of office as the Electoral Commissioner.
>
> (2) The Legislative Assembly be requested to pass a resolution having a like effect.

Under the Electoral Act, the Electoral Commissioner is not permitted to hold any office of profit or trust, or engage

in any occupation for reward outside the duties of his office. If he contravenes section 5B(11) of the Act he shall be regarded as being guilty of misconduct.

The newly appointed Electoral Commissioner, Dr Ken Evans, took up his role on 28 July 1997. Upon familiarising himself with the absolute detail of the Electoral Act he became aware that as the chairperson of the Council of the John Septimus Roe Anglican Community School he might be in breach of section 5B(11) of the Act. He sought advice from the Crown Solicitor. His advice was that there might be a problem and the only way to resolve the issue was for both Houses of Parliament to agree to Dr Evans being able to hold both positions.

The Minister for Parliamentary and Electoral Affairs and I are of the view that there is no conflict of interest in being an Electoral Commissioner and chairing a private school board. I seek the support of the House to allow Dr Evans to continue to be the chair of the Council of the John Septimus Roe Anglican Community School while holding the position of Electoral Commissioner and, in doing so, he will not be guilty of misconduct under section 5B(11) of the Electoral Act.

HON J.A. COWDELL (South West) [4.10 pm]: I add to the sentiment of the Leader of the House. The Minister for Parliamentary and Electoral Affairs did approach the Opposition in this regard, and conveyed to us a copy of the opinion from the Crown Solicitor's Office, together with the request of the John Septimus Roe Anglican Community School, in the following terms -

> The School with campuses at Mirrabooka and Beechboro is now in its seventh year of operation, and has had three previous chairpersons prior to Dr Evans, who has held the position since December 1995. The School Council would like Dr Evans to be able to continue as Chair, since the frequent change of chairperson is destabilising and does not help the School in its establishment phase.

We concur with the Minister's view that holding the position of Electoral Commissioner with that of chairman of the school council would not compromise the former position. Therefore, we support the motion.

Question put and passed.

STANDING ORDERS COMMITTEE - RESPONSES FROM PERSONS ADVERSELY REFERRED TO IN THE HOUSE

Consideration - Amendment on the Amendment

Resumed from 12 November.

HON PETER FOSS (East Metropolitan - Attorney General) [4.12 pm]: I understand that, in the intervening period since I last spoke, an amendment to take the place of both that moved by Hon John Cowdell and that moved by me has been proposed by the Democrats. In the light of that proposed amendment, I do not intend to go further, other than to seek leave of the House -

Hon Tom Stephens: Before you do, in the intervening period I told you that you had the support of the Labor Party for the proposed amendment. Subsequently, you spoke at length, and during that process you lost our support.

Hon PETER FOSS: That is good, because I seek the leave of the House to withdraw my amendment. It is handy to know that I would not have received the Opposition's support. Its support for my latest move is very gratifying.

Amendment, by leave, withdrawn.

Amendments to Motion

By leave, Hon J.A. Cowdell withdrew his amendment.

HON NORM KELLY (East Metropolitan) [4.14 pm]: I move -

(1) To insert after "That" in line 1, the following -

  (a) the forms of the House that are, or might be, available to a person who alleges that he or she has been referred to adversely in the course of proceedings of Parliament in the Legislative Council to have that adverse reference corrected by the House;

(2) To insert before the words "the Legislative Assembly" the designation "(b)";

(3) To delete all the words after "House" in the penultimate line of the motion.

The referral of this matter to the Standing Orders Committee is not an ideal way to deal with parliamentary privilege and the right of reply for the citizens of this State. It would be in our best interests to have this House deal with the

issue and expedite the matter. However, given the late stage of this session of Parliament, a resolution of matters of privilege and rights of reply would be virtually impossible to achieve within the next day or so. Therefore, my amendment seeks to allow the Standing Orders Committee to investigate all current provisions in our standing orders that enable people who are aggrieved by being mentioned in Parliament to have their grievances dealt with in a proper way.

If my amendment is passed, the Standing Orders Committee can consider the report of the Legislative Assembly's Standing Orders and Procedure Committee relating to responses from persons adversely referred to in that House, as simply one measure in pursuing a right of reply. It is in the best long term interests of this House that we debate all issues in this regard, rather than simply adopt a form which was agreed to in the other place.

Hon Tom Stephens: Do you support the initiatives taken in the Assembly by the Government, with the support of the Opposition, with regard to the Standing Orders and Procedure Committee's recommendation?

Hon NORM KELLY: I support the fact that the Assembly has dealt with this matter and arrived at a resolution. It is important that this House also debate the matter and arrive at a resolution to the satisfaction of this Chamber.

I have not included a report date in my amendment. However, I would like the committee to report to this House in March next year so that we can have wide ranging debate on the options presented to us. In that way, new standing orders can be implemented which would adequately address not only the concerns raised in this place but also those raised by the WA Inc royal commission and outlined in the recommendations of the Commission on Government. Any action taken in the next day or two would have a minimal impact, because any proposed changes to our standing orders would not be implemented until March next year. The Democrats do not believe this is an ideal situation, but we are committed to better forms of accountability for members of Parliament. It will be in the best interests of this place for members to support my amendment. It may not be in the best interests of Parliament within the next day or two, but we are not concerned with that. The Democrats do not wish to grandstand. We are concerned about the long term benefits which can be derived from well constructed options being considered by this House in future. I seek the support of the House for my amendment.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.19 pm]: I am happy to second the amendment, even though I moved the original motion. I am supportive of Hon Norm Kelly's amendment because it better expresses what I sought to express in my original motion. I do not normally admit those sorts of things, but I am happy on this occasion to do so.

The intent of my original motion was to give the Standing Orders Committee an opportunity to consider the principle of the issue rather than stating that it should produce a standing order to require certain things to happen along the lines of the standing order of the Legislative Assembly. A number of avenues are available to people to have their concerns acknowledged and addressed by the House, such as this Chamber's unique petition process. The opportunity exists for people who believe they have been adversely affected by comments in the House to take action. Whether that is enough, I do not know. I do not know of many occasions when people have taken advantage of the opportunity, and my door has not been knocked down by people wanting to express a view about something said about people in the Chamber. I will not mention the odd occasion on which that has happened as that would be provocative.

Hon Norm Kelly is suggesting that the committee look at possible courses of action which could be made available to people. At the same time, it can look at what the Legislative Assembly has done in its standing orders. The whole issue can be looked at by the Standing Orders Committee and subsequently by the House. This process may produce a better way of dealing with this issue than that proposed in the Legislative Assembly - it is not unusual for that Chamber to get things wrong on occasions. On the other hand, the committee may agree that the Legislative Assembly's order is the way for this House to proceed. It is a sensible approach to allow the committee to consider the issue, and for the House then to deliberate and make a determination on the views of the committee. I am happy to second the amendment, to which I hope the House agrees.

HON N.D. GRIFFITHS (East Metropolitan) [4.22 pm]: I make the following observations on the amendment moved by Hon Norm Kelly and seconded by the Leader of the House: The terms of the amendment are too wide. The sentiment expressed in the proposition is fine, but it would be better to give a direction to the Standing Orders Committee so that it produces a standing order to give aggrieved persons a right of reply.

The best means of establishing a right of reply in this House, which is similar to that already adopted by the other place, and suggested by the Australian Labor Party, is set out in motion No 13. Unfortunately, that motion will not come before the House for debate this year. Therefore, we propose the second best option; namely, that the Standing Orders Committee prepare a standing order to embody the principle of right of reply for persons adversely referred to in the House. Accordingly, I want to move that all words after "that" be deleted and those words be inserted.

The PRESIDENT: Order! That amendment in its present form cannot be moved before we dispose of the amendment currently before the House. The question before the House is that certain words be inserted after the word "that" in the first line of the motion. Until that is dealt with, the member is not in a position to move his amendment.

Hon N.D. GRIFFITHS: In that event, I foreshadow that such an amendment will be moved.

Point of Order

Hon TOM STEPHENS: As I spoke to the original motion, and an amendment proposed by Hon John Cowdell, I take it that I am not in a position to speak further to the motion unless a subsequent amendment, as foreshadowed by Hon Nick Griffiths, is moved. Can I speak to a foreshadowed amendment in the situation, although it seems I do not have the opportunity to speak on this matter?

The PRESIDENT: The answer is, unfortunately, no. However, the Leader of the Opposition is at liberty to speak to the amendment before the Chair at the moment. Without pre-empting anything the member may say, it would no doubt be related to any foreshadowed amendment.

Debate Resumed

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.26 pm]: I urge all members to defeat this amendment, or for Hon Norm Kelly to seek leave to withdraw his amendment, which has been seconded by the Leader of the House. The member is effectively saying that the House should not, as a matter of principle, state that a right of reply should be directed to the Standing Orders Committee. It is incumbent on the House to make that statement of principle now. We have learnt from the debate since this motion was first moved that the House, at least among its non-government members, has an appetite for a right of reply.

Hon N.F. Moore: When did you ever get asked by anybody for a right of reply?

The PRESIDENT: Order! I want to dispose of the amendment before the Chair before we get into another argument.

Hon TOM STEPHENS: I urge Hon Norm Kelly to withdraw his amendment because it effectively diverts the process of the House stating its view on whether a right of reply should be provided. The amendment leaves that in abeyance. It is left for subsequent consideration by the House.

Hon Norm Kelly: It would not be contrary to the motion as it could be amended to add a statement of principle about a right of reply; that could be added to what I have suggested. In reality, it would complement the work we are requesting the committee to do.

Hon TOM STEPHENS: The amendment presently does not outline that statement of principle.

Hon Norm Kelly: We could deal with the amendment, and then move to the statement of principle.

Hon TOM STEPHENS: The standing order may not allow that to occur. It could be that such an amendment will be ready before I sit down, but this is a difficult matter. The statement of principle is enshrined in Hon Nick Griffiths' foreshadowed amendment.

Hon N.F. Moore: How many times have you been asked by anybody for a right of reply? It has never happened to me.

Hon TOM STEPHENS: The Leader of the House knows damned well that in the history of the Legislative Council -

Hon N.F. Moore: Have you been asked once?

Hon TOM STEPHENS: The Leader of the House has been through what we have all been through in reference to some of these issues. He knows how some issues first arose in the other place and then in here, which led to an unfortunate set of circumstances. Those matters could be better tackled through the right of reply process advocated by the Opposition.

Hon N.F. Moore: I am asking a very simple question.

Hon TOM STEPHENS: We have in mind a mechanism to ensure that a repeat does not occur of the tragic circumstances already dealt with once by this House.

Hon N.F. Moore: Do you think that the unfortunate circumstances would not have happened -

The PRESIDENT: Order! Let us deal with the amendment before the House.

Hon TOM STEPHENS: I commend the foreshadowed amendment to Hon Norm Kelly. The House should simply and categorically state the principle of a right of reply, and this will not be done through the amendment moved by the Democrats and seconded by the Liberal leader in this House.

HON J.A. COWDELL (South West) [4.29 pm]: I cannot support the Democrats' amendment on the basis that the amendment would have this House holding no particular view about the principle of a right of reply. I believe this House should have a view on that principle. The Commission on Government came forward with a definite view on that principle.

Hon N.F. Moore: It also said if you cause a by-election, you should pay for it.

Hon J.A. COWDELL: I am not debating with the Minister; I am stating a point.

Hon N.F. Moore interjected.

The PRESIDENT: Order!

Hon J.A. COWDELL: The deficiency of this amendment is that it provides the House with no statement of principle in this regard. It is an area on which the Commission on Government said there should be not just a statement of principle, but action. Our own Joint Standing Committee put forward a precise proposal for action. Even the Legislative Assembly has not only considered a proposal for action, but also acted. Members have before them this afternoon a proposal, not for action, nor even for endorsing a principle. We all know there are various forms by which people may have redress if they are adversely referred to in this House.

We seek to add an extra form of redress to those that are available already. We seek to add that in line with the recommendation of COG and our committee. This amendment would result in the removal of what I found most objectionable in the Leader of the House's motion; that is, "on the desirability of a similar standing order being adopted by the Legislative Assembly". "On the desirability" does not express a view; it just leaves the question entirely open. This amendment seeks to replace that with "the forms of the House that are, or might be, available to a person". No wonder the Leader of the House supported that amendment. It is the same as, if not weaker than, his own non-statement of principle. It is completely unacceptable to the Australian Labor Party.

The PRESIDENT: Order! Members, there are three parts to this amendment; two involve the insertion of words and one requires the deletion of words. We will deal first with part 1 of the amendment.

Amendment (words to be inserted) put and a division taken with the following result -

Ayes (19)

Hon E.J. Charlton	Hon Barry House	Hon J.A. Scott
Hon M.J. Criddle	Hon Norm Kelly	Hon Christine Sharp
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Greg Smith
Hon Max Evans	Hon N.F. Moore	Hon W.N. Stretch
Hon Peter Foss	Hon M.D. Nixon	Hon Giz Watson
Hon Ray Halligan	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Helen Hodgson		

Noes (9)

Hon Kim Chance	Hon John Halden	Hon Ljiljanna Ravlich
Hon J.A. Cowdell	Hon Tom Helm	Hon Tom Stephens
Hon Cheryl Davenport	Hon Mark Nevill	Hon Bob Thomas *(Teller)*

Pairs

Hon Derrick Tomlinson	Hon Ken Travers
Hon Simon O'Brien	Hon N.D. Griffiths

Amendment thus passed.

The PRESIDENT: Order! The question now before the House relates to part 2 of the amendment; that is, to insert before "the Legislative Assembly" the designation "(b)".

Amendment (words to be inserted) put and passed.

The PRESIDENT: Part 3 of the amendment seeks to delete all words after "House" in the penultimate line of the motion.

Amendment (words to be deleted) put and passed.

Question (motion, as amended) put and passed.

MOTION - STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Salinity in Western Australia

HON J.A. COWDELL (South West) [4.39 pm]: I move -

> That the House calls on the Standing Committee on Ecologically Sustainable Development to examine the salinity problems facing Western Australia and to report every three months on the Government's progress on implementing the State's salinity action plan.

I move this motion because of the importance of the salinity issue and the fact that Parliament should be substantively involved in ensuring that action is undertaken, that funding is available, that the appropriate strategies are being advanced and adopted, and that the appropriate bodies are formed. Of course, our own Standing Committee on Ecologically Sustainable Development is the most appropriate committee to monitor this situation.

I believe it is of such importance that the committee should report to the House on a regular basis. It would be open for the committee then to decide what is a regular basis. Although I have suggested that it be quarterly, the important thing is to have a report on a regular basis. Members will be aware of this matter through not only the recent media coverage, but also the Government's publications, most recently the annual report of the Department of Environmental Protection. The "Draft State of the Environment Report" for 1997 summarises the key importance of this issue and establishes the need for parliamentary monitoring. The section headed "Land Salinisation" on page 27 of the report states -

> Land salinisation is one of WA's most significant environmental issues. It has severely damaged the natural environment, and reduced agricultural productivity.
>
> It occurs over a significant part of the agricultural area and also in irrigated areas. The amount of land affected by salinity will continue to increase until a new hydrological balance is reached. Without action, the area affected is likely to almost double to 17% of the total farm area, in 15-25 years and eventually double again as groundwater levels continue to rise.
>
> Land salinisation offers a direct challenge to traditional farming systems. These need to be fundamentally altered in order to redress the hydrological imbalance.
>
> Government has a role in encouraging this change, and investing funds to protect areas of high conservation value and water supply. The majority of investment in revegetation and other activities will need to come from the private sector. Unprecedented effort from all sectors is required to manage land salinisation.

I refer, in particular, to the statement that the majority of investment must come from the private sector. It shows how rubbery the Government's figures are in terms of the total strategy and the increasing reliance in the 10 year program on funds that will not be available. Of course, they are not the only rubbery figures in the Government's various wish lists in this regard. The report, put out by the Government, states that approximately 9 per cent of the agricultural land in Western Australia is currently affected by salinity. The previous figures are then repeated.

The gravity of the situation is again brought home on page 37, under the heading "Salinisation of Inland Waters", which states -

> Increases in stream salinity are preventable. However, long-term, concerted effort, involving the establishment of extensive areas of deep-rooted perennial vegetation, is required to halt and reduce the problem. Complete elimination of the problem is unrealistic.

The suggested response includes expanding programs to recover and protect catchments which have high wetland biodiversity and potable water supply values, and to protect important infrastructure under threat from salinity. Under the heading "Condition" the report states -

> Before native vegetation was cleared throughout the south west of WA it is believed that nearly all streams were usually fresh or marginally saline. Some streams would have been marginal or brackish during the low flow periods.

Then a most disturbing assessment is given of the current situation. A table appears on page 38 which shows the degree of the increase in the salinity rate over time. Indeed, it is very disturbing. We have in these reports one of those final, begrudging admissions before eventually some action was contemplated.

Although I will not traverse this at any length, we have had statements of justifiable, alarming concern over many years from the Conservation Council of Western Australia.

Hon J.A. Scott: Syd Shea would be in that.

Hon J.A. COWDELL: I will get to him in a moment in terms of questioning the nature of the response and the central role of the Department of Conservation and Land Management and its chief figure, "Flog 'Em Syd", who believes the only viable strategy is something that makes money. Perhaps this is not the bedrock on which we should base our program.

Hon J.A. Scott interjected.

Hon J.A. COWDELL: It is more like CALM Inc. We have been warned for some time in the academic journals about the gravity of the situation. I refer to an article by Graeme Robertson, which appeared in the "Australian Journal of Soil and Water Conservation" of 3 August 1996. He puts the matter in an historic perspective and states -

> By 1897 farmers in the Northam Toodyay district had reported the relationship between land clearing and salinity. By 1907 the catchment of the Mundaring weir had been ringbarked, salinity had increased in the dam, the situation assessed and the rising salinity attributed to the clearing. A regrowth and replanting program was implemented to reverse the salinity trend. By 1924 Wood . . . had established that there was salt stored in landscape, and had demonstrated that clearing native vegetation resulted in increased salts in the soil and water.
>
> Unfortunately, despite this and a store of knowledge, research and experience, the 'not here' syndrome has prevailed and we are still seeing salinity expand.

The obvious conclusions were drawn at the turn of the century. A limited exercise of success in salinity reduction may even have occurred, but the "not here" syndrome prevailed and we have estimated an increase in the area of seepage salinity in Western Australia from 264 000 hectares in 1982 to 1.609 million ha in 1996. The increase has been exponential from there on in. The question is why this matter should be formally referred to the standing committee by this House when we are already aware of the gravity of the problem.

We must also monitor and have regular reports because of changing governmental priorities. There must be a consistent commitment and allocation of funds. We have not seen that in the past, although we have seen a growing interest in the problem. However, the will to act must continue. As Adolph Hitler wrote in *Mein Kampf*, "Who now remembers the Armenian genocide"? Indeed, who does? Who remembers the jarrah dieback program? It was flavour of the month a few years ago. However, if members follow up, as I do with a regular series of questions on this matter, they will know that it is no longer flavour of the month. The Department of Conservation and Land Management is doing very little and very few funds are being allocated.

Hon J.A. Scott: There is still the spread of dieback.

Hon J.A. COWDELL: Yes. I am saying that the salinity problem might be flavour of the year at the moment but so was jarrah dieback a few years ago. The financial allocations today do not indicate that. A parliamentary committee is required to ensure that this priority is maintained, otherwise it will slip from both the parliamentary and the public mind. Even if we were to assume that the commitment and bona fides of the State Government were established - I do not argue that myself - there is still the problem of Commonwealth commitment. Recently the Commonwealth and the State have been wrangling about what the Commonwealth was supposed to do, what funds were supposed to be provided and how much from the sale of Telstra would be committed.

Accusations have been made, even from our current state Administration, of the Commonwealth reneging, even when it has Telstra funds coming in. Heaven knows what will happen when there are no Telstra funds and the Commonwealth moves on to other interests. It is a matter of not only making sure that the State Government continues to accord this the priority and the funds it deserves but also highlighting the Commonwealth's contribution and encouraging it to participate fully in this program. I refer to the graph produced by the State Government setting out its ambitious funding program. We have all seen the figures - "A billion dollar program", "$100m a year for 10 years". That is only in the immediate future and it will continue for another 20 years after that, so it is a $3b program which increases with every new press release!

The only trouble is, when faxed, as they usually are, the Government's wonderful, multi-coloured graphs do not come out as wonderful multi-coloured graphs. After a request to the department for an original copy I was able to see what the proportions are. It shows an average $100m a year for 10 years. In year 1 the allocation is estimated to be approximately a $30m contribution from, in the main, existing state resources with a small supplement from additional state funds. It is supposed to increase at the other end of the decade to $120m. That makes up for the $30m in the first year and $60m in the second year at the other end of the decade. From where will the funds come?

A decreasing amount will come from existing state resources. An ongoing amount, which is supposed to be fairly consistent, comprises new state funds of $10m a year. From where does the balance come in this ambitious program? I am talking about estimates of 70 per cent to 80 per cent. The graph tells me that it comes from the areas coloured blue and red. The blue is "New Federal funds that have been requested". That is a sound basis of an estimate program if ever I have seen one!

Hon J.A. Scott interjected.

Hon J.A. COWDELL: They are not even funds that have been firmly promised. They are just new federal funds requested - $30m a year spreading over 10 years; that is optimism in the extreme. Private funds are to contribute an estimated $60m a year.

Hon E.J. Charlton: It would be $100m a year if there were a little more taxation incentive. It is probably that much now.

Hon J.A. COWDELL: If Hon Eric Charlton had not diverted it all to black top roads there could be a little more.

Hon E.J. Charlton: Have you ever owned a piece of land or done anything about dealing with salinity?

The PRESIDENT: Order! The Minister for Transport will cease interjecting.

Hon J.A. COWDELL: As I was saying, the point of the motion is to involve Parliament in this process, to keep Parliament informed and interested, because Parliament could lose interest in the matter. The Minister, Hon Hendy Cowan, certainly has a great deal of interest in it. However, on his own statement he will not continue for the full decade at which we are looking. As I said, we need parliamentary involvement, not just that of a single Minister or an ad hoc Cabinet subcommittee. We need an ongoing interest.

Hon Peter Foss interjected.

Hon J.A. COWDELL: Yes; subcommittees may or may not be permanent. They are normally announced as permanent but do not always prove to be so. My argument is that we need to make sure that Parliament is a participant, with private bodies, the Government and government departments and the subcommittee of Cabinet in making sure that this issue remains before the public and Parliament and receives the priority it deserves; that is, the priority indicated by the allocation of funds. It may be only a matter of keeping the Commonwealth up to its promised contribution. However, I suggest a fair amount of work must be done, given the projections of private contributions. Thirdly, we need a committee to regularly report to the full Chamber, not only to make sure that the quantum of funds is maintained but also to assess government effectiveness, the priorities given by the Cabinet subcommittee and whether the salinity council is adequate or a new peak council must be formed. The committee would also ensure that an appropriate level of strategic coordination occurs and that small groups do not fritter away the valuable resources that have been allocated. That is not to say that small groups cannot adequately extend and maximise the use of state funds.

We must also consider the appropriateness of CALM's central role as the major state instrumentality that has responsibility for not only coordinating a strategy but also providing from its own budget, by its own earning activities, the bulk of the funds the State has regularly committed to this exercise.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL (No 2)

Order Discharged and Referral of Bill to Committee

On motion by Hon N.F. Moore (Leader of the House), resolved -

> That the Order of the Day be discharged from the Notice Paper and the Bill be referred to the Standing Committee on Constitutional Affairs and Statutes Revision.

MUTUAL RECOGNITION (WESTERN AUSTRALIA) AMENDMENT BILL

Second Reading

Resumed from 23 October.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [5.36 pm]: The Opposition supports this Bill.

HON J.A. SCOTT (South Metropolitan) [5.36 pm]: I raise a problem which has occurred in the ACT in regard to mutual recognition. I understand the ACT passed a new Act of Parliament to prevent the sale of battery hen eggs. In order for them to pass this Act they need the support of other States. I do not know whether they have done so yet but they will be asking for an exclusion from their mutual recognition responsibilities in that regard. They are concerned that they will end up with a flood of battery hen eggs from other States.

This is probably not the place to ask whether the State Government has come across this issue yet, but I wanted to raise it in terms of what these sorts of Bills can mean to States, and to our State in particular, in certain exceptional circumstances. I add my support to the Bill and would be interested to know if the Leader of the House has come across that problem.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.38 pm]: I thank the Opposition for its support of the legislation. In respect of the matter raised by Hon Jim Scott, I regret that I have no idea at all about the sale of battery hen eggs in the ACT. I do not have any idea about a number of things and that is one of them. I can assure Hon Jim Scott that I will find out the answer and relay it to him in due course. This Bill has nothing to do with battery hen eggs, it is about changing the date for the expiry of this legislation and extending it by one year. I thank members for their comments.

Question put and passed.

Bill read a second time.

By leave, Bill proceeded through remaining stages without debate and passed.

FUEL SUPPLIERS LICENSING AND DIESEL SUBSIDIES BILL

Second Reading

Resumed from 19 November.

HON MARK NEVILL (Mining and Pastoral) [5.40 pm]: The Opposition supports this Bill, which was introduced in response to the High Court's decision that state franchise fees were unconstitutional on the ground that they were an excise. The High Court's ruling was inevitable. In the Capital Duplicators case a few years ago some decisions could have been made in this area, but there was silence on this aspect of the validity of the fee in that case. It is not surprising that these fees were struck down by the High Court, following the challenge to the New South Wales franchise fees on tobacco. It always amazes me that a wholesaler or retailer will challenge these fees, because it is a certainty that they will be replaced by an equivalent fee, albeit in a different form.

Earlier this year some precautionary measures were taken through legislation in this House in the event that the challenge would be successful. The decision of the High Court was that the franchise fees on tobacco were unconstitutional and it therefore follows that the state franchise fees on fuel and alcohol are also unconstitutional. To overcome the problem the Federal Government has increased the excise rate on tobacco and fuel, and the sales tax rate on alcohol, to cover the shortfall. I am surprised that some agreement was not reached for the Federal Government to collect the state franchise fees on liquor. Members will be aware that the Commonwealth collects its sales tax of approximately 20 per cent on liquor, and that is levied on retailers and restaurants by the wholesaler. The retailer receives one bill, in which the federal tax is incorporated in the cost of the alcohol, and knows exactly what the unit cost is.

To make life miserable for all small businesses in this industry in the State, every quarter they had to pay a pro rata fee, depending on the volume of sales, and had to calculate all the franchise fees. They were levied at a rate of 11 per cent for full strength alcohol and 7 per cent for low strength alcohol. A return had then to be submitted to the Office of Racing and Gaming. It was a very tedious process, and there were severe fines for non-compliance because large amounts of money were involved. It is very easy for a small business to overlook those matters. It always irked me that the State and Federal Governments could not get together to impose one tax paid by the wholesaler, with the retailer being relieved of the burden of the dreadful paperwork which was absolutely unnecessary. In that sense, the High Court ruling is a bonus.

Hon Max Evans: It is the only bonus in the whole lot, but I agree completely.

Hon MARK NEVILL: Every liquor retailer will be very pleased with the decision.

The ramifications in the fuel and tobacco industries are obviously quite dramatic. The Commonwealth will levy an 8.1¢ a litre surcharge on fuel. It cannot levy differential rates on the States, so that leaves gaps and surpluses in the rates previously levied by the States under the franchise fuel system. That rate is 0.65 of a cent a litre above this State's rate on diesel, and that will be refunded. I would have preferred that money to be spent on roads, because it

is never wasted in that area. For off-road diesel fuel an amount of 7.45¢ a litre will be refunded. The cost of the subsidy is $209m for off-road users and $4.5m for on-road users.

The Bill is very stimulating legislation. It covers supplies of fuel, the licences required, the various conditions that apply to fuel suppliers' licences, the diesel record conditions and so on. It also deals with distributors of off-road diesel fuel and distributors' authorities, together with all the various paperwork associated with that. The Bill also designates who may apply for off-road diesel user certificates so these people can claim the subsidy. It contains provisions relating to permits that cover fuel suppliers' licences, off-road diesel distributors' authority and off-road diesel users' certificates. Part 6 of the Bill covers diesel subsidies and part 7 covers investigations.

It is quite frightening to read clauses 50 to 58, which give the Commissioner of State Revenue draconian powers to appoint authorised investigators. Those investigators have the power to require information and production of records, which is fairly reasonable, and power to require persons to attend examination. They also have the power to enter premises, and to use force to enter premises. Those powers are quite draconian and require the commissioner's permission and I hope they are used with great care.

In spite of the good intentions of the legislation, the misuse of those powers seems to occur. I hope that the commissioner is absolutely convinced an offence has been committed and that the provisions in the legislation are not used to go on fishing expeditions and harass people, which has been the case in the past.

Hon Max Evans: The same with the powers under the fisheries legislation.

Hon MARK NEVILL: Absolutely, and even with the powers given to the police. The powers the police have concern me. From my experience those powers are often used on honest people to protect the dishonest people in those organisations.

The Bill is rather surprising in that it has a review clause that says as soon as practicable after the fourth anniversary the Minister must carry out a review of the legislation. Clause 70 is a sunset clause, which is something we do not often see in legislation these days. It intrigues me that we need a sunset clause in this Bill. The sunset clause is that the legislation expires five years after the date on which it receives royal assent. It is unusual and I ask the Minister to explain the reason for that. I thoroughly enjoyed reading the Bill and I commend it to the House.

HON M.D. NIXON (Agricultural) [5.52 pm]: I support the Bill. The Minister and Hon Mark Nevill have clearly outlined the purpose of the Bill. I would like to pay particular attention to the reason for this Bill.

Historically, diesel fuel used for off-road vehicles was not taxed. When the Federal Government introduced the tax on road fuel, it implemented a system whereby licensed consumers quoted their tax exemption number when purchasing their fuel and they received it tax free. A similar system was introduced in Western Australia and certain people were able to purchase diesel fuel, tax free, for their off-road vehicles.

The Federal Government recognised that the system was being rorted. I understand the rorting was often by distributors who distributed the fuel tax free to some of the service stations and charged it out on off-road users' tax exemption numbers. The Federal Government changed the system to a rebate system. Under that system the off-road user paid the excise upfront and lodged a claim for a rebate. The system provided for the rebate to be paid before the off-road user was required to pay his fuel bill.

The Western Australian Government continued the licensing system whereby the operator-user did not have to pay the tax in the first place. The Minister outlined that this arrangement changed when the High Court changed the rules and the Federal Government was required to apply the same tax across all States. The State Government maintained its commitment. However, because the tax was slightly higher than the tax for on-road fuel, a slight discount was given to the oil companies for the fuel that was sold tax free and used on-road.

Seventy per cent of the diesel fuel used in Western Australia is used in off-road vehicles. It is probably a far larger proportion than in other States, particularly New South Wales, Victoria and South Australia. I presume the Northern Territory would use an incredible amount of its fuel off-road because of its mining and pastoral industry and its huge transport requirements. I suppose Queensland would be in the same situation.

My concern lies in the use of the word "subsidy". When the Federal Government replaced the excise with a fuel rebate, it represented a return of funds that should not have been paid in the first place. It was good administration to prevent rorting of the system, but it was never seen as a subsidy to the off-road user. It was a return of funds that should not have been paid because they were exempt.

The Minister said in his second reading speech -

> I note that the use of the word "subsidy" to describe the payments to the fuel companies reflects the advice

of the parliamentary draftsperson. It does not imply any lack of commitment by the Government to ensuring that the benefit provided to diesel fuel users continues.

I would have been happier if the word "payment" had been used in the place of the word "subsidy". It more accurately reflects the situation. It is important that the Minister and the House should note that it is an administrative way of returning to the old system under which the State Government never charged off-road users because they are not required to pay a road tax.

HON HELEN HODGSON (North Metropolitan) [5.56 pm]: We all know this Bill deals with some of the issues which came out of a recent High Court ruling. Members had the opportunity to speak on this issue when the House considered the Appropriation (Consolidated Fund) Bill (No 3) which put in place the interim authorisations to pay out on these sorts of arrangements until this Bill could be brought before this place.

Hon Murray Nixon referred to the changes to the rules. As someone who has studied the history of the definition of what is an excise, I believe it is not so much a change as something that was inevitable. That was evident in the way the boundaries were stretched by the definitions which the court came up with and the State Governments' responses to them, which was necessary and understandable to protect revenue bases. However, over the past 15 years tax scholars have known we have been on borrowed time with respect to the validity of these sorts of franchise fees.

The issue of fuel excises is fiddly because both federal and state taxing powers are involved. Traditionally, federal and state fuel excises have been levied, but diesel fuel has been exempt from that levy. We are now dealing with that by trying to make sure that the exemption which applies to diesel fuel remains in place.

The excise on fuel is a federal tax which is collected by the Federal Government. Currently, in this State there is no tax on off-road diesel, as Hon Murray Nixon said, and there is a lower rate of tax on on-road fuel than there is at the federal level. Under the safety net arrangements negotiated between the Commonwealth and the States, this State is required to set in place mechanisms to ensure that excise payers are no worse off than they were under the old regime. It is an applaudable goal. It is important, when implementing a change to the system, not to penalise taxpayers. They should be entitled to know they are paying the same level of tax. The question of what this should be called was also raised by Hon Murray Nixon. It has been put to me that calling it a subsidy could have implications for the minerals industry when it is selling offshore. When it deals with international contracts consideration is given to whether the industry is subsidised. Although we are talking about a specific diesel subsidy, it could be argued in the international marketplace that we are subsidising the mining industry because it is receiving diesel at a lower rate. For that reason another word should be used. The word "rebate" was preferred, but I am aware that technically it cannot be used because the State is not collecting the tax.

Sitting suspended from 6.00 to 7.30 pm

Hon HELEN HODGSON: The Bill is structured to ensure that the ultimate subsidy is passed on to the consumer, who is termed the user in this Bill. Three tiers of people are recognised as the suppliers, the distributors and the users. Essentially through a system of licensing and certification the Bill ensures that although the subsidy is paid at the highest level, it is expected to be passed on through the system to the final consumer of the fuel. In that sense it is fairly similar to the sorts of regimes that we already see in operation with some of the other taxes in the system. The scheme is to subsidise it at the supply level and pass it on down through distributors to users.

I had a fairly close look at some areas when going through this Bill. Quite apart from the mechanisms for making sure that the registration system works, I looked at some of the other areas, such as investigative powers. I agree with the comments of Hon Mark Nevill that when one first looks at those provisions they seem to be fairly extensive. My experience of dealing with tax laws is that generally the provisions at first glance always seem pretty draconian. In the case of income tax there has been quite extensive litigation on how the provisions should be interpreted so as to allow a measure of natural justice to the person being investigated and offsetting that against allowing the Commissioner of Taxation to have access to information and documents in a reasonably timely manner. There is always the tension between the need to protect revenue and the rights of the person being investigated. Quite often the cases before the courts are those where people are able to use technical drafting loopholes in the legislation in order to ensure that they can defer the investigative process and possibly even remove themselves from the system.

I am fairly happy that although the rights given are strict, there are appropriate controls. The areas which one would think people would find most objectionable would be such matters as the ability to break into rooms and strongboxes, the ability to search without the consent of the occupier and without a warrant and the nasty ability to use reasonable force to exercise the power of entry to premises. All of those are areas in which one would think natural justice should make sure that the investigator does not have unlimited powers or the ability to go too far. The control the

legislation is putting in place is that in those three areas particularly the actions have to be specifically authorised by the commissioner, he being the chief executive officer looking after the Bill. I assume that in practice it would be the Commissioner of State Revenue. In those circumstances, although the investigative powers are very hefty, there is a control in place. On that basis I am prepared to accept those powers are no more severe than one finds in other taxation legislation.

Another issue I picked up on was the rights of a person when there is a dispute. I found a potential anomaly. In a couple of instances a person may have rights suspended, which means that they would lose the entitlement to quote their certificate number, for example. They have the right to have the decision reviewed by the Minister, but the Bill is silent on what happens in the meantime. I foresee a situation where somebody had that right suspended, had the Minister review it and then had the right reinstated. In the meantime there would be a question of legality over applications or the use of the certificate during that time. I therefore propose an amendment to ensure that the rights of the taxpayer remain on foot during the period when the matter is before the Minister.

The offence provision has a pretty hefty fine attached to it of $20 000. I appreciate that in all these matters we are moving towards heavier fines and leaving it in the hands of the court to decide what is appropriate, given the level of the offence. However, a $20 000 fine is certainly up at the top end of what one would expect in these matters. Given the quantities and dollar values that some fuel distributors are dealing with, I also recognise that $20 000 as a percentage of the tax avoided might not be large at all.

I would be interested to hear a comment from the Minister as to what is required with a couple of matters. For example, in particular areas regulations will be brought in to look at prescribed records. At all levels in this distribution chain people will be required to keep prescribed records; for example, the holder of a fuel supplier's licence must keep the general records that are prescribed. I appreciate the difficulty of setting this out in legislation. It is quite appropriate for this to be done by way of regulation, and I have no quibble with that. However, it will be interesting to hear from the Minister what sorts of records it is expected that people will be required to keep. I trust that will be spelt out to people when they receive their various certificates and permits, so that they cannot later say, "I was not aware that my record keeping system was inadequate."

The other matter that is being dealt with by regulation is the calculation of the rebate. I thought that would be pretty straightforward in most cases. We are told what the ordinary and the general subsidy rates are. In most cases the subsidy available would be the rate times the amount of fuel involved. I am curious about why this has been done by regulation. In the specific case of cross-border issues and the variation between subsidy rates between States, I accept the need for a more complex formula. However, with that exception, I am not sure why we are doing this by regulation instead of incorporating it in the legislation.

My major concern is the way in which this Act can be terminated. Hon Mark Nevill has already raised the review clause. I understand the reason for that is that in the current climate it is expected that there will be movement on tax issues within four years, so a review within that period is reasonable.

Hon Mark Nevill: Why wait until the start of the fourth year?

Hon HELEN HODGSON: The aspect that concerns me is that the Minister can order subsidies to cease and that order will have effect by way of gazettal. Essentially that has the effect of repealing this Bill, because subsidies specified in this Bill can be repealed by way of an order. I recognise the need for that flexibility in the current climate, because if the state-federal arrangements change significantly, we could find ourselves with the Federal Government no longer collecting the excise, but the State still being required to pay the subsidy. However, it is appropriate that this Parliament has the opportunity to review the order and the reasons for that order. Therefore, I intend to move an amendment which will require that order to be tabled and be disallowable in the same way as a regulation. I am moving this way because that will retain the flexibility to be able to cut things off immediately, but will also retain the principle that it is only the Parliament that should be deciding whether to repeal an Act. I believe a Supplementary Notice Paper will be circulated in a few moments. With those reservations, which will be addressed in more detail in the Committee stage, I commend the Bill to the House.

HON GREG SMITH (Mining and Pastoral) [7.43 pm]: I agree with the point raised by Hon Murray Nixon about the unfortunate use of the word "subsidy". Hon Jim Scott has referred to a subsidy. It is not a subsidy; it is an exemption. It was a user pays system for collecting road tax. Any fuel that was not used off road was returned to the people who did not use it.

Hon Mark Nevill: Trains had to pay that fuel tax and they were not on roads. They are public transport.

Hon GREG SMITH: It is unfortunate that the word subsidy has been used, because down the track people like Hon Jim Scott will tell us that it is a subsidy, whereas it is not a subsidy; it is a rebate of revenue that should not have been paid in the first place. I commend the Bill to the House.

HON J.A. SCOTT (South Metropolitan) [7.44 pm]: This subsidy is an extremely elaborate and complicated way to subsidise the production of greenhouse gas and to encourage the overuse of an important strategic resource. Most countries are moving in the opposite direction to Western Australia, because they are imposing carbon taxes to try to reduce the overuse of that fuel source.

Hon E.J. Charlton: We are going straight to hydrogen.

Hon J.A. SCOTT: Hydrogen would be very good.

Hon Greg Smith interjected.

Hon J.A. SCOTT: The Greens realise that the gold industry does not use a shovel and wheelbarrow, but clearly we do not have to subsidise every industry that cannot pay the same price as everyone else. After all fuel is an underpriced resource that will be valuable in the future. We must be more careful to use it in a strategic way. I am concerned that all the moves in this State are in the opposite direction: The more gas one uses the cheaper it is; if one uses above a certain volume it is cheaper, and if one does not use a lot it costs more. That is the wrong way to go. If the Government wants to subsidise the mining and agriculture industries, it should consider socially useful ways of doing that.

Hon Greg Smith interjected.

Hon J.A. SCOTT: The Government should consider completely wiping out some of the taxes on employment. This State continues to increase those taxes rather than getting rid of them. Recently Bills have left this House in which the tax base on employment has been widened rather than reduced. In agriculture we could put that subsidy towards reducing the salinity levels in this State and helping to set up mallee oil production in a real way instead of the halfhearted way that we are doing it. That would be really useful, instead of the backward approach of encouraging the production of greenhouse gases which will result in trade embargoes from other countries and add to the plight of this planet. Furthermore, we will be helping to add to the problems in the eastern States where the El Nino effect is causing severe drought and will continue to do so in the future.

It is time that the Government showed a bit more imagination. If the Government thinks it is valuable to prop up an industry, it should do it in a way that will help the whole community. Although it is quickly moving to do this, it has been caught out. It should re-examine the way it applies these subsidies.

I say to Hon Greg Smith, through the Deputy President of course, that I was briefed on this Bill, and it was carefully explained to me that it was a subsidy. It had to be different from what it was before because it is now not returning the same money; in fact, the State is receiving a lump of money from the Federal Government and then paying that out in the form of this subsidy. It is a subsidy; there is no other word for it. If Hon Greg Smith talked to the people who put the Bill together, they would tell him that is the case. If we are going to subsidise industry, let us do it in a way that benefits all of our community. In 10 to 15 years, agriculture in Western Australia will be in trouble from rising fuel prices as the amount of liquid hydrocarbons available worldwide and in this State will start to wind down. This State needs to start thinking strategically about what it is doing with fuel. There is no strategic energy policy in place. Worldwide the longest lasting oilfields have a peak period of 26 years.

Hon E.J. Charlton: You must acknowledge, I have seen on the work benches and test benches around the world other forms of motors that will come into play as soon as the economic balance is reached. It will not be done beforehand. The sooner they run out of oil, the better it will be from Hon Jim Scott's point of view, and we will get on with the rest.

Hon J.A. SCOTT: Hon Eric Charlton has demonstrated his great knowledge by saying that all these other fuels will be used. I point out to the Minister that the price of hydrogen is four times the price of oil, and that will increase the cost of agriculture and mining very significantly.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! The member might like to make his point to me rather than to Hon Eric Charlton, the Minister for Transport.

Hon J.A. SCOTT: It is sometimes hard to get the message through to some people. The energy cost of producing ethanol is equal to its energy output, which is a waste of time. Of all the other fuels available, there is nothing as cheap as liquid hydrocarbon and it will have a huge effect on the economy. This Government should be encouraging less use of fuel. I know some mining companies are doing good things. They are using solar energy to light their pits, and BP is moving in a good direction with energy provision. The State Government is looking backwards and going into reverse, in the opposite direction from the rest of the world. It should come into the future. It should establish policies that will get this State somewhere in the next century, and not policies that are backward looking. The Government should get rid of the silly subsidies on fuel and encourage less use of them. Then I could feel confident about such Bills as this. I cannot say I support the Bill.

HON MAX EVANS (North Metropolitan - Minister for Finance) [7.52 pm]: I thank those who have supported the Bill and those who have not, but who have contributed to the debate. I agree wholeheartedly with Hon Mark Nevill on the matter of liquor tax. For his information, soon after this Government came to office I did a lot of investigation about imposing a wholesale tax, similar to the tobacco tax. It would have meant adjusting the rate and the amount of money that would have been payable at an earlier stage of the process. A lot of work was done, and I was in contact with Anne Cohen, the then Minister in New South Wales. She agreed with me at the time, but there was then a change of government. Richard Face, with whom I get on very well, was my next contact and he also took up the running. However, we then faced the big problem that all the States had different levels of liquor tax and it was impossible to deal with the sales across state borders.

We should try to remove all this work for retailers. The tax should be paid on these goods as it is on tobacco, which will also relieve the staff of the Office of Racing and Gaming of some of the paperwork. The wholesalers and retailers all had to supply my office with records. Sometimes they could be matched up, but there was a real paper warfare. The legislation had to be changed. They had to keep daily records of all the liquor sold into a retail outlet. The Government intended to cut that out because it was not necessary, because of the invoicing and the computer systems these days. We had tried to cut it down, but it came back a couple of years ago. We realised we could not take the next logical step.

Hon Mark Nevill referred to the review after the fourth anniversary of the introduction of the legislation, and the sunset clause after five years. Other members also referred to this clause. The Bill seeks to put in place arrangements consistent with those in operation under the fuel franchise licensing regime, which is in place at present. The commonwealth excise surcharge in respect of fuel has likewise been put in place to ensure the revenue associated with that previous regime is raised, and the State's finances receive the benefit of such amounts. It is envisaged that these surcharge arrangements will be considered as part of the broader consideration of federal-state financial relations and taxation reform in Australia. Assuming this process can be progressed over the next five years, or some shorter period, it was considered appropriate that the Parliament be given the opportunity to reconsider the appropriateness of the regime proposed in this Bill when the reform process has been completed. Accordingly, the Bill provides for a review process to be undertaken after four years of the regime's operation, with automatic cessation after five years unless the Parliament decides otherwise. This review after four years is not a bad idea. Often sunset clauses of five years are included in legislation, but time catches up and they can be cut out. If a date is included for the conduct of the review, it will take place 12 months before the sunset clause comes into operation.

I have taken note of Hon Mark Nevill's comments on the power to investigate and interrogate. Hon Helen Hodgson also commented on these aspects. It is always a problem that taxation officers can remove a company's records. I can remember at one time doing a liquidation of Moll's business, and officers from the Australian Taxation Office wanted to take away all the records. We, as liquidators, needed those records to collect the debts and so on.

Hon Helen Hodgson: And lock them up in the basement of 1 St Georges Terrace.

Hon MAX EVANS: No. Brian Davidson, a city solicitor, was in our office at the time and he challenged the ATO officers. He knew more about the law than they did. In the end we worked all weekend photocopying, and gave the ATO a photocopy of everything it wanted. It could be serious because such action could be an impediment to people carrying on their business. The tax powers are changed from time to time and this comes more under taxation law than criminal matters and the like. I believe that can be dealt with.

Hon Murray Nixon commented on the subsidy to road users. People seem to be more worried about the use of the word "subsidy" than anything else in the Bill. It is only a word. Perhaps they are concerned about the connotation, in that a subsidy can be revoked by a Government.

There is a certain amount of paperwork, which will increase in respect of liquor. People must check on the cellar door sales and the wine used in tastings. The Government is trying to remedy some of these matters by regulation.

Hon Helen Hodgson made an interesting comment on subsidies in the international marketplace. Half the world subsidises its industries, and other people complain about it, but nothing is done.

I commend to the House Hon Helen Hodgson for the good research she did and for the points she raised. One interesting point related to a typographical error, and I was concerned to learn that parliamentary counsel has responsibility for checking the printers' copy. I hope to rectify that in future. I have prepared prospectuses in the past, and the accuracy of them has not been the responsibility of the printer. The responsible auditor must obtain and check a copy and sign it off before the remainder of the copies are printed. The policy officers must take responsibility for typographical errors. In future it will not be the responsibility of parliamentary counsel to check the accuracy of these documents. The policy officers must take full responsibility and sign it off.

Hon Helen Hodgson made a valid comment on the Minister's ability to suspend someone in particular circumstances,

and said it could be some time before that suspended person could get back to business. The Government is considering a change in the wording. I compare it to the racing industry when the stewards scrub out some people and it takes some time for the racing tribunal to bring them back into business. Hon Helen Hodgson wants to avoid that because people should have the right to continue in their business.

The regulations for prescribed records are currently being determined in conjunction with the industry participants. It should include invoice information, certification, authorisation numbers and identity of persons, and this has been done. It became obvious that a lot of work had to be done with respect to fuel in New South Wales, because of the problems between that State and Queensland. The problem of the ad valorem tax rate arose with tobacco tax. Industry will be consulted on this issue and the appropriate regulation will outline what is expected.

The prescription rates will allow flexibility in the future if the commonwealth surcharge is altered. Hon Helen Hodgson foreshadowed an amendment pertaining to the Minister tabling an order in both Houses of Parliament if the Federal Government fails to pay the subsidy. The member is really asking what happens if the parties have paid the tax and have not received a rebate. If the Federal Government did not pay the money the States would be confronted with a serious problem. The reason for the Bill is to allow the State to pay a subsidy to people. If that does not happen the matter will come before the Parliament. I discussed this with the Under Treasurer and he can see no problems with it. When we go into Committee we will work through the other amendments proposed by Hon Helen Hodgson. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon J.A. SCOTT: The Minister has not taken seriously the point I raised about the direction this Government is taking. A conference will be held very soon in Kyoto, Japan at which Australia will be under the hammer for failing to address greenhouse emissions. I pointed this out during the second reading debate but the Minister did not acknowledge it in his reply to that debate. If we subsidise greenhouse emissions, how will that help this country's stance in Kyoto, given that a lot of our industries will be put at risk of having embargoes placed on their products? I referred also to the policies of this State which encourage the waste of fuel. It is not a frivolous issue; it is an extremely important issue which nations around the world are trying to tackle.

Hon MAX EVANS: I apologise for not replying to the member in the second reading debate. This legislation is here for one reason and that is to complete the legislative requirements arising out of the High Court decision on state franchise fees. It involves revenue of $650m, which this Bill will assist in recovering.

This legislation is not about addressing the greenhouse gas problems or the amount of fuel used. It simply restores the status quo for fuel tax. The member referred to the unnecessary increase in fuel tax. His party has the ability to say what it would do if it were in government, but whether it would be possible to do what it says we should do without affecting industry is another issue. Some members have been briefed by BP and they would be aware that the volume of fuel used in this State is greater than that used by two or three eastern States put together. It comes down to the expansion of industry.

Hon J.A. Scott interjected.

Hon MAX EVANS: I do not know how we stop businesses growing. The member is free to introduce a Bill to change the tax rates. In the past it was said that if the alcohol and tobacco taxes were increased it would stop people drinking and smoking. That was not the case. The tobacco tax has doubled. The high cost encountered by the mining industry is the diesel fuel factor. To answer the member's question, this is a Bill to restore to the status quo fuel taxes affected by the High Court decision.

Clause put and passed.

Clauses 2 to 40 put and passed.

Clause 41: Permit may be cancelled -

Hon HELEN HODGSON: I move -

Page 24, line 9 - To delete the line.

Page 24, after line 11 - To insert the following -

Penalty: $1 000

This amendment will correct a typographical error in the Bill. The Bill as printed creates a dilemma as to whether the appropriate penalty for not returning a permit is $1 000, which is the obvious intention, or $20 000, as an offence under the general provision. It is appropriate to clarify the situation.

Hon MAX EVANS: The Government accepts the amendment.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 42 to 54 put and passed.

Clause 55: Power to enter premises -

Hon HELEN HODGSON: I move -

Page 33, line 21 - To insert after the word "give" the word "reasonable".

This clause deals with the power to detain a vehicle and give directions about the movement of that vehicle. However, the wording of the clause leaves open the potential for the directions given to be extremely broad, even though they must be in connection with an authorised investigation. The insertion of the word "reasonable" provides some limit on the extent to which the directions can be taken and to some extent protects the rights of the taxpayers.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 56 to 59 put and passed.

Clause 60: Ministerial review -

Hon HELEN HODGSON: I move -

Page 38, after line 15 - To insert the following subclause -

(2) If the application is for a review of a decision of the Commissioner made under section 37(6) or 41(6), the Commissioner's decision is suspended from the time the application is received by the Minister until the applicant is given notice of the Minister's decision; at which time, unless the Commissioner's decision has been reversed, it has effect subject to the Minister's decision.

Page 38, after line 18 - To insert the following subclause -

(4) The Commissioner must give the applicant written notice of the Minister's decision.

I alluded to this issue during the second reading debate. If the commissioner made a decision and that went to the Minister for review, the person affected by that decision might have a problem with regard to whether his rights were suspended during that period. With other decisions, there is no need for this type of provision because there is nothing in place to start with, but in these two instances a person might have his rights cancelled and later reinstated, and then have a discussion about what his status should have been during that time. These amendments will rectify that problem.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 61 to 65 put and passed.

Clause 66: Minister may order subsidies to cease -

Hon HELEN HODGSON: I move -

Page 43, after line 7 - To insert the following subclause -

(7) An order made under this section is to be laid before each House of Parliament under section 42 of the *Interpretation Act 1984* and that section applies as if the order were a regulation.

I have already outlined the need for this amendment. This additional subclause will mean that if an order were made to cancel the effect of this Bill, it would have immediate impact because it would come into effect as soon as it was gazetted, but it would give this place an opportunity to review it and determine whether it was appropriate to cancel the impact of this Bill. That is a proper separation of parliamentary and administrative powers.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 67 to 70 put and passed.

Schedule 1 put and passed.

Title put and passed.

Bill reported, with amendments.

By leave, Bill proceeded through remaining stages without debate and returned to the Assembly with amendments.

DAMPIER TO BUNBURY PIPELINE BILL

Second Reading

Resumed from 19 November.

HON MARK NEVILL (Mining and Pastoral) [8.18 pm]: The Opposition supports this Bill. Unfortunately, I was away last week in the desert and had little time to go through this Bill in detail, but the time that I did spend on it led me to conclude that this would be a fairly interesting Bill for a standing committee to deal with, although obviously there is no time to do that. We have made a commitment that we will support this Bill.

The potential purchasers of the pipeline will go into the data rooms on 1 December, so that process is well in train. I will raise a number of issues with regard to that matter at the Committee stage. I refer members back to 1994 when the State Energy Commission of WA was split into the Electricity Corporation and the Gas Corporation. During debate on the relevant Bills I mentioned future plans, although these were not mentioned in the Bill at the time, for a possible sell-off of the Dampier to Perth pipeline. I said later in debate that I could see difficulties arising with the sale, especially with deregulation, as I could not see it being deregulated fully.

Later in the speech I mentioned the debt of SECWA being split, with $2b apportioned to the Electricity Corporation, now Western Power, and $1.5b apportioned to the Gas Corporation, now AlintaGas. I said -

> It is difficult to understand how that debt will be serviced under the new regime. In the case of the Gas Corporation, all the big suppliers in the market will buy gas direct from the suppliers. They will pay a transmission fee and will receive the gas.

This meant that the $1.5b debt had to be serviced by the domestic consumers and small commercial consumers. I went on to say -

> A provision must be written into the legislation to prevent someone from building another pipeline to Perth. The current Dampier to Perth gas pipeline entails a debt of approximately $1 200m, which was the cost of building it a decade ago. I understand the cost of building a pipeline from Dampier to Perth these days is in the order of $500m.

That was some three years ago. Continuing -

> How can the Government deregulate the gas system and service the debt it has, without putting a veto on anyone else building a gas pipeline? In a truly competitive situation a third party, such as Australian Gas and Light Co, could build a pipeline from Dampier to Perth for $500m, and completely undercut SECWA or the new owner of this pipeline.

That was AlintaGas. Three years ago, maybe $500m was a reasonable figure to pull out of the air. The equivalent figure today may be $600m or $700m.

Over the past six to 12 months some very crude attempts were made to protect the current pipeline. I now indicate some of my criticisms of the Minister for Energy in his handling of the sale of the Dampier to Bunbury natural gas pipeline. What I predicted in 1994 has eventuated and the Minister has made three basic mistakes. Neither he nor the Government, but AlintaGas, has dictated the policy on the sale of the pipeline.

The policy, basically, was to prevent a second pipeline from being built, and that was clear in a letter circulating from

the CEO of AlintaGas to the head of the gas pipeline steering committee. The policy was clearly designed to prevent a second pipeline from being built to realise a higher value on the existing DBNGP. The second mistake was to allow the joint venture between AlintaGas and Epic Energy to take place. That was a furtherance of the policy to prevent a second pipeline. That was another part of AlintaGas' policy.

The Minister initially saw the proposed deal as anticompetitive. If members remember, a spat occurred in the Press between the chief executive officer of AlintaGas and the Minister over the deal. The Minister for Energy, Hon Colin Barnett, changed his mind after being publicly rebuked by the CEO of AlintaGas. Comments in debate in the other place indicate that the Minister changed his mind without seeking any independent legal advice, and without knowing whether AlintaGas had sought legal advice about the possible anticompetitive nature of the deal between AlintaGas and Epic. The sale is now saddled with that joint venture.

The result of that deal is an inquiry being undertaken by the Australian Competition and Consumer Commission. One can be fairly certain that it is not a frivolous inquiry, as these inquiries are usually on fairly serious matters based on good grounds. If that present inquiry becomes a full-blown investigation, it has the capacity to undo the AlintaGas-Epic deal. The further ramifications are that it will undo the Epic-Kingstream deal, which will reopen the possibility of a second pipeline from the Pilbara to Perth. If so, it will reduce the value of the Dampier to Bunbury pipeline by anything from $200m to $500m - the figures cited over the past 12 months regarding the effect of a second pipeline on the value of the Dampier to Bunbury pipeline.

I am possibly stepping outside my party's policy here, but we should have sold the gas pipeline in the knowledge that another player could build a second pipeline. That is how to get competition and drive down prices. Obviously, that would have reduced the value of the Dampier to Bunbury natural gas pipeline, but whoever brought the pipeline would have known that they had to compete in a commercial market without any protection. The degree to which the State would have lost $200m or $300m could have been securitised - as occurs with housing loans - sold, and the cost of that debt could have been distributed across the whole of the system. Therefore, everyone would have paid. That is how the problem could have been solved. We may have achieved less for the pipeline, which would have been reflected in slightly higher tariffs, but we would have had competition between the two players. We will have a monopoly pipeline for at least three or four years under the current arrangement.

California had some nuclear and other power stations which were not competitive. It made those companies which had uncompetitive power stations divest those power stations at market value. Someone picked up the facilities at a low cost at which they knew they could generate power at a competitive price. The loss was then securitised, as I am suggesting here, and distributed across the whole system. I have no doubt that the only way we will get downstream processing and more jobs in Western Australia is with cheaper power. I am not sure the way the Government has handled this pipeline is in the best long term interests of the State. The way the Minister for Energy handled this sale was not clever. The Epic Energy-AlintaGas deal should have gone out to tender. There is a strong possibility it is anti-competitive. A letter from the chief executive officer of AlintaGas to the head of the gas pipeline steering committee outlines what is in my view an anticompetitive strategy of stopping a second pipeline from being built. If that contract must be renegotiated with a second pipeline, it will create problems for the An Feng-Kingstream steel mill.

The company is trying to raise money around the world for a possibly dodgy gas transmission deal. It has been clear in statements to the Press that Ang Feng- Kingstream has never been aware that this arrangement between Epic and AlintaGas was subject to Australian Competition and Consumer Commission approval. The Minister suddenly suggests that is the case. I do not believe the company considered that was the case when the deal was done. The Minister basically recognises a mistake he made. His first instinct was right and he was led by the nose by the chief executive officer of AlintaGas. With the ACCC inquiry there must be real doubt over the sale of this pipeline. I hope that is not a problem; however, the way this deal has been handled, that is a strong possibility.

There are a number of problems with this Bill. The third party access terms are vague. Part 5 states that an access manual will be printed - and that is about all. I understand that no-one has seen the draft sale contract. It is ridiculous that it has not been made available. Presumably it will be available in the data room on 1 December; however, that is leaving it very late. Problems arise with this Bill where there is not transparency.

This pipeline is a monopoly pipeline, like the goldfields gas pipeline. There must be complete transparency of costs for monopoly pipelines so that any third party user can determine that its tariff is fair and reasonable, otherwise domestic consumers in Perth could end up paying a premium while someone else gets gas at an unreasonably inexpensive price.

In a number of parts the Bill gives the coordinator a role. The Coordinator of Energy is an adviser to the Minister for Energy and the coordinator should stay that way. Another Bill before the House seeks to make that coordinator into a regulator. That is a mistake. It is time to set up an independent regulator so people can see the process is fair

and transparent. At the moment the coordinator advises the Minister and people appeal to the Minister against the coordinator's decision. That is too incestuous and too closed. Decisions can be made in the interests of AlintaGas and not in a competitive market.

The second reading speech states the Government is moving towards adopting the national access code on 1 January 2000. That is not soon enough. The speech states also that transition access provisions in the Bill will apply before the national access code comes in. I looked for them, but I could not find them. The transition provisions are the Bill itself, but the Bill contains nothing to say when they end. The Bill should state that when the national access code is agreed to and brought into practice, that code should apply when it is in conflict with anything in this legislation. We must rely on the goodwill of the Government to bring in a Bill to implement the national access code and a Bill to implement an independent regulator to oversee the energy issues in this State.

The Opposition is not overly impressed with the way the Minister has handled the sale of the pipeline. We hope the ACCC inquiry will not disrupt the sale, but we are not sure that will be the case. If so, those mistakes, particularly the third I mentioned, are mistakes the Minister will have to wear because he has not been up to speed in dealing with this issue. He seems to have preferred to leave it to AlintaGas to decide whether that contract was anticompetitive. He should have taken independent legal advice at the time because in my view his initial instincts were right.

The Opposition supports the Bill.

HON HELEN HODGSON (North Metropolitan) [8.40 pm]: The sale of the assets that constitute the Dampier to Bunbury gas pipeline is one of the biggest sales of public assets we have had in Western Australia. That means the Parliament has a responsibility to ensure we are looking after the interests of all Western Australians and that the terms of the sale are to the benefit of the people of the State, not only in the short term, but also the long term. Many issues must be addressed in relation to this sale, some of which have been raised by Hon Mark Nevill. We have already heard about the difficulty in obtaining details of what is going on.

I want to go beyond that, to talk about some of the rights of some sections of society that are affected by the sale. Before I go into those rights, I will give some background on the gas energy market in Western Australia. We recognise that the growth of energy consumption in Western Australia is considerably higher than for Australia as a whole because of our growing resource base. It is pleasing to see that we are trying to focus more on a developed industrial base, rather than simply digging up the minerals and selling them overseas. It is good to see downstream processing occurring. That feeds the need for energy.

Since the 1979-80 financial year energy consumption in Western Australia has increased by 4.8 per cent, compared with 2.3 per cent for Australia as a whole. I in no way suggest that we should be contributing to the greenhouse problem. We should be trying to cut greenhouse emissions, and gas is one way in which that can be assisted. It is a cleaner form of fuel and has less impact on greenhouse emissions than diesel fuel, which we were discussing earlier this evening. The Australian Bureau of Agricultural and Resource Economics projects an acceleration of growth in Western Australia to 5.6 per cent per annum for the years up to 2003. Let us look at the different regions in Western Australia and the projected increase over the next five years. The north west is expected to go from 40 terajoules a day to 200 TJ per day; the goldfields from 60 TJ to 150 TJ; and the south west from 530 TJ to 800 TJ per day. Given the expected increase in the demand for fuel and for gas, it means there will be a commensurate increase in the value of the pipeline. If we have the only pipeline that is transmitting gas from the north west, obviously we will be in a position to capitalise on the increase in demand for fuel and, accordingly, we should expect it to be looked on as a fairly profitable position.

I will not go extensively into the issue of whether there should be a second pipeline. I am aware that that initiative has been hotly canvassed and also that the policy is that there will not be a second pipeline. Once again that focuses our attention on the profitability of the existing pipeline. With that competition the owners of the pipeline will be in the box seat for the supply of energy.

I will now look at some of the issues in the contract. Will there be any guarantees for the purchaser that no new pipelines will be allowed, at least until the national gas market code comes in? We know the Government does not support the second pipeline, but until we see the terms of the contract we do not know whether any guarantees of that nature will be built in. It is impossible to assess the impact that has on public policy until we know what the long term guarantees are.

Hon Mark Nevill: I hope there are some guarantees.

Hon HELEN HODGSON: I will come to the issues of guarantees later. Currently the state gas price advantage is reduced by the distance the gas must travel. The cost of transporting gas in this State is higher than that for comparable systems in other States. Although the Dampier to Bunbury pipeline goes for 1 950 kilometres, the cost of gas per gigajoule is 27.42¢. Three other pipelines have longer lengths: The Moomba to Sydney pipeline covers

1 960 km at a cost of 18.252¢ per GJ; the Moomba to Adelaide pipeline covers 1 989 km at a cost of 17.98¢ per GJ; and the Victorian pipeline covers 2 340 km at a cost of 10.3¢ per GJ.

Hon Mark Nevill: What is the cost to the goldfields?

Hon HELEN HODGSON: I do not have that in the statistics before me. The Australian Democrats have difficulty with the issue of privatisation, as such. We must assess what is in the best interests of the people of the State. It is certainly in their best interests to ensure that they all have guaranteed access to services. In this case it is obvious that the pipeline will go ahead because the policy of both the Government and the Australian Labor Party is that the pipeline sale should happen. However, in looking at the conditions of the sale, we hope we can make sure the interests of all members of the Western Australian public are fully protected.

In general, we think there should be a process which establishes the benefit of privatisation, which should be through a public inquiry process, and ensures that all people have an opportunity to make a submission about whether it will be in the interests of the State. Unless we see a clear public benefit, generally we do not support privatisation, particularly when we do not know what is going on, when it is shrouded in secrecy and when contracts are kept obscured on the basis of commercial confidentiality. It is important that those issues be addressed openly and in the public arena. I accept that there must be an element of commercial confidentiality to make sure the tendering process runs smoothly. However, we must know the details of the tender documents so that people can find out what is being considered in the contract. Once the contract has been concluded, members of the public have the right to know what is included in that contract. The assets being disposed of are public assets and the public has the right to know the terms of any sale. It is not acceptable for the Government to expect people to trust it to be doing the right thing. These days we have ample evidence before us of instances in the past where the public did trust the Government and subsequently it turned out that things were not going as the public thought. I in no way imply that this case is anywhere near the scale of WA Inc; however, the public has the right to know exactly what is going on and it should be able to check the details of contracts. Therefore, at the appropriate time I will seek to move an amendment to the Bill to ensure that the contract is tabled in this place, so that the public knows what is in it

Given the way this Bill is drafted, the Parliament has no scrutiny of the sale process or any means of reviewing the Executive's conduct. The way this Bill is drafted, the committee sets the guidelines. The Minister is involved. There is a tender process and it seems to be intended that it be run in a way that is fair to all tenderers. I am arguing that once the contract has been sorted out and it has been accepted, the public has a right to know the terms of the contract. It will not in any way impede the tendering process and, as I say, it is important that members of the public know what is going on.

That has been picked up by both the Commission on Government and the Royal Commission into Commercial Activities of Government and Other Matters in 1992. The royal commission found that there had been a disproportionate balance between what was publicly revealed and what was kept a secret by the Government. We believe blanket secrecy is inappropriate in government if the Parliament is to fulfil its function and remain open and accountable to the people.

Recommendation No 5 of the Commission on Government report No 1 is a public interest test which, as a matter of policy, must be implemented to all contracts such as the one to sell public utilities.

Members in this place will have noticed that over the past month or so I have been endeavouring to find out what is being done to protect the rights of AlintaGas employees whose jobs will be transferred with the pipeline and how that will affect superannuation arrangements. I understand that agreements are before the employees. However, it is not good enough that it has taken until this late stage for people to know what plans they can make for the future. I also understand that, although most of the matters dealing with the transfer of employment have been resolved fairly amicably between the various parties, the one matter on which the Government is intransigent is superannuation.

People will be forced to leave the government superannuation scheme, through no fault of their own, by virtue of the fact that their job is no longer in the sector the scheme will cover. At this stage a compulsory discount will be applied to AlintaGas employees when they receive an amount to be rolled over into a private superannuation fund. That is worked out actuarially and the Government Employees Superannuation Board has policy and statistics to support its stance. Although I appreciate that it is a matter for the superannuation board, it is on the table in these discussions with employees.

It is interesting - the kindest word I can use - that MetroBus employees in a similar position are protected because MetroBus came to an arrangement whereby the 15 per cent discount will be covered by MetroBus. That is my understanding of the response to the question asked on my behalf earlier today. I accept the Minister's comments that it is not general policy, but why is the policy different for MetroBus employees as compared with AlintaGas employees? They are both employees of a public authority, and in a position in which their jobs are being privatised

as a result of government action. They have both been contributing to superannuation on the basis of making plans for the future. On the one hand MetroBus ensures that they are not out of pocket and that the discount is covered. On the other hand AlintaGas is not taking any such steps to protect the rights of its employees. That highlights one of the inequities of the handling of the sale.

Hon E.J. Charlton: That will be covered.

Hon HELEN HODGSON: According to the answer I received in this House it would not be picked up. Can the Minister assure me that the 15 per cent will be covered for the AlintaGas employees?

Hon E.J. Charlton: My understanding is that it will be part of the sale contract and the purchaser will deal with that issue.

Hon HELEN HODGSON: That is a good thing to have on the record. I have been trying to find that out for some time. It relates to an earlier point I made that the public has a right to know what are the terms of contracts.

Hon E.J. Charlton: It has not yet been sold.

Hon HELEN HODGSON: To know that the Government intends to include that as a term will be very reassuring to the people affected by it. However, at the same time the Minister qualified the answer by saying that the Government has not sold it yet. Therefore, how can he be sure it will be a term of the sale? Does the Minister see my problem? It is very difficult to work on behalf of these people.

Hon E.J. Charlton: I do not think that is a problem. It is not your problem, from the point of view that this legislation will give the Government the right to sell and that will be determined in the future. The people will want to transfer across to the new operator because of their skills.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! This is Hon Helen Hodgson's time in the second reading debate.

Hon Mark Nevill: Table the draft contracts; it should not be secret.

Hon HELEN HODGSON: I appreciate the Minister's contribution. I received a response that is more enlightening than any of the answers to questions I have asked on this issue over the past month. I was happy to accept that interjection and I am glad it will be on the record that the Government intends to provide for AlintaGas employees in this manner.

Hon Mark Nevill: He will put his job on the line and will have resigned by Christmas.

The DEPUTY PRESIDENT: Order! Enough of this frivolity.

Hon E.R.J. Dermer: The Minister is too young for retirement.

Hon E.J. Charlton: That is true.

Hon HELEN HODGSON: I have been trying very hard to understand the practical impact of part 4 concerning access rights and the pipeline corridor. When my adviser briefed me on the legislation, she said that it looks like a duck, quacks like a duck and walks like a duck but the Government is trying to call it a swan.

There are all sorts of interesting concepts and definitions and I have serious concerns about the impact this will have on native title. I understand that most of the existing pipeline corridor is freehold land. In that context I accept that the native title issues are fairly well settled because where freehold land is involved native title is already extinguished.

Beyond that is a proposal that the Government can acquire further land. The Government will examine the compensation mechanisms and set up a pipeline corridor. The land will be vested in the Land Access Minister who will then effectively hold this land, over which the pipeline operators will have access. Native title is incorporated in this Bill by including it in the definition of rights and interests, if my recollection is correct. That means it will be put in the same category as other forms of title which have a defined basis, being a particular type of access right; for example, a pastoral lease, an easement or whatever.

At present the Federal Parliament is trying to come to grips with the fact that native title cannot be defined that simply. The title Aboriginal people might have over this proposed pipeline corridor will not be the same as a pastoral lease or an easement. The way I see it, these provisions will allow part of the Wik 10 point plan to be implemented under this Act. Essentially it will provide that this land can be acquired by the Minister and as at the date of the acquisition, no further rights and interests will be recognisable. Therefore, if native title is not already established, it will lock out the people who may otherwise have a native title claim over the area.

The Bill includes a provision for compensation. I am pleased to see that all interests will receive compensation. How will the compensation be measured? Obviously on a pastoral lease the value of the area, or the number of cattle or sheep that would normally be run on it can be assessed to work out a dollar value of compensation. However, how do we place a value on the connection an Aboriginal person has with an area of land?

The whole process here seems to involve bringing in the concepts behind part of the Wik proposal; that is, where infrastructure is involved, the Government should be able to simply take the land and pay compensation. That proposal seems to be incorporated in this Bill. I remind the Government that this matter is currently before the Federal Parliament, and we do not know the outcome. That issue alone is enough to make one think that this Bill runs the risk of -

Hon B.K. Donaldson: It has problems.

Hon HELEN HODGSON: It could be in conflict with the decision by the Federal Parliament. On that basis, that part of the Bill should be reviewed by the Select Committee on Native Title at the appropriate time, and that time may be when the legislation is enacted. It could be done as part of a review of the Western Australian response to whatever emanates from the Federal Parliament. However, it is appropriate that these matters are considered in the context of native title and the final decision by the Federal Parliament. Those are my major concerns. I have foreshadowed a number of amendments dealing with that issue.

I have not addressed my proposed amendment to the provision that the State Government and Treasurer will provide an indemnity and guarantee to the purchaser of the pipeline. I understand that the aim of the Government's amendment is to deal with the existing liabilities of AlintaGas, which will be taken over under contractual transfers. I have a problem with the way the clause is drafted because its intention is not clear. It is an extremely broad clause stating that the Treasurer may enter guarantees and indemnities on behalf of the acquirer of the pipeline. It is appropriate to focus on the liabilities of AlintaGas which will be taken over by the purchaser as part of the contract. To go beyond that is to go beyond the intention of the drafting of the Bill.

I echo the comments of Hon Mark Nevill regarding the access manual. Schedule 1 refers to an access manual, but I see no definition of the Government's intention in that regard. I discovered an explanation of access manual in the second reading speech, but any provision to require someone to approve such an access manual should define that manual. Therefore, we should consider an amendment to ensure that a definition of access manual is in the same terms as those in the second reading speech. Again, I am simply trying to identify what the Government is trying to do, and to ensure that the Bill achieves that aim.

My third foreshadowed amendment relates to dispute resolution procedures. I note that regulations may be made on dispute resolution procedures, and I understand that regulations are already set in associated legislation, and they form the template for the proposed new regulations. However, my concern is that it is totally discretionary whether the regulations are made. It is appropriate to protect the rights of everyone involved in the contractual arrangement. It is more appropriate for us to say that, to protect the rights of everyone involved in the contractual arrangements, the requirement should be that the regulations are drafted. In that way, we will address the issues that the Government intends to address.

My feelings about the Bill are very qualified. I am concerned about privatisation as a whole. I have strong reservations about the impact of part 4 of the Bill, the way it will operate, and the intentions behind it. I have raised a number of matters which the Government should consider in respect of whether the legislation does what the Government intends, based on briefings I have received, the second reading speech and the information available to me. With those reservations it is difficult to say that I support the Bill in its entirety. However, I accept that the sale of the pipeline will proceed.

HON J.A. SCOTT (South Metropolitan) [9.06 pm]: I agree with many of the points made by the two previous speakers. Very often this House makes decisions, without appropriate information on which to base those decisions. It is the old pig in a poke decision-making system, because agreements are made outside this place, and we are supposed to ratify their progress without being aware of the results. We do not receive any cost benefit analysis on whether it is better to maintain ownership of an asset or to sell it. We do not have any of that kind of information. However, with little knowledge and in a hasty manner we are expected to make these decisions. It appears that these sorts of Bills involving millions of dollars are brought to this place at the end of a parliamentary session. This Bill involves a large amount of money -

Hon Mark Nevill interjected.

Hon J.A. SCOTT: But we must make those decisions.

Hon N.F. Moore: If you want to come back at the beginning of December, just say so.

Hon J.A. SCOTT: The Bill should have been introduced earlier, and we could have considered it -

Hon N.F. Moore: You can say that about anything. It should have been done six months ago! If you want more time, just say so.

The DEPUTY PRESIDENT: Order!

Hon J.A. SCOTT: We could deal with the many matters on the Notice Paper. We could sit for a long time.

Hon N.F. Moore: Just say so!

Hon J.A. SCOTT: I do not care. I am not fussed. I do not mind coming back.

Money Bills are always introduced at the end of the session, and they must be rushed through otherwise everything will go down the drain! It sounds like a car salesman trying to convince someone to buy -

Hon N.F. Moore: You don't have to buy it. No-one is making you do anything. You are entitled to make your own decision.

Hon J.A. SCOTT: It would be much better if we took a more considered approach to this legislation. The Minister must admit that we have a lot of legislation to get through. Most people have been very cooperative -

Hon N.F. Moore: They have. If you need more time, just say so.

Hon J.A. SCOTT: We need more information. As Hon Helen Hodgson pointed out, it is very important that we have that information. The Commission on Government stated that it was concerned about the way the Executive uses commercial confidentiality far too often as an excuse to keep people in the dark. It appears that culture has not changed.

I was fairly impressed when I heard of the system used by Ted Mack, when he was Mayor of North Sydney. Precinct committees were introduced, and any person who tendered for a project or a job with the North Sydney Council had to be prepared to go through a public process, otherwise no consideration would be given to that tender.

The tenders were all put into a box, which was opened at 5.00 pm on a Thursday, and the tenders were then pinned on the wall for all to see. Members of the public were able to look at those tenders and, if the council decided to accept anything other than the lowest tender, it had to give a written reason for doing so. That was an extremely open system. I am not suggesting that a Minister with the carriage of an operation of this value should go to that extent, but we should have an open process with conditions laid down very clearly. The winning tender and the reasons for its choice should certainly be made public. There should also be public discussion about the sale of the asset. It does not belong to the Government - it belongs to the people of Western Australia.

I have already mentioned the failure to provide any cost benefit analysis dealing with sale or ownership as the best option for the pipeline. We must look at the principle of selling assets and whether doing so is benefiting the State. Certainly, it gives Government more capital and makes it look as though it balances the books very well.

Hon N.F. Moore: It is being used to pay off debt.

Hon J.A. SCOTT: That makes the Government look better.

Hon N.F. Moore: The taxpayers are paying less interest.

Hon J.A. SCOTT: This is not improving the position, because we have lost an asset. The value is the same as it always was.

Hon N.F. Moore: You think we should maintain debt levels and public ownership.

Hon J.A. SCOTT: If the pipeline can make a profit perhaps we should keep it. We do not know because the Government has not provided information from any cost benefit analysis it might have undertaken. I would not have a clue. How can I possibly know?

My other concern relates to the gradual loss of control of a strategic resource. As I pointed out in the previous debate, gas is a strategic product for this State. Eventually we will lose control of how it is used - whether it is used in a wasteful way or the most beneficial way for this community. It will not be here forever. There is an attitude that somehow this resource will keep coming out of the ground and we will be okay; the more we use it the more will come out. That is not reality.

We must start thinking about strategic use of our energy resources in this State and not leave their fate to the market. The market will do what is good for the company concerned and not what is good for the State in the long term. It

is time the Government started thinking about such a plan. If it does not, it is not looking after its constituents in the way it should. It is certainly failing future constituents and generations of this State.

One of the good aspects of this Bill is the retention of the land along the pipeline to enable future pipelines to be constructed. That is a better position to be in than where we have ended up with the Kalgoorlie gas pipeline. When the eastern States of Australia are out of gas, they will come here for it. However, the pipeline to the east will be owned by a monopolistic, private company, which also has control of the land. We will need to find a new route to provide a new pipeline to link in with eastern states networks. That was a bad mistake. This measure is good in that we are retaining the ownership of the land alongside the other pipeline. I commend the Government for that.

Hon Mark Nevill: The goldfields pipeline is on a lease.

Hon J.A. SCOTT: We must think of the longer term when we make these decisions. While we are making short term decisions to achieve a quick capital gain, this is a reasonable decision. However, in the long term it will not be of great value to the State.

Like the previous speaker, I do not intend to hold out great opposition to the Bill. At the same time, I am not entirely enthusiastic about it. I share the concerns raised about the future of the people who have worked on the gas transmission pipeline. I hope that Hon Eric Charlton's comments are correct and that they will be verified by the Leader of the House when he responds to the second reading contributions.

HON TOM HELM (Mining and Pastoral) [9.18 pm]: I, too, rise to support the Bill. I take this opportunity to reflect upon the circumstances that bring us to passing legislation to allow for the sale of a good state asset.

I refer members to the debate that took place when we used taxpayers' funds to build a pipeline that would help us exploit the gas reserves found off the North West Shelf and also encourage various entrepreneurs to search for more gas because we were sure it was there. It seems strange that we are being asked to agree to the sale of this asset when at its inception it was claimed to be the best thing that could happen to the State. Members of the Opposition were full of praise for Sir Charles Court and his Government when they introduced the legislation to establish the pipeline. Of course, it took Labor Government skills and negotiations to deal with the debt that the State had to pay as a result of take-or-pay provisions attached to the pipeline and the associated infrastructure. At that time, the Labor Party was critical of the cost of the pipeline rather than the pipeline itself.

We are now selling the pipeline when all the reserves have not been proven. We are looking at a boom in the gas pipeline industry from which surely the State should benefit. I will go into some of the aspects of how it should benefit. It seems ironic that, as the Leader of the House said by way of interjection, we are using the proceeds from the sale to retire debt. I suggest that the debt would probably have been accumulated from the cost of putting the pipeline into place. Although this Government has a view that we should be retiring that debt, others among us think we could use the future sales of the gas from the pipeline to help to retire the debt and retain the assets. Of course, this Government's view is to privatise, privatise and privatise. We are in a position where we must go with it.

Hon Mark Nevill mentioned the cost of construction compared with the cost of sale. He mentioned there was a reasonably good return for the taxpayer. It seems pretty fair to get $1.3b or $1.5b for a $600m or $700m investment. However, I would like the House to reflect on the additional costs of the pipeline. It would be quite appropriate during this debate to mention the cost that sometimes hits families of workers in the construction industry and the hardships and dangers people have to face when putting together a pipeline of this nature. This is the time to pass on the sympathy of this House to the family of Howard Spence. He was a 30 year old fitter working on the goldfields pipeline when he died as a result of an accident. I think the matter is still before the courts. His death is an extreme example of the sort of price people pay sometimes for these developments to take place. Mr Spence's death left a widow and two young children. That does not mean that we cannot continue with progress, but we must be wary of the price that has been paid.

The pipeline could not have been constructed without the capital investment which the taxpayers of this State put into it; equally, and perhaps not more importantly, it could not have been constructed without the skills and the dedication of the people who helped to build the pipeline. We should spend a little time thinking about that. Every stage of construction went through on time and on budget. The whole pipeline continues to be a success. The limits the pipeline was built for have been increased and improved as time has gone on, demonstrating the skills of the Australian work force who put the pipeline together. Additional pumping facilities have been provided to increase the amount of gas that goes through the pipe.

All of the standards asked of Australian workers in order to build the pipeline were exceeded. It is a wonderful facility and a fitting tribute to the skills of the Australian workers, both men and women, who worked on the pipeline. They worked sometimes in temperatures around the 60 degree mark. When welders were putting in welds they had

to be shielded from the sun. The heat was tremendous inside the pipes. The people who made the welds and the fillets had to wear protective clothing and work in extremely uncomfortable positions. They still completed the job.

We must reflect on what faces us in the near future. At the beginning of next year, we are told, some amendments will be made to the Industrial Training Act which will take away the positions of tradesmen in this State. There will be no such thing as a tradesman, a tradeswoman, an apprenticeship or a traineeship. We will take away the whole of the structure that helped to build that pipeline and we will replace it with the unknown. Everyone is able to adapt to change, but in this case when we can demonstrate the extent of the success of the training programs and their tripartite nature, it is wrong that they be destroyed. When we take away the important input of the trade union movement into those training programs, which is the intention of the amendments to the Industrial Training Act, we must wonder what will convince the mob on the other side that they are going down the wrong track. They cannot blame any aspects of the training programs or skills that have developed in Australia. They will be destroyed.

The possibility that funds generated from this pipeline could benefit the State by the retention of the ownership of the pipeline is being taken away with the Kingstream-An Feng facility at Oakajee, Geraldton or wherever it will go.

Additionally, something bothers me and my union, the Amalgamated Metal Workers Union. We have been fighting for a long time for the content of the structures that might be built to exploit that resource. I refer to the offshore production facilities and the offshore fabrication of steelwork, and the reduction and severe shortage of skilled metal workers in the State. All of those things help to keep our unemployment rate high and to undermine the potential success story of this pipeline, whether it be in public or private ownership. It is a sin to have the taxpayer foot the bill in the first place for such a wonderful asset and then to sell it so that somebody else profits from it. The ultimate sin is that we do not further train or further exploit the asset of our work force in this State. The hot briquetted iron plant in Hedland is a crying example of how we can spend more money for a reduced service or second rate fabrication. When Broken Hill Proprietary Co Ltd tried to blame the unions for the things that went wrong with the HBI plant and when it was put under the hammer to prove that the unions had a role to play in the cost overruns that took place there, it soon went quiet. We say BHP went quiet because when it brought in the modules from the Philippines nothing fitted. When it brought the modules, the pipe work and the steelwork the company had to spend X millions of dollars to correct some of the work done by overseas workers. Everyone should have a fair go and I have no problem with that. However, we have a responsibility to look after the young people who will come after us and to look after the people whose skills are not up to the required standard. We will never do that while facilities which will help us to exploit our resources are built overseas. We will never do it until we recognise the importance of enhancing the skills of our people and using our resources, not merely through the use of gas, iron ore and the feedstock of the mills but also by ensuring that the required steelwork and fabrication work is used to their maximum as opposed to their minimum potential, as occurs now.

One of the reasons the State built that pipeline was the element of risk associated with the amount of capital that had to be expended. Sir Charles Court's Government decided that, for the benefit of the whole State, the taxpayers would take the risk that the private sector was not prepared to take. That was a reasonable argument. However, history has shown and the future will continue to show that that asset is being severely undermined by the use of foreign workers to produce modules and steelwork for the exploitation of the gas and iron ore and by building those components outside of not just Western Australia, but also Australia. Not only does the State dip out on receiving royalties, taxes and those sorts of things, but also the people suffer as a result of high levels of unemployment because that work is being done outside the State. Everyone agrees that Western Australia should not have such high unemployment figures while it has those natural resources that can be used for our benefit. If those resources only bring us dollars, and we still have young people who cannot get work, we are wasting our time to a large extent. Any increase in crime and the other ills of our society must be sheeted home to the insecurity and despair that unemployment brings. If we do not use our assets to bring about a more stable and secure society it will do us no good in the long run to sell off those assets.

I congratulate this Government for facilitating downstream processing. It is a wonderful idea that a number of people from both sides of the House have been shouting about for a while. We should not be left with a State that is full of holes and empty gas wells. The Government is doing something about that. Those resources cannot fully enhance our society until training programs and jobs are in place to provide our people with the opportunity to fulfil their aspirations. No matter how old or who they are, society has some responsibility to them. People accept that we should use gas and oil and minerals in downstream processing so we can increase the value of those assets. That has made us into a richer State in dollar terms. It has not made much difference to employment and the insecurity people feel when there are no jobs.

I am glad the Minister for Transport is in the House. The Labor Party was invited to a briefing session by BP. It was good session and the company's representatives were as honest as they could be without giving away any commercially confidential secrets. They were upbeat and buoyant about the future of our State, which was good to

hear. Part of their plans for the future is the construction of a chemical plant which they hope to build somewhere in the Pilbara. It is not a pipedream.

Hon Mark Nevill interjected.

Hon TOM HELM: Hon Eric Charlton played a significant role in stopping a petrochemical plant being built in Perth. Premier Dowding showed some forward thinking at that time. If Hon Eric Charlton had been around when Sir Charles Court was debating North West Shelf gas, he might have felt the same way, although I doubt it. According to BP's projections, it will build a petrochemical plant in the near future.

Hon E.J. Charlton: We were never going to get one. That was a bailout for Rothwells. That was the only thing wrong with it. If he had been genuine about getting a petrochemical plant we would have had it. That was the only reason I opposed it.

Hon TOM HELM: I do not mind the Minister for Transport putting that spin on it, because it contains an element of truth. That does not matter. The bottom line is that one will be built. This Government has been waiting for an entrepreneur to build it. There is nothing wrong with that. However, it demonstrates the difference between Sir Charles Court's vision to put the pipeline together and Peter Dowding's vision of a petrochemical plant using taxpayers' money, and the fact that a petrochemical plant will more than likely be built, but by private enterprise. Because of the capital risk involved in building a petrochemical plant there does not seem to be much difference - there is in dollar terms - in the risk involved. If we had built a petrochemical plant at that time, and the gas had come on stream, all of the benefits from that petrochemical plant would have been with us now. We could have been utilising all of our resources if the petrochemical plant had come to fruition. It is a point the House should reflect upon.

I bow to the superior knowledge of Hon Mark Nevill and Hon Helen Hodgson in their arguments on the dollar value involved. This Bill should not have come before us without our having explored all those aspects and reflected on why it is before us. This Chamber is anxious to ensure that we are paying the proper dues. That is not in terms of the taxpayers' dollar, but paying credit to those people who were the welders, the fitters who put the pumps together, the surveyors, the architects, and the people who served in the canteens. When the pipeline was built the workers moved the village every couple of days. Workers were like gypsies. They had to leave their children behind. They could have their wives but not their kids because of the dangers inherent in that lifestyle. They lived in caravans and moved along the pipeline. Work did not stop because it got hot. Digging in that hard rock in the Pilbara is an expensive job. Members must understand that. Also, because of the uniqueness of the pipeline, highly qualified welders had to be trained up further. They built an x-ray machine for the hole welds and the filler to ensure there was no metal fatigue, nor too much weld. All those things had to be taken into account. I hope those skills will be utilised when the pipeline enables other facilities to be built that can exploit the gas.

I am glad to have this opportunity to remind the House of these matters. It would be churlish of me not to congratulate the Minister, Hendy Cowan, the Australian Manufacturers Workers Union, and the Chamber of Commerce and Industry of Western Australia for the recent job summit. Those three bodies will play an active role in making sure training facilities are available, so that this State exploits its resources in the best possible way. I have some criticism, which can be levelled not only at the coalition Government but also to some extent at this side of the House, with regard to facilities and gas wells being manufactured offshore rather than pressure being brought to bear for these facilities to be manufactured in Australia. It will make no difference in the long run for the exploitation of the materials and resources, but it goes without saying that anyone who will venture capital for facilities of that nature, with a value in the region of $0.5b, will need support from the State Government. I have no problem with that because it will be good for the State. However, by the same token, it is not too much to ask that the modules and facilities be manufactured in Western Australia in return for the use of taxpayers' money and the exploitation of the resources of this State. I certainly support the Bill.

Debate adjourned, on motion by Hon Muriel Patterson.

[Resolved, that the House continue to sit until 11.00 pm.]

ACTS AMENDMENT (FRANCHISE FEES) BILL

Second Reading

Resumed from 20 November.

HON MARK NEVILL (Mining and Pastoral) [9.42 pm]: The Opposition supports this Bill, which is almost complementary to the Fuel Suppliers Licensing and Diesel Subsidies Bill, which we dealt with earlier tonight. This Bill also results from the High Court decision on state franchise fees in New South Wales.

The Bill amends a number of Acts, principally the Liquor Licensing Act, the Business Franchise (Tobacco) Act and the Transport Co-ordination Act.

The Bill tidies up some of the consequences of the High Court decision. The federal sales tax on alcohol will increase by 15 per cent. The Minister said in his second reading speech that this increase is equivalent to a franchise fee of approximately 12 per cent. The state franchise fee on full strength liquor was 11 per cent and the rate for low alcohol products was 7 per cent. The increase will be paid back by way of a subsidy. Under the previous state system cellar door wine sales were exempt, but they will be subject to sales tax under this system. The Government will now pay a subsidy to liquor wholesalers for low alcohol products.

The payments for the diesel fuel subsidy have already begun under the authority provided by an earlier appropriation Bill. This Bill imposes a limit on individual sales by wineries of 45 litres, which is the equivalent of five cartons of wine. The cost of the liquor subsidy schemes is estimated to be $8m for low alcohol products and $3m for cellar door wine. The overall effect of these changes is expected to be revenue neutral. Liquor retailers will be subject to an annual fee of $105 which will offset the administration costs of the State Government. In the tobacco industry the previous monthly licence fee for wholesalers and retailers will be replaced by an annual licence fee, which equates to $100 a month for wholesalers and $50 a month for retailers.

The Bill contains a number of other minor amendments. The changes to the Transport Co-ordination Act will ensure that the transport trust fund is topped up to provide road funding. It was stated in the second reading speech that the appropriation for the next financial year will be $245m.

The Opposition supports this Bill, but it is important that the House address the issues flowing from the High Court decision.

HON HELEN HODGSON (North Metropolitan) [9.47 pm]: This Bill is a twin to the Bill debated earlier this evening in its application of the High Court decision. Essentially, it deals with the other major franchise taxes previously imposed by the State under the tobacco franchise and liquor franchise systems. This Bill will replace the previous franchise fee, which was based on turnover, that the High Court ruled was invalid. That fee will be replaced by a single smaller rate - generally a licence fee - a fee for service and a fee to administer the licensing scheme in place. As has been said, the fees will be $100 and $50 a month for wholesalers and retailers respectively.

Most of this Bill is a tidying up process of the provisions of the relevant Acts that imposed the former franchise regime. In that context, when I went through it and compared it with the original Acts, in most instances I could see it was genuinely bringing the situation back, taking out the franchise component and bringing the matter into line with a fee for service, being a licence fee. I thank the Minister and his officers for their assistance in this area.

I was concerned that in the process in a couple of areas the appeal rights seemed to have been adversely affected. I thought long and hard about whether that was appropriate. My final decision was that under the old regime, which was based on an assessment of turnover in a particular period, it was appropriate that the appeal and objection rights be of the nature of those in a taxing Act. That is, people can object, the objection is considered, if they are still not happy there is an appeal provision, and the matter can be reviewed. On the other hand, once we go to a licensing system of this nature it will come down to an administrative decision rather than an assessment of tax. Therefore, it is acceptable that the level of appeal and review available to people affected by these Bills will be pulled back to some extent, because it does not deal with the sort of taxing regime they are used to.

The Act most significantly amended is the Liquor Licensing Act. In common with the fuel excise, which was the subject of debate earlier this evening, the State will now have to pay back subsidies. It is a case of not only removing the franchise fee, but also ensuring that amounts are repaid to appropriate people. Subsidies are limited to a producer's licence, a special facility licence and certificates of exemption. Interestingly, this is one of the anomalies that sometimes happens with legislation that appears in this place. I appreciate the urgency of this Bill because of the High Court decision. When I went to the original legislation to find out the meaning of those terms I found that two definitions will be deleted by a Bill currently in another place. It is interesting to see how an amendment on an amendment can make life difficult. I am aware the passage of this legislation is urgent and we could not wait for the rewrite of the Liquor Licensing Act.

Hon Max Evans: You are observant.

Hon HELEN HODGSON: This is in the nature of comment rather than criticism.

The Bill identifies producers and people involved in cellar door sales and ensures that they will be eligible for subsidies. Previously they were not subject to franchise fees. On that basis this Bill picks up various provisions and makes sure they are refunded appropriately in accordance with the undertaking under the safety net arrangements.

Under clause 6 an order is sufficient to cease the subsidies under the Liquor Licensing Act. That is inappropriate

given that effectively the repeal mechanism will be implemented by administrative action rather than through the processes in this place. I accept the need for the Minister to have flexibility to deal promptly with situations as they arise, but I signal my intention to move an amendment that it be a requirement that an order be tabled in this place and be disallowable. This House will then have an opportunity to debate these matters and ensure that the issues that have given rise to the order are appropriate. I support the Bill and commend it to the House.

HON MURRAY MONTGOMERY (South West) [9.55 pm]: I will refer to the wine tax which is paid to the Federal Government and how it is refunded to producers. Obviously in this Bill and a previous Bill the word "subsidy" has certain connotations for producers. I understand the explanation given by the Minister when we debated the fuel excise Bill.

The Minister gave an assurance relating to the 45 litre limit. Anyone who wants to drink five cases of wine is welcome to do so. A lot of small producers involved in cellar door sales are confronted with additional paperwork. Although it is not a great amount, they find it daunting.

Hon Max Evans: They only fill it in if they want a refund: No paperwork, no subsidy.

Hon MURRAY MONTGOMERY: I understand that. There should be some education or direction given to them. I am sure it can be arranged. If inspectors from the Minister's department can allay the fears of these people and perhaps give them advice and education there may be less apprehension by the wine industry. I certainly support the Bill.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.57 pm]: I thank members for their support of the legislation, which is similar to another piece of legislation which has been inflicted on us by the High Court. The High Court could have let the status quo remain for a couple of years. The franchise fee was a very important way for States to vary their rate of income rather than be locked into a situation by the Federal Government.

The Government is looking very closely at the 45 litres, five cases exemption. This figure was struck in New South Wales. South Australia has struck a rebate limit of $12m. That limit might be reached by the end of March and from then until the end of June tax will have to be paid on all cellar door sales.

Two per cent of the wine produced in Australia comes from this State. In addition it produces 30 per cent of the premium wine produced in this country. The rate of tax on premium wine is at an ad valorem rate. Former Labor Treasurer John Dawkins introduced legislation which imposed a tax on cask wine. It was a huge financial imposition on the industry. That tax equates to $1 on an average bottle of cheap wine produced in the eastern States. Denis Horgan said that on his range of wine the tax amounts to $4 a bottle. He is having to pay tax on wine which he keeps for several years, and it is a huge financial requirement.

The vineyards attract tourists to the south west. The wine industry has been a large producer of wealth for the south of this State. The wine industry in that region is worried about the 45 litre limit.

Many families in the upper Swan area buy 50 gallons of cheap wine at a time - they usually buy the hogshead. It is something the Government will need to consider.

The business franchise fee was never a tax. It was introduced to raise levies for State Governments. It was a licence fee to sell a product. In the early days the tobacco franchise fee was based on the sales for the previous 12 months. In that way, companies made a lot of money up-front by putting up the price of cigarettes. They made more profit from the business franchise tobacco fee than they did from the cigarettes.

I have mentioned that the advantage of the amendments to the Liquor Licensing Act is that it is a wholesale tax. Hon Murray Montgomery referred to cellar door records. The regulations will need to be fairly strict and define the type of form that must be filled in, because if we let people do it on the back of an envelope, they will not have a record. We need to protect people from themselves. Hon Helen Hodgson would know, as an accountant like me, that we need to help people by showing them how to do it -

Hon Helen Hodgson: They come in with shoe boxes.

Hon MAX EVANS: Yes. That is where they keep their scratch tickets. People will need to fill out a form which gives the date, the invoice number, to whom the wine was sold, the volume that was sold, and the amount of money involved, and if they do not do that, they will not get the subsidy. People may not like subsidies, but they will take them.

Hon Murray Montgomery: It is more of a refund. It is money they should not have paid.

Hon MAX EVANS: That is right. No money changed hands previously, and that is why no records were kept, so it will now be in their own interests to keep a record. We want to get to these people as quickly as possible and put

them on the right track, otherwise they will not get the money back, and that will be very sad because it is very important to many of them. The matter of cellar door sales will be under review, and I believe it will be of great advantage to the wine growing industry in the south west and on the Swan. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 35 put and passed.

Clause 36: Division 2 of Part 5 repealed and a Division substituted -

Hon HELEN HODGSON: I move -

Page 21, after line 16 - To insert the following subsection -

(6) An order under this Section is to be laid before each House of Parliament under section 42 of the *Interpretation Act 1984* and that section applies as if the order were a regulation.

This amendment will ensure that a matter that effectively repeals the Bill has the opportunity of being brought before this place and debated.

Hon MAX EVANS: We support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 37 to 60 put and passed.

Title put and passed.

By leave, Bill proceeded through remaining stages without debate and returned to the Assembly with an amendment.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Second Reading

Resumed from 11 November.

HON GIZ WATSON (North Metropolitan) [10.08 pm]: In supporting this Bill I will talk about a matter that is of great importance to Western Australia; namely, the proposals in the Kimberley region for stage 2 of the Ord irrigation scheme and the damming of the Fitzroy River. I believe strongly that we will make a great mistake if we proceed with these proposals. Firstly, the operation of stage 1 of the Ord irrigation scheme is neither environmentally nor economically sustainable. Secondly, the region has enormous value and is very sensitive to major ecological changes such as large damming operations. Thirdly, the region has enormous importance for the Aboriginal communities that live there.

It is important to understand that stage 1 of the Ord River irrigation scheme was never assessed for its environmental and social impacts. Unfortunately, stage 2 will also not be assessed for its environmental and social impacts. Members will remember that the Ord was dammed in the early 1960s to provide water to the irrigation scheme. However, the industry was forced to close down in 1974 due to unmanageable problems with insects.

Cotton was not the first crop choice for this area. In fact, cotton was chosen as a matter of desperation as the Commonwealth provided a bounty for cotton producers. As no other commercially or agriculturally viable crop was available, something had to be done as growers were ready to move into the area. Cotton was chosen because of a lack of choice at the time. Historically, the legacy of the Ord stage 1 is that we have the application of DDT and other organochlorines in the area at the highest rate of anywhere in the world. This is an amazing statistic given that some Third World countries have enormously high application rates -

Hon Kim Chance: Do you recognise that it has been banned in Australia for the last decade and a half?

Hon GIZ WATSON: I understand that, but I also am aware of the longevity of the organochlorines and the long legacy of use in the soil.

Hon Kim Chance: For a couple of hundred years.

Hon GIZ WATSON: Absolutely. I am aware that those chemicals are banned and are no longer used in Australia. Some other chemicals used in the Ord region are banned elsewhere in the world, and it is a matter of huge concern that we continue to use chemicals which are not acceptable in other parts of the world. The legacy of the residual organochlorines in the soil is an ongoing concern, particularly in the light of the fact that no ongoing monitoring of those chemicals is taking place.

I will now go into more detail on the impact of Ord stage 1. Members will be aware that comments were made in the Press about the chemical endosulfan, which has been banned in many countries. I will now provide some information to members on the effects of endosulfan. The recent fish deaths in the Dunham River, fed by water from the Ord farm irrigation drains, highlights the need for an environmental assessment of stage 1 of the Ord irrigation scheme before moving ahead to stage 2. The irrigation drains were being desilted at the time of the fish deaths and it appears that endosulfan-contaminated irrigation water caused the problem. Endosulfan is a highly toxic organochlorine, a pesticide which acts as a potential nerve and liver poison. Birds and fish are very sensitive to endosulfan poisoning, and it is moderately toxic to bees. The pesticide does not easily dissolve in water but attaches to soil particles easily. The pesticide information service of the Cornell University and the Universities of Oregon, Michigan and California states -

> Transport of this pesticide is most likely to occur if endosulfan is attached to soil particles in surface run-off.

The massive fish die-off was an acute situation, but the *Sunday Times* of 5 July of this year quotes ecologist Dr Riggert, who is considered the State's foremost expert on wetlands and waterbirds, indicating that fish had been dying in the Ord River from pesticides for 20 years.

I have had conversations with a tour operator who operates in the exclusion zone below the diversion dam who regularly catches fish which have signs of chronic effects of pesticide. One of the signs is red lesions on the fish. It does not happen occasionally. This tour operator regularly takes fish, barramundi and mullet particularly, from that part of the Ord which show the long term impact of pesticide use. Also, no monitoring of the pesticide levels is taking place.

I will now quote from a document known as the "Ord Stage 1 Irrigation Scheme - Transfer of Ownership. Definition Statement of Key Environmental Issues and Responsibilities" from the Water Corporation and Ord Irrigation Cooperative itself. These bodies honestly acknowledge the current lack of monitoring as follows -

> There is a lack of knowledge. We do not have good information on the quantities of nutrients or pesticides applied. We do not know that information partly because it is withheld on the grounds of commercial sensitivity.

That is an appalling state of affairs. We do not have the basic information about which pesticides are being applied, apart from the information provided to this House in a list of in excess of 100 different brands of pesticides in use.

Other problems encountered in Ord stage 1 are siltation and erosion. Large areas of the Ord catchments have been largely overstocked and eroded. As a result, approximately 23 million tonnes of silt is deposited in Lake Argyle each year, and storage capacity has been reduced by approximately 6 per cent. This is an extraordinary amount of erosion occurring in this area. Members should bear in mind that this erosion carries with it pesticides and chemicals attached to the soil, hence the impact further down the river.

Waterlogging and salinity are also occurring in the area as a result of uncontrolled use of water. The water table has been rising. An article from *The Greener Times* of March 1997 reads -

> The water table has risen significantly in some areas and salinity has increased. At the north and north-east ends of Ivanhoe Plain and in some parts of the Weaber and Carlton Plains, the water table has risen to within 2 metres of the surface and chloride levels are high. Ground water levels and salinity need to be monitored.

Indeed, the Water Corporation's own document also acknowledges that waterlogging is a major problem. This reads -

> . . . generally, no routine monitoring of tailwater quality or quantity off property.
>
> . . . we do not have good information on water applied to paddocks and the amount leaving as runoff and through groundwater recharge. . . . do not have measured information on channel leakages or changes in the permeability of the channel over time.

In terms of the quantity of water used, the corporation states that there is no consistent water gauging outside Lake Kununurra; namely, no direct measurement of discharge, and no measurement of water put back into the Ord or the

Dunham River from tailwater. We do not even know how much water is being used and, hence, how much is leaking out through drainage channels and other methods causing the waterlogging.

Another major problem being encountered is weed infestation. The weeds in the area include kapok, birdwood, buffel grasses and Noogoora burr. Another impact is loss of flood plains. The natural flooding patterns of the river have dramatically changed, and no attempt has been made to maintain environmental levels of recharge into the river. This loss of the natural flooding of the river has increased the impact of weed invasion and a generally clogging of the water system.

Last, there is no monitoring of the fauna. Little is known about the impact on fish and other species from pesticides or changes in the water patterns in the river. The Greens (WA) argue that the values of the Ord River and the entire Kimberley region have enormous potential in themselves. If we are contemplating any modification of ecosystems, we need to take these values into account. I mention particularly the value of the Ord River and the lower reaches of the Ord floodplain to its waterbird habitat. Members might be aware that this area is listed under the Ramsar Convention, which protects the major flight paths of migratory birds. A report by the Conservation Council of Western Australia in July 1995 on the management of Ramsar sites in Western Australia refers to the Ord River floodplain and states -

> This site is made up of Parry Lagoons Nature Reserve and the tidal mud flats and mangrove swamps at the mouth and 'false mouths' of the Ord River Nature Reserve.
>
> In years when local rainfall is good the Parry Lagoons and other seasonal wetlands constitute one of the major breeding areas for waterbirds in the Kimberley.
>
> At present the Nature Reserve and the Ramsar area is only part of the Parry Floodplain. It is essential that other parts of the Floodplain should be nominated.

That is, nominated for Ramsar listing. It continues -

> The Parry Lagoon Nature Reserve and the Ord River Nature Reserve are the only Ramsar wetlands in the Kimberley which are A Class reserves. While most of the other Ramsar Wetlands in the Kimberley are proposed national parks, nature reserves or marine parks, none have been gazetted.

There is an enormous backlog in recommendations for addition to the conservation estate in the Kimberley. The pressure that is placed on these areas through direct flooding or damming operations is of serious concern.

I will talk also about the potential loss of habitat and species if the proposed damming of the Fitzroy River goes ahead. The Dimond Gorge, which would be flooded if the damming of the Fitzroy occurred, contains rare and endangered species - the Gouldian finch, the purple crowned wren and the rock wing tailed possum. These are all listed endangered species that would have their habitat inundated. The other critical factor about the Kimberley is that we know little about the flora and fauna of that area. Little of it has been discovered, let alone described botanically. A document produced by The Wilderness Society in November 1990 describes some of the attributes of the Kimberley region. I imagine that few members have had the opportunity to visit or even read about some of the extraordinary features of that area. The document includes an article entitled "Kimberley Flora and Fauna: The Slide Towards Extinction" which was prepared for The Wilderness Society. It states -

> The vegetation of the Kimberley, whilst similar in composition to that of the Top End, is very distinct from the rest of Western Australia. It contains a high proportion of species at the northern and southern ends of their distributions, and it is a transition zone between the Torresian flora and the arid zone flora, with representatives of both.
>
> The Kimberley vegetation is distinguished by pockets of vine thicket. These are remnants of rainforest that once covered the region, and they have great ecological significance. Not only are they interesting in an evolutionary sense and in the high species diversity they contain, but they also act as refugia for rare and restricted species.
>
> The mangrove communities of the Kimberley are also extremely rich in biodiversity. They have the richest mangrove avifauna (bird fauna) in the world, which includes the endemic Kimberley flycatcher . . . and the collared (mangrove) kingfisher . . . which has a restricted distribution in the north-west of Western Australia.
>
> Many gorges and waterfalls have unique palm, pandanus and fern gullies. In some cases, the species found in these microniches are only known from a very few localities.

We are talking about a unique and diverse set of systems in the Kimberley. If members understood what those values were, they would consider carefully any major changes that might be contemplated for this region. Currently, only

3 per cent of the Kimberley region is protected in the conservation reserve and there are 13 undeclared reserves outstanding from the Red Book recommendations of 1980. If all those recommendations were taken on board, we would have a reserve of approximately 7.9 per cent of the land area in the Kimberley, which would come close to ensuring that area had its conservation values protected in perpetuity.

Unfortunately, management in the Kimberley has been ad hoc and driven by political imperatives rather than concern for the best long term management of the area. In particular, there has been a lack of integration between the management agencies that have had some jurisdiction in the Kimberley. From answers to questions I asked in this place it is clear that the Department of Environmental Protection has no permanent staff based in the Kimberley. The DEP services the Kimberley on an "as needs" basis. If there were permanent monitoring by the DEP of Ord River stage 1, we might have a much tighter system without the horrendous accidents involving pesticide spills in the river. If, as has been suggested, formal environmental assessment is not carried out on Ord stage 2, no legally binding ministerial conditions would be put on this project. That would be an outrageous situation. The Government has not assessed the results of even Ord stage 1, and the problems with that management remain unsolved. It is now contemplating Ord stage 2 without any formal assessment. I argue strongly that a full environmental review and management program and a social impact assessment must be undertaken. It will be a great day for this State when the assessment of the social impacts of major projects is reintroduced. Such a social impact assessment would take into consideration the concerns of the Aboriginal communities in that area.

I will talk briefly about the economics of the Ord. *The Australian Financial Review* states that Ord stage 1 has cost WA taxpayers between $500m and $600m to date. For what? It has not made any money. It is a legacy of pesticide pollution in that area, the consequences of which will be seen for many years. In 1974 the dwindling number of farmers who still operated in the Ord faced growing financial problems. Irrigation and drainage deficiencies had not been remedied and cotton yields had been reduced, as had the area under irrigation. By 1974 insect control costs represented 50 per cent of a grower's costs. Growers who were still struggling to produce cotton outlaid 50 per cent of their costs to pay for pesticides. The other problems they encountered were the high transport and marketing costs, placing the Ord growers at a competitive disadvantage. If the Government is to contemplate Ord stage 2, it must do a cost comparison of the economic returns from other more sustainable activities such as nature based tourism, fisheries, aquaculture, and other uses the Kimberley can provide.

One of the recent initiatives reported in the newspaper is the use of genetically altered crops to overcome enormous pesticide use, and the use of transgenic cotton, or Bt cotton as it is known. I will give members some information regarding the experiences of those who grow Bt cotton in the United States. I have some information with me which has come from California which states -

> Genetically engineered Bt crops were grown for the first time at commercial scale this past summer.

That is, 1996. It continues -

> Despite considerable controversy, EPA -

That is the American Environmental Protection Authority -

> - gave the go-ahead in 1995 for Monsanto, Ciba-Geigy and Mycogen to sell crops - corn, cotton and potato - which they had engineered to contain an insecticidal toxin from Bacillus thuringiensis, a soil bacterium. The so-called Bt crops raise concerns among organic growers and environmentalists because their widespread use is likely to accelerate the evolution of resistance to Bt in insect pests. Once resistance develops, Bt sprays - which are an important pest control tool for organic and other sustainable farmers - will be ineffective.

Last summer Bt cotton crops failed to control cotton bollworm on thousands of acres, raising questions about the adequacy of resistance management plans that the agencies had introduced for Bt cotton. It is important that we understand a couple of things about genetically engineered crops, particularly cotton. As long ago as the 1950s, methods had been tried in the United States to grow cotton without the use of pesticides in massive applications. The whole science of integrated pest management has been well advanced and used in many countries, including China and India, the agricultural practices of which we would describe as being more backward than those in Australia. However, those countries are implementing management of pests and cotton crops by ecological controls that do not require massive use of pesticides.

An article in the "New Scientist" of 1 November 1997 states -

> Farmers in Mississippi could lose millions of dollars following the partial failure of a new genetically engineered cotton crop.
>
> The cotton, produced by Monsanto, contains a gene for resistance to the company's herbicide glyphosate,

> sold as Roundup. It should simplify weed control by allowing farmers to apply the herbicide directly to their fields without harming the cotton.
>
> Some 320 000 hectares across the US were planted with cotton this season, its first on the market. Most farmers are happy with the results. But in Mississippi, and to some extent, in Arkansas, Tennessee and Louisiana, entire fields have shed their bolls - the fluffy part harvested for fibre - or have developed small, malformed bolls.
>
> Robert McCarty, director of Mississippi's Bureau of Plant Industry in Starkville, says that only Monsanto plants seem to have failed, over an area totalling 12 000 hectares. "Cotton right across the road of a different variety was not affected," he says.
>
> Monsanto maintains that only a few thousand hectares are involved, and argues that malformed bolls have also been seen with other varieties. But Lisa Drake, a spokeswoman at Monsanto's headquarters in St Louis, Missouri, accepts that plants that have dropped bolls look similar to those damaged in tests involving very large doses of herbicide. She speculates that an abnormally cold, wet spring in Mississippi stressed some plants and reduced their herbicide tolerance.

Huge questions are still to be asked about the use of transgenic plants. In the evolution of resistance to whatever mutation it happens to throw up via scientific means, we must try to overcome this issue of monocultures. I most strongly caution against continuing the current trend of growing cotton in the Ord River area. It is doomed to disaster. Experience, particularly that in the United States, points to huge problems with genetically modified cotton crops. It also continues the use of pesticides on those crops.

I will now move to the issue of Aboriginal concerns about the developments in the Kimberley region. I have a document put out by the Kimberley Land Council which deals with the Ord River irrigation area which states -

> The Ord River, in the East Kimberley, was dammed in the early 1960's to provide water for cotton, but the industry was forced to close down in 1974 due to an unmanageable pest problem. The dam caused massive flooding over the traditional country of the Mirriwung people. A lack of consultation prior to construction of the dam saw burial sites irretrievably lost, hunting and fishing grounds disappear and sacred sites damaged or inundated. Country that was not flooded became farms.

The Aboriginal people of the Kimberley have huge concerns about the potential damage to the Fitzroy River. The Kimberley Land Council has stated quite clearly that it will vigorously oppose the damming of that river if that proposal progresses. At a meeting in June this year the Nyigina and Mangala people issued this statement -

> "We know there are other rivers where once they had wildlife and birds, clean sand and strong banks. Now those poor fellas have nothing but a dirty little creek."
>
> "Already our emu have gone, our kangaroo have gone and we're starting to lose our goanna because of baits. Our mob get sick from the fish we eat because of the poison that go in the River. I've seen a poor old crocodile floating dead down the River shot, for nothing."
>
> We don't want to put locks on our River. We don't want to keep people out. We've got to look after the place where we're born and bred. We want the river left for our children so that we can teach them how to be strong. We belong to this River.

If the suggestions of damming the Fitzroy River persist, this Government will have a major fight on its hands, from not only the Aboriginal people in the Kimberley region, but also conservationists world wide. I have heard it said that just as the proposed damming of the Franklin River in Tasmania was an enormous rallying cry for people concerned for the conservation of rivers, any proposal to dam the Fitzroy River will have exactly the same effect. This fight will not be given up easily. I want to assure this Government that members of the Greens (WA) will do all they can to argue against the loss of that magnificent river system. It is one of the few rivers left in Australia which is virtually in pristine condition. It has enormous value as it is. It is a ridiculous notion that everything must turn a dollar, that all rivers must be dammed to produce crops or whatever. There is never any costing done about the value of rivers as they stand.

Hon Norm Kelly: It is very short term.

Hon GIZ WATSON: Australia has obligations under international agreements, such as the Ramsar Convention on migratory birds. Those international agreements must be honoured. The legacy and the history of major dams world wide is that they have appalling consequences for the environment.

The Aswan High Dam is a particular example. Change to the patterns of the river and the deposition of silt in major

river systems has enormous consequences for the river systems, the wetlands and the coastal area into which those rivers drain. We have no idea what we will be mucking around with when we contemplate a dam in the Fitzroy River.

In order to address these issues of mismanagement in the Kimberley and lack of attention to integrated management, a full environmental assessment and appraisal of Ord stage 1 and a full environmental review and management plan of Ord stage 2, including a social impact statement, should be undertaken. There should also be no further contemplation of the damming of the Fitzroy River. A commitment should be made to integrated pest management with non-chemical solutions to existing pest problems in Ord stage 1 and a regional management plan undertaken that takes into consideration maintenance of biodiversity, the rights of Aboriginal landowners and long term ecological sustainability.

If no formal assessment is undertaken of stage 2 of the Ord River area it would be an appalling transgression of our environmental protection laws. If we do not assess these enormous projects that have huge impacts, it will make a mockery of environmental protection in this State. Once these dams are put in place nothing can be done to reverse their environmental impact. I will speak out again most strongly about damming the Fitzroy River. It would be an appalling decision.

The whole attitude of this Government that big projects and massive infrastructure are the way to "progress the State" is a nonsense. There are many other ways we can provide meaningful employment, lifestyles and production without having to exploit every drop of water in the State and dig up every single mineral resource and flog it off as quickly as possible. Why not have a world class conservation area in the Kimberley? A regional wilderness in the Kimberley would be the envy of the world and it would be an extraordinary gift to our children.

HON LJILJANNA RAVLICH (East Metropolitan) [10.42 pm]: I rise to reaffirm the Australian Labor Party's commitment to a high quality vocational and educational training system in Western Australia for the benefit of all Western Australians. I am gravely concerned about the state of Western Australia's training system. Many of my concerns stem from the fact that more and more training services are being contracted out and that insufficient control mechanisms are in place to check the quality of training by private providers. I am also concerned about the reduction in the full time equivalent staffing level directly involved with training. While a decrease is occurring in the number of FTEs directly involved in the delivery of training there is a corresponding increase in the FTEs involved in the administration of training. I will address that a little later.

I am also concerned about this Government's apparent inability to accurately forecast future skill requirements in Western Australia. This was recently demonstrated in a newspaper article which made the point that we are experiencing skill shortages certainly in the metal trades areas and in many of the other trade areas. It is possible that employers in this State might have to consider importing overseas labour. This demonstrates the Government's preparedness to sacrifice its own unemployed and young people by not providing the opportunities they require to enter the work force. Rather, the Government is prepared to take a fairly quick-fix attitude to this issue and import foreign labour. Most Western Australians will agree that this is not the preferred option; it is for us to be training our own people. I am also concerned about the future of apprenticeships and traineeships under this Court Government. I am particularly concerned about the future of apprenticeships and traineeships as we know them. You will agree, Mr President, that the future looks very bleak indeed. I will address that issue also a little later.

This Bill seeks appropriation for $70.6m for a variety of expenses, basically to fund the capital expenditure excesses approved during the 1995-96 financial year. When examining how this money will be spent I noticed that a considerable amount of money will be spent on computing upgrades and the like.

The PRESIDENT: Order! Hon Kim Chance and Hon Murray Criddle might like to look at Standing Order No 79.

Hon LJILJANNA RAVLICH: The Government should be able to manage its finances a little better. At this stage of the year it should not come cap in hand seeking appropriation of $70.6m to cover its shortfalls. It is a bit rich that this Government, which has promoted a record of strong financial management, has not been able to manage its finances properly. According to the Government we should have had an absolute windfall as a result of its agenda on privatisation and contracting out. That should have delivered the social dividend for which Western Australians are still waiting. We have anything but a social dividend. This is reinforced by the increased taxes in the last state Budget: An increase of 3 per cent from AlintaGas, 3.75 per cent from Western Power and approximately 4 per cent from the Water Corporation. In addition motor vehicle fees, public transport fares and so on were increased.

Clearly the economic management on which this Government prides itself has failed to bring home the bacon. It comes as no surprise that Western Australia also faces low consumption growth in small business and is still experiencing a depressed housing sector and low consumer confidence. There are no signs of this improving. I will continue to reiterate these points because every time the Government has an opportunity to convey a message to the Western Australian public it tries to convey that it is a brilliant economic manager.

Time and again, it is evident that once we delve under the surface things are not as rosy as they appear. Certainly a mounting body of evidence suggests that the Government is anything but a good economic manager. It was reported in *The West Australian* of 19 November that the State Government had a budget blowout of at least $140m. That is a significant amount. It was also reported that the blow-out could end up being as high as $240m. For a Government which prides itself on good economic management, that is a totally inadequate result. Of the $140m blow-out, $70m results from a hospital costs blow-out and $30m reflects overspending in schools. I understand also that the Police Force is hard pressed for resources. I am concerned about the impact the blow-out may have on the determination of government policy. I wonder whether school land sales and school rationalisation are being undertaken so that the Government can return the revenue gained to its coffers, to enable it to peddle the old myth about it being a great economic manager.

Having spoken at some length on privatisation and contracting out, I turn now to the lack of information coming from the Government on the expenditure of public moneys. Time and again, major contracts are entered into, but we do not have sufficient information to assess the merits or otherwise of those contracts. We also witness cost escalations, as was the case with the Joondalup Hospital, referred to in the report of the Auditor General. For example, the proposed cost of that facility in October 1995 was $27.2m, and the cost as at June 1997 was $42.4m. That represents almost a doubling of the cost. In anyone's book, that is bad financial management. It certainly is not good financial management.

This Government is supposed to be making money, not losing it, but it is losing money hand over fist through bad contractual arrangements. Tonight the Government has come cap in hand, because its management is not as good as it should be, seeking an appropriation of around $70m to fund its capital expenditure excesses. Why does a Government which prides itself on its good economic management have such a problem? The longer I sit here the more I suspect that the reason the Government finds itself in this economic pickle will become more apparent.

I turn now to training and its future in this State. I am very concerned that the quality of training is deteriorating. The attitude of the Government is that training is almost an impost on business. The Government believes that if it can cut the cost of training, somehow the product will be just as good, but cheaper. I suggest that at the end of the day we get what we pay for, and that has been demonstrated in other areas of purchasing by the Government. I do not think the training sector is any different. Since this Government came to office, we have seen reductions in training expenditure, and those reductions are beginning to bite. I spoke to someone from one of the TAFE colleges today, who said that she was surprised, because usually by this time of the year the college has hundreds of enrolments, and people are queuing up. She said that it is different this year because the enrolments have dropped significantly, and that is most unusual.

Since the Federal Liberal Government came to office it has slashed labour market programs and, as a result, opportunities for young people are non-existent. The State Government is also reducing opportunities for young people, and they are unable to secure a vocation which will take them into the work force.

In its wisdom and its drive for value for money, the Government has made a commitment to increase the involvement of private training providers in the training market. It has spent considerable energy on ensuring that the number of training staff and the options for students within TAFE colleges are reduced. Money is being diverted from training delivery into administrative resources. The Advance Manufacturing Technology Centre located in East Perth has provided some comparative figures. In 1990, 18 per cent of FTEs at that organisation were administrative staff; in 1997, 50 per cent of FTEs are administrative staff. That indicates that money is being spent in the wrong areas. It is being put into administrative structures rather than being spent on training.

An article in the "Western Teacher" of February 1997 contains a graph relating to TAFE sectors generally. It indicates that in 1990, 18 per cent of FTEs were in administration and 82 per cent were lecturing staff. In 1996, with a growth in administration, 47 per cent of FTEs were admin staff and only 53 per cent were lecturing staff. I am advised that lecturing staff numbers have been reduced even further.

We must be very careful that we do not end up with a system - unfortunately we are moving towards it - in which TAFE sees its role primarily as an administrator of some very weak training infrastructure, which is a totally uncoordinated response to training. We want training. We want young people to be able to access training and to have opportunities. Most of all, we do not want training for training's sake. We need quality training to a required standard. Unfortunately, under the Government's new proposals, we will not achieve training to the standard required by industry. Under the Government's competition policy, the focus seems to be on the economics - reducing the cost of training. Although I do not have a problem with that, one cannot look at it as the driving force. Because of the competition policy, the Government is putting everything out to tender and private providers.

Debate adjourned, pursuant to standing orders.

ENVIRONMENTAL PROTECTION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [11.01 pm]: I move -

That the Bill be now read a second time.

The Environmental Protection Act has now been in place for more than 10 years. The strengths of the Act have always been clear, focusing on protecting the environment, the independence of the Environmental Protection Authority, and the openness and accountability of the Act's processes. Earlier this year the Government formulated detailed proposals for reforms to bring the Act into the twenty-first century, while retaining and enhancing these strengths. The reforms being proposed -

reflect the growing importance the community is placing on environmental protection through a range of increased and innovative penalty provisions;

provide for the introduction of the urban landfill levy, designed to help meet the Government's commitment to halving waste per capita disposed to landfill by the year 2000; and

help tackle the growing problem of winter haze by regulating the sale of wood fired heaters and firewood.

The proposed amendments have been divided into two packages. The first package, containing the more urgent and straightforward amendments, are addressed in the Bill now before the House and in the associated Environmental Protection (Landfill) Levy Bill 1997.

The Bill I am now introducing will achieve five objectives. It will -

reform the Act's provisions for offences, penalties and enforcement;

provide for the collection and disbursement of the landfill levy through a dedicated trust fund;

provide for the operation of the waste management facilities at Mt Walton East and Forrestdale;

enable the implementation of national environment protection measures made under the National Environment Protection Council (WA) Act 1996; and

provide the power to regulate the sale of wood heaters and firewood to help tackle Perth's winter haze problem.

The remaining matters will be addressed in a second amendment Bill, which is currently being drafted, with detailed consultation. That Bill is to include the offence of unauthorised environmental harm, provisions for strategic assessment, improvements to the existing provisions for assessments, works approvals, licences and pollution abatement notices, and ground breaking legislation to address the administration of waste management and to effectively tackle the State's contaminated sites. The Government plans to introduce that Bill to the House next year.

Public Consultation: In May of this year the Government released for public consultation a package of documents outlining the proposed amendments to the Act. Public meetings were held across the State, with full day seminars in major regional centres. There were also workshops and focus group forums to ensure adequate consultation on the proposals. The proposed waste management amendments were released later but were subject to a further detailed consultation process. Over 80 written submissions were received. There was strong support for the proposed amendments, and several useful suggestions for improvement, which have been acted upon.

I now turn to the content of the Bill. I will deal with the legislation in three sections: Firstly, offences and penalties; secondly, waste management provisions; and, thirdly, wood heater provisions and other matters.

Reform of Offences and Penalties Provisions: The offences and penalties provisions in this Bill will again place the Act at the forefront of environmental legislation in Australia, and were important elements of the 1996 coalition environment policy. Consistent with that policy, the review of the offences and penalties has the overall objective of protecting the environment with the willing cooperation of all those involved. For example, penalties are to be increased by about 10 times.

However, there will also be scope for the courts to order rehabilitation in addition to a fine, to ensure the environment is protected and improved; inspectors are given the power of seizure so they can step in before the environment is

damaged and take preventive action; and the new concept of modified penalties enables an offender who quickly reports the offence to pay a lesser fine and avoid going to court if he or she meets strict criteria, including taking prompt action to fix any environmental damage and avoid a recurrence.

The Bill divides the Act's offences and penalties into three tiers consistent with the Government's commitment, through the Australian and New Zealand Environment and Conservation Council, to broad band uniformity of environmental penalties across Australia. Penalties have been increased in the order of 10 times - some more or less to remove anomalies. The Bill provides a maximum penalty for the most serious offence - intentionally causing pollution - of $500 000 or up to five years' gaol for an individual and up to $1m for a body corporate.

Tier 1 offences: Tier 1 offences contain the most serious offences including pollution, intentional or criminally negligent offences and breaches of conditions set by the Minister. Maximum penalties range from $125 000 to $500 000 for individuals and twice that for bodies corporate. Tier 1 prosecutions are initiated by the chief executive officer of the Department of Environmental Protection, with the consent of the Minister.

Tier 3 offences and infringement notices: At the other end of the scale, tier 3 offences contain the most minor offences. All tier 3 offences carry a maximum penalty of $5 000. So, too, do regulations. Tier 3 and regulation offences can be prescribed as "infringement notice offences", which means an inspector designated by the chief executive officer can issue tickets for these offences. Hundreds of small businesses are now being managed through registration and regulations rather than individual licences. This greatly reduces the cost to industry and government. The infringement notice system provides a workable way of policing these regulations to ensure the environment is protected. Like tickets elsewhere in the Statutes, these infringement notices carry a penalty, prescribed by regulation, and the penalty can be up to a maximum of 10 per cent - $500 - for a first ticket and 20 per cent - $1 000 - for any subsequent ticket. The recipient of a ticket can choose to pay the penalty, in which case there is no prosecution and no offence recorded, or defend the matter in court.

Tier 2 offences and modified penalties: Tier 2 offences contain all the other offences in the Act, like breaching a condition of a licence or works approval. Penalties range from $10 000 to $62 500 for individuals and twice that for bodies corporate. For tier 2 offences the Bill introduces the new concept of modified penalties. The tier 2 modified penalty process is very similar in effect to the tier 3 ticket system in that if an offender who receives a modified penalty notice chooses to pay the modified penalty, there is no court hearing and no offence is recorded. However, because of the more serious offences in tier 2 and the higher penalties involved, much more stringent provisions apply.

Again the primary objective is not to impose large fines but to protect the environment, so where someone accidentally commits a tier 2 offence, if the offender reports it promptly and takes prompt action to restore the environment and prevent a recurrence, a modified penalty may apply. Modified penalty notices are not issued by inspectors. They can be issued only by the chief executive officer after the following process has been completed. Firstly, the chief executive officer prepares the case and determines that a tier 2 offence has been committed, and there is evidence to support an allegation. Secondly, the case is referred to the Crown Solicitor for confirmation that the case could be taken to prosecution. Thirdly, the Minister's consent to the initiation of proceedings is sought. Fourthly, the chief executive officer checks the facts of the case against five criteria spelled out in the Bill -

(1) Did the alleged offender promptly notify the chief executive officer of the occurrence?

(2) Did the alleged offender take all reasonable and practicable steps to minimise and remedy any adverse environmental effects?

(3) Did the alleged offender cooperate with the department and provide information and assistance on request?

(4) Has the alleged offender taken reasonable steps to prevent a recurrence?

(5) Is there any overriding reason why a modified penalty would not be appropriate - for example, evidence that the offence was intentional?

These criteria are designed to recognise and reward desirable behaviour and thus protect the environment by encouraging prompt reporting of offences and prompt action by the offender to rectify the situation. If all these criteria are met, the chief executive officer must issue to the alleged offender a modified penalty notice and a certificate specifying how the criteria were met. If the criteria are not met, or if the alleged offender elects not to pay the modified penalty, the case proceeds to prosecution, the Minister having already given consent. If the penalty is paid, the chief executive officer publishes the fact in a widely circulated newspaper and in the department's annual report, and copies of the notice and certificate are placed on a public register.

The consequence of paying the modified penalty is that no offence is recorded. Administratively, an admission of the offence may be required, but payment of the modified penalty is not an admission of guilt for the purposes of civil

or criminal proceedings. The concept of modified penalties, as an incentive for environmentally responsible behaviour following an offence, is both innovative and unique in environmental legislation. It recognises a cultural shift to improved environmental performance that is already in place in many existing industries, and facilitates and encourages the same shift by other industries which are still developing their mechanisms, policies and commitment to environmental protection. It will put Western Australia at the forefront of Australian legislation in this regard.

Intentional Offences: The Bill introduces five new key offences with double the penalty, where the act is committed intentionally or with criminal negligence. The offences concerned are -

causing pollution;

emission of noise, odour or radiation which unreasonably interferes with a person's health, welfare or amenity;

dumping waste where it is likely to result in pollution;

breach of a condition placed on a pollution abatement notice; and

contravention of a "clean-up" direction given under section 73 of the Act.

Defences: For all tier 1 offences, a new defence of taking "all reasonable precautions" and exercising "due diligence" is provided. The interpretation of "due diligence" will be left to the courts. Standards for environmental due diligence have been developing rapidly in recent years and any definition could soon become dated. The courts can be informed by case law in other States where a "due diligence" defence has been available for some years.

Seizure and Other Powers for Inspectors: The Bill gives inspectors the power to seize things involved or likely to be involved in the commission of an offence or things affording evidence of an offence. At present, if an inspector comes across someone about to dump a truck full of waste in a wetland he cannot prevent their driving off to another wetland and dumping the waste there. With this power, inspectors will be able to seize the waste and stop the environment being polluted. Since some of the things seized could well need special treatment - for example, they may be explosive or corrosive - there are provisions to allow the chief executive officer to treat or dispose of them if necessary and recoup the costs. Where an inspector reasonably believes a name and address given to be false the inspector may detain the person until a police officer arrives. This provision is consistent with similar provisions which exist for fisheries inspectors and wildlife officers.

Daily Penalties and Attempted Offences: For offences with a daily penalty, the Bill clarifies that the daily penalty applies for as long as the offence continues, from the date a written notice of the alleged offence has been given by the chief executive officer, until the offence ceases, whether or not that occurs before conviction. Under the Bill, attempting to commit an offence or becoming an accessory after the fact to an offence is an offence in its own right which attracts the same penalty as the original offence.

Additional Court Orders: Another important reform in this Bill is the introduction of a wide range of sentencing options in addition to monetary fines which the court may order. This suite of provisions is consistent with the overall aim of protecting the environment. It draws on the latest trends in environmental legislation across Australia and will place Western Australia's courts in a particularly strong position in attempting to make the punishment fit the crime.

Under the new provisions the court may order the offender to -

forfeit to the Crown for subsequent disposal things used in committing an offence;

take specified steps to prevent harm to the environment caused by the offence, make good any environmental damage, prevent a recurrence or undertake an environmental community service project;

pay compensation, up to prescribed maxima, for costs reasonably incurred in connection with the offence to the department and for loss or damage suffered to other persons;

pay the amount of costs avoided by committing the offence; or

publicise the offence and its effects in the Press, to those affected or to shareholders.

Orders for rehabilitation or community service orders may be issued only on application from the prosecutor. This ensures that the court has the benefit of the department's environmental expertise in formulating its order. This also enables the offender to know and, if necessary, contest the content of the application before the court determines the order.

Although the costs reasonably incurred by the department in connection with an offence could be quite high, the

amount of compensation for loss or damage payable to a third party enjoined in the action - for example, a neighbour - would be limited to a prescribed maximum in view of the civil remedies available.

An example of costs being avoided by the offence would be where an offender disposes of waste to the environment instead of transporting it to a treatment facility. In such a case the court could order that the costs of transport and treatment be paid so that the offender did not gain by avoiding these charges in committing the offence.

The court may make any one or combination of these orders, in place of or in addition to the monetary penalty, and the amount of these orders is not restricted by the maximum monetary penalty.

Self-incrimination: The Bill provides that where someone is required by an inspector under part VI of the Act to provide information, the excuse of not providing information on the grounds that it may incriminate does not apply. Natural justice is preserved by the provision that where the person objects to the requirement, the information is not admissible as evidence. However, further information obtained as a result of that information may be admissible. This provision does not apply to bodies corporate, because they cannot claim the excuse of failure to reply on the grounds of possible incrimination.

Initiation of Prosecutions: Under the Bill the chief executive officer, with the Minister's consent, institutes prosecutions for tier 1 offences. The chief executive officer must seek the Minister's consent to initiate proceedings for a tier 2 offence, but the Minister has no role in determining whether this results in a prosecution or a modified penalty - that is determined by the chief executive officer applying the criteria. The Minister cannot unilaterally initiate a prosecution and has no role in approving prosecutions under tier 3. Under tier 3, prosecutions may be initiated by the chief executive officer or a person authorised under section 87.

The period following an alleged offence during which a prosecution may be initiated is increased from 12 to 24 months. This is consistent with the Fish Resources Management Act, under which a period of two years is provided for most offences.

Waste Management Provisions: Part 3 of the Bill addresses the proposed amendments related to waste management; firstly, the landfill levy and waste management and recycling fund provisions and, secondly, the State's waste management operations. The reasons for having the landfill levy are discussed in the second reading speech for the Environmental Protection (Landfill) Levy Bill. The present Bill makes provision for collection and management of the landfill levy. The landfill levy funds will be placed into the waste management and recycling fund. This fund, with clearly defined purposes in the Bill, will make a significant contribution to Western Australia by providing funding for projects to reduce the environmental and public health impacts of our wastes; conserve energy and resources - including scarce landfill airspace; help to make waste avoidance, re-use and recycling a way of life; and inform the community on waste reduction and sustainable development generally.

Levy moneys are to be used only to fund programs approved by the Minister relating to the management, reduction, re-use, recycling, monitoring or measurement of waste and administering the fund. The levy is not to be used to fund other normal ongoing operations of the department.

There are provisions for performance evaluation and financial auditing of programs, and summaries of the performance evaluation reports on funded programs are to be made public through the department's annual report.

In determining the objectives of the fund and the programs that should be funded from time to time, the Bill requires the Minister to seek advice from relevant parties. The key source of advice will be the Advisory Council on Waste Management.

The provisions for the waste management and recycling fund, and the expenditures on waste management programs, are as proposed by the Government in the discussion paper released earlier this year. These proposals have the capacity, with community support, to provide a framework for a significant program in the areas of waste reduction and recycling and related areas which will serve Western Australia very well into the twenty-first century. There is a requirement for these levy provisions to be reviewed after five years.

Waste Management (WA): The Bill creates Waste Management (WA), a body corporate constituted by the chief executive officer as a part of the department, primarily to carry on the State's existing waste management operations at Mt Walton East and Forrestdale. Some concern has been expressed at having the State's environmental regulator also acting as an operator. However, the proposed arrangements ensure that the State's most problematic wastes are managed by the agency with the highest level of relevant expertise, and supervised and monitored by the statutorily independent Environmental Protection Authority, with assistance from other government regulators. Waste Management (WA) may carry out other waste management operations approved by the Minister.

The Minister may not approve such an operation when it will compete with a like operation which is providing an adequate service. In other words, we are not in the business of competing with private enterprise. The department

will provide services which are essential to Western Australia and which either require long term security or are commercially unattractive to the private sector, for whatever reason.

The Bill has special provisions to ensure the perception of conflict of interests is dealt with. Since these operations are to be carried out as a part of the department, they are not required to hold licences, which are issued and supervised by the chief executive officer of the department, but instead are to be managed through conditions set by the Minister following the public process of environmental assessment by the EPA and by additional ministerial directions. It is not the department but the independent EPA which is responsible for monitoring compliance with conditions set. In carrying out its assessment and monitoring, the EPA has access to independent consultants at the department's expense. The Bill provides specifically for the recovery of costs by the State, in accordance with agreements already in place for the operations at Mt Walton East.

Implementing national environment protection measures: The final part of the Bill makes miscellaneous amendments associated with the implementation of national environment protection measures - NEPMs - the provision of powers to regulate the sale of wood fired heaters and firewood, and some other minor matters. NEPMs are made through a joint process involving all the States and the Commonwealth. They are prepared under parallel legislation in each Legislature including, in Western Australia, the National Environment Protection Council (Western Australia) Act.

The making of NEPMs involves a process which closely parallels the process for making environmental protection policies under the Environmental Protection Act, including extensive consultation and the opportunity for disallowance by the Parliament. In some other Legislatures there is provision that an NEPM automatically becomes an environmental protection policy, or equivalent. Western Australia has chosen to retain flexibility, since an NEPM may be better implemented through regulation, for example. Consequently the Bill provides that the Minister may declare an NEPM to be an approved policy, for the purposes specified in the declaration, and that, where appropriate, regulations can be made to enable the implementation of an NEPM.

Regulating the sale of wood fired heaters and firewood: Smoke emissions from wood fired heaters give rise to many complaints and are a primary cause of the winter haze problems in Perth and many country towns. If dry firewood is burnt in heaters which comply with the Australian Standard 4013-1992, the amount of smoke is greatly reduced, with consequent public health and environmental benefits.

The Bill provides powers to regulate the sale of wood fired heaters and firewood. Inspectors' powers of entry are adjusted to enable entry to premises where solid fuel burning equipment or solid fuel is manufactured, sold or distributed for sale, and the headpower is inserted to enable regulations to be made to ensure wood fired heaters conform to the required standard and that firewood for sale has less than the prescribed maximum moisture content.

The proposed regulations will ban the sale of wood fired heaters which do not conform to the Australian Standard and ban the retail sale of firewood with a moisture content of greater than 25 per cent. The regulations will not affect existing, installed wood fired heaters or constrain those who gather their own firewood in the forest. The inspections will involve places where heaters and firewood are sold. There will be no inspection of households. The provisions of the Bill will be complemented by extensive community education campaigns.

Conclusion: This Bill has the consistent overriding objective of protecting the environment. It introduces significant reform to the offences and penalty provisions of the Act, bringing it to the forefront of Australian environmental legislation. Penalties are increased, providing a clear deterrent, and provisions for modified penalties and defences are introduced to encourage prompt reporting and corrective action where breaches occur. A suite of new optional orders will be available to the court which again helps to ensure the environment is protected.

The new waste management levy will help to ensure that the impact of our wastes on the environment is minimised. Through Waste Management (WA) the State's best expertise will be brought to bear on the State's most problematic wastes. It attacks the problem of excessive waste by funding the initiatives necessary to deal with it. It is efficient because it falls most heavily on those who generate the most waste and sends them a clear signal to reduce and recycle.

Measures put in place at a national level for the protection of the environment will be able to be implemented in Western Australia through the provisions in this Bill. Finally, the Bill will help the Government to control Perth's winter haze problem by regulating the sale of wood fired heaters and firewood. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

ENVIRONMENTAL PROTECTION (LANDFILL) LEVY BILL

Receipt and First Reading

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

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [11.23 pm]: I move -

That the Bill be now read a second time.

This Bill provides for the implementation of important parts of the 1996 coalition environment policy. In particular, the introduction of a levy on waste to urban landfill was proposed to provide necessary funding for waste management and recycling programs.

This Bill provides the powers for the introduction of a levy on waste to landfill. The associated management and expenditure powers are contained in the Environmental Protection Amendment Bill 1997, which has been introduced into the House. This policy proposal has been the subject of significant discussion within Western Australia this year, particularly among sections of local government and the various public interest groups involved with environmental management.

The Government, through the Advisory Council on Waste Management, circulated a discussion paper on this matter in June of this year. The Government proposes several measures to ensure its sound management, including identifying the principles on which the levy is based; the concept that generators of waste should contribute to waste reduction programs; establishing a trust fund into which all proceeds of the levy must be placed, with funds allocated to meet clearly stated waste management objectives; varying rates for the levy to recognise the potential environmental impact of different types of waste; vesting responsibility for approving funding programs with the Minister who will take advice on this matter from the Advisory Council on Waste Management which includes representatives of local government, industry and the general community; ensuring that the funds will not be used to fund the ongoing usual activities of the Department of Environmental Protection, with the exception that the administration of the levy will be funded by the levy itself; and clearly specifying the general terms of the types of programs on which funds derived from the levy should be expended.

This legislation, together with the Environmental Protection Amendment Bill 1997, delivers the legislative framework required for the Government's commitments in this policy area to be delivered. I am pleased with the level of support now emerging around the State for the proposal and believe that it heralds a new era for waste management in Western Australia. The levy has the potential to fund projects which will significantly impact on the 2.3 million tonnes of solid waste generated by Western Australians each year. On average, each person in Western Australia creates about 1.4 tonnes of solid waste a year. We want to reduce this to 700 kilograms per person by January 2000.

Turning now to the detail of the Bill I will inform the House of the following major provisions. The levy applies to waste received at licensed landfill disposal sites. The amount of the levy is to be set by regulation. The Government has already announced that the levy will be $3 per tonne for putrescible waste and $1 a tonne for inert waste going to metropolitan landfills licensed for those purposes. Similarly, it has also been indicated that inert waste disposed of to putrescible landfills should attract a $3 levy in order to encourage conservation of landfill airspace. The manner in which the levy is to be paid, and the administration of the levy funds, are addressed in the Environmental Protection Amendment Bill 1997.

There are provisions for the regulations to prescribe exceptions on a case by case, or class basis, for situations where the levy is not payable. Differential levies may be prescribed for different cases or classes, and the basis of levy calculation and the factors involved may be prescribed. The Bill imposes that the levy be prescribed and further provides that the levy is payable by the licensee of the premises at which the waste is received. Therefore, the onus is on the licensee to calculate and collect the levy from the people delivering waste.

This Bill, in itself, provides only for the powers to raise the levy and regulate for the conditions attaching to it. However, it is clearly linked to the important waste management, recycling and resource conservation initiatives proposed for the waste management and recycling fund in the Environmental Protection Amendment Bill 1997. In this sense it is an important part of the Government's environmental policy commitments, and I look forward to being involved with the positive outcomes. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

BILLS (3) - RETURNED

1. Family Court Bill
2. Acts Amendment and Repeal (Family Court) Bill
3. Equal Opportunity Amendment Bill (No 3)

Bills returned from the Assembly without amendment.

LOCAL GOVERNMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon E.J. Charlton (Minister for Transport), read a first time.

Second Reading

HON E.J. CHARLTON (Agricultural - Minister for Transport) [11.28 pm]: I move -

That the Bill be now read a second time.

The Bill makes a number of improvements to the Local Government Act, which members would be aware was one of the largest pieces of legislation recently brought before the Parliament. Since the implementation of the new Local Government Act, the legislation has been closely monitored to ensure that any anomalies or difficulties are quickly resolved. With any new piece of legislation of this magnitude, it will take time to finetune the provisions to take account of all the practical situations that confront local governments on a daily basis. This Bill contains amendments to various provisions of the Act and in most cases the amendments are only of a minor nature. To date the new Act has operated well, but that does not mean that further improvements will not be necessary.

One of the key matters contained in this Bill is the need to correct an unintended section which inadvertently allows some non-Australians to become council members at elections. Since 1984, it has been a requirement for a person to be an Australian citizen to hold office as a council member. During the drafting of the transitional provisions for the 1995 Act, a special section was included to allow non-Australians who were previously registered to vote, but not hold office, to continue that entitlement to vote. The drafting of this section inadvertently allows such persons to also become council members, when this was not intended in the principal provisions. To ensure that the status quo is maintained, a small amendment to section 2.19 is necessary to overcome this problem. As these provisions have already been used for the 1997 May elections and any subsequent extraordinary elections, a savings provision has been included in this Bill which will allow any non-Australians who may have been elected at those elections to complete their terms of office up to the May elections in the year 2001.

The Bill provides for the inclusion of a new provision which will allow for the appointment of a commissioner to run a local government in a situation where all of the council members resign. The recent resignation of all the council members at the Town of Albany highlighted an anomaly within the Act which is rectified by the inclusion of a new section 2.37A. A further related amendment is to be made to schedule 2.4 to clarify that a person may be appointed as commissioner for more than one local government at the same time.

In the area of local lawmaking, the Act includes a provision enabling the Governor to amend or revoke a local law. This provision is in the Act to ensure that the State Government will have the final say on whether a local law is suitable in the interest of state or regional concerns.

An amendment to section 3.14 of the Act is included in this Bill to ensure that where this provision is used the Governor's amendment or revocation may operate immediately and not be subject to the normal 14 days' delay for the operation of local laws after gazettal.

Section 3.26 of the Act provides for a local government to take action against an owner or occupier of land who does not comply with a local government notice requiring that certain nuisances be rectified. The Bill includes an amendment giving both the owner and occupier new protections where the problem with the land is controlled by the other person. Any fines or costs may be recovered in a court from the person responsible.

The provisions of section 3.50 relating to the temporary closure of thoroughfares to vehicles, require all local governments to go through a full public submission process for each year that the closure applies. It is acknowledged that such a procedure is too cumbersome for many closures that often need to be in place for several years and to overcome this problem the Act will be amended to allow closures to operate for a maximum period of four years before a public review is required. Also, a further improvement is to be made to ensure that public notice does not need to be given in circumstances where very short term closures are made and the thoroughfare is re-opened prior to the formalities for giving notice commencing.

In the area of the delegation of council powers to the chief executive officer, sections 5.42 and 5.44 need amendment to clarify that the chief executive officer may then delegate those powers to particular employees. This had been the original intention in the Act and a validation provision is included to protect any sub-delegations which may have occurred.

On a further matter, section 5.63 deals with various common and minor financial interests which council members do not need to disclose at council meetings. The new Act contained a new exemption in paragraph (e) relating to

the location of government related services and facilities. However, this is now considered to be too wide sweeping in the exemptions that may apply - that is, major road works adjacent to a council member's house - and, accordingly, it is to be deleted.

In relation to the issue of annual financial returns, amendments are to be made to sections 5.74 and 5.76 to provide some practical improvements. One of these is necessary to clarify that the return period for the first annual return following a primary return will commence from the start day of the primary return. The start day is the day that a council member makes a declaration of office following his or her election. The annual return will cover the period back to that date. A further related amendment is proposed to overcome a problem which involves an apparent overlap of both primary and annual return reporting arrangements in years when local government elections occur. The ordinary council election day in May is so close to the 30 June annual reporting period that the current provisions produce a situation in which members will need to prepare both primary and annual returns within close proximity of each other. This has the potential for overlap of the two procedures and will create significant confusion for members. To solve this problem the amendment will remove the requirement to prepare an annual return in the first year of office when a member's start day is after 31 March. Return details about the period from the start day to the next 30 June will then be included with the next year's annual return.

There are three amendments in the area of local government finance. Section 6.8 needs amendment to make it clear that the requirement of a council to approve non-budgeted expenditure relates only to such purposes not already identified in the budget.

Section 6.28 is to be amended to clarify that rating valuations made as part of a general valuation supplied by the Valuer General, but issued late, may be applied by local governments for rating purposes in the year of issue. Both of these matters have been the practice of local governments for many years. A more noteworthy financial amendment relates to section 6.51, which deals with penalties for the late payment of rates. The current provision allowing people to be up to three months late with their payment before interest penalties apply is being removed and brought into line with the standard requirement for rates to be paid within 35 days. Late penalty interest will apply in the same way as for the late instalment payments and local governments may continue to enter into special arrangements for payment in cases of hardship.

A further matter in the Bill relates to the operations of the Local Government Advisory Board, which deals with district boundary and ward changes. Schedule 2.5 of the Act is to be amended to ensure that both mayors or presidents elected by the electors and councillors may be members of the board. The current drafting limits membership to councillors only and this was not the intention. Another amendment relates to changing the arrangements for running meetings of the board where the chairperson is absent. This provides for the departmental member to be the deputy chairperson, which will overcome the current problem of a separate deputy not being readily available at short notice to chair meetings.

The final significant matter in the Bill deals with private swimming pool inspections carried out by local governments in accordance with section 245A of the Local Government (Miscellaneous Provisions) Act. That section currently requires that these inspections be undertaken only by employees. However, local governments have indicated that organisations such as the Royal Life Saving Society and other suitably qualified persons could also be engaged for this purpose. The amendment will enable local governments to engage such suitable persons, as the council decides, to carry out this important inspection service. The Bill also includes nine other minor tidy-up amendments to rectify original drafting errors, cross-references and minor matters. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

BILLS (3) - RETURNED

1. Public Notaries Amendment Bill

2. Wills Amendment Bill

3. Sunday Observance Laws Amendment and Repeal Bill

Bills returned from the Assembly without amendment.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to amendments Nos 6 and 7 made by the Council, and had disagreed to amendments Nos 1 to 5 and 8.

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendment made by the Council.

STATEMENT - BY THE PRESIDENT

Proposed Standing Order for Responses from Persons Adversely Referred to in the House

THE PRESIDENT (Hon George Cash): Following an earlier resolution of the House today, motion No 13 is now inconsistent with the resolution that was passed and is to be struck from the Notice Paper.

House adjourned at 11.36 pm

QUESTIONS ON NOTICE

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

MINISTERS OF THE CROWN - MINISTER FOR PRIMARY INDUSTRY

Albany Foreshore Redevelopment - Meetings

708. Hon BOB THOMAS to the Minister for Transport representing the Minister for Primary Industry:

(1) What meetings has the Minister for Primary Industry had in the past twelve months, either in his Ministerial office or elsewhere, regarding stage two of the Albany Foreshore Redevelopment?

(2) Which of those meetings were called by the Minister?

(3) What action did the Minister take to influence other Ministerial colleagues to either place a moratorium on stage two of the Albany Foreshore Redevelopment or have it discontinued altogether?

(4) What other action did the Minister take to stop stage two of the Albany Foreshore Redevelopment either permanently or temporarily?

(5) Has the Minister taken a submission to Cabinet which may halt stage two of the redevelopment either temporarily or permanently?

(6) Has the Minister lobbied any rural groups in the past twelve months calling for them to lobby against stage two of the Albany Foreshore Redevelopment?

(7) If so, which groups were they?

(8) Is stage two of the Albany Foreshore Redevelopment supported by the Government?

(9) What action does the Minister intend to take to ensure that this development is expedited?

Hon E.J. CHARLTON replied:

(1)-(9) There have been a number of meetings and Cabinet discussions and decisions with regard to this issue. These are ongoing.

RAILWAYS - STATIONS

Albany - Resetting the Points

843. Hon BOB THOMAS to the Minister for Transport:

Further to parts (2) and (3) of question on notice 701 of 1997 -

(1) What is the correct procedure a driver must follow when a train departs the Albany Railway Station including resetting the points?

(2) What was the chain of events which led to the points being incorrectly set?

(3) How many hours had the officer, who incorrectly set the points, been on the job?

(4) What training had the officer received in respect to his duties when a train is leaving the Albany Railway Station?

(5) Was a key left unattended in the points at any time?

Hon E.J. CHARLTON replied:

(1) The procedures in place for a train departing Albany at the time of the derailment were:

(a) The train crew was to set all points for the departure of the train using an annetts key kept in the locomotive to first unlock the points.

(b) Following departure of the train the crew was required to reset the points (if necessary) for the arrival of the next train, locking the points at the entrance to the yard and also those at the arrival road which were both equipped with locks.

(c) The annetts key for the points' locks should then have been returned to the locomotive cab.

In accordance with safe working rules each locomotive carried its own annetts key and locomotive drivers must not allow their train to depart Albany until the annetts key is noted to be in position in the cab. However, under a local arrangement, which was contrary to the safe working rules, an additional annetts key for the points leading to the arrival road was retained in the lock. The local arrangement has been withdrawn and the staff member responsible for instituting that arrangement has been counselled and retained.

(2) The crew of the train departing Albany failed to set the points from the departure road in the correct position and as a consequence, the points were damaged when the train passed over them. Secondly, the train crew did not endeavour to reset and lock those points for the arrival of the next train.

The departure from the normal procedure, that is, retaining an annetts key in the points lock, resulted in the error going unnoticed. Had the points been locked with the key kept on the locomotive, the crew of the departing train would have been unable to withdraw the annetts key from the lock to return it to the locomotive and thus would have become aware of the damage.

(3) The locomotive crew members responsible for damaging the points had been on duty for approximately 6 hours when the damage occurred.

(4) The locomotive crew members responsible for the damaging the points have undergone a full safe working training course applicable to the responsibility of their positions. They have also been instructed on local conditions applying to the areas in which they operate train services.

(5) Yes. Under a local arrangement at Albany, an additional annetts key was left in the points lock at the entrance to the arrival road. Following the incident in question, with the exception of the points at the entrance to the yard, points at Albany are no longer equipped with locks.

FISHERIES - DUNHAM AND ORD RIVERS

Fish Deaths - Use of Endosulfan

847. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Primary Industry:

(1) In relation to the dead fish noticed in the Dunham and Ord Rivers, can the Minister for Primary Industry confirm that Endosulfan insecticide was used on crops and land adjacent to these rivers?

(2) Is it correct that Endosulfan is a highly toxic substance?

(3) Under what trade or other commercial names is Endosulfan distributed in Western Australia?

(4) What warnings or instructions are required to be carried on the containers or included in containers of Endosulfan in relation to its safe use?

(5) Is Endosulfan toxic for fish?

(6) If yes to (5) above, at what level of exposure is Endosulfan toxic for fish?

Hon E.J. CHARLTON replied:

(1) Endosulfan is commonly used on crops in the Ord River irrigation area.

(2) Endosulfan is classified by the World Heath Organisation as toxicity class II, moderately toxic. It is in Schedule 7 under the Poisons Act, poisons which require special precautions in manufacturing, handling, storage or use, or special individual regulations regarding labelling or availability.

(3) See paper No 1105.

(4) Protection of Livestock
Harmful to bees. DO NOT spray any plants in flower while bees are actively foraging. DO NOT feed grass clippings from treated area to poultry and animals.

Protection of wildlife, fish, crustacea and the environment.
Extremely dangerous to fish. DO NOT contaminate ponds, waterways and drains with this chemical or used container.

Safety directions
Poisonous if absorbed by skin contact or inhaled or swallowed. Avoid contact with eyes and skin. Do not inhale spray mist. When opening the container and preparing spray and using prepared spray, wear cotton overalls buttoned to the neck and wrist and washable hat, elbow length PVC gloves and full-face respirator. If product on skin, immediately wash area with soap and water.

After use and before eating, drinking or smoking, wash hands, arms and face thoroughly with soap and water. After each day's use, wash gloves, respirator or face-piece and contaminated clothing.

(5) Yes.

(6) Varies with the species of fish with observable effects occurring at 0.1 micrograms per litre or above.

POLLUTION - ENDOSULFAN

Safe Limits

848. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Primary Industry:

In relation to the insecticide Endosulfan -

(1) What is the recommended amount of Endosulfan in rivers and lakes which is considered to be safe?

(2) What is the maximum permissible level of Endosulfan allowed in food?

(3) What is the maximum occupational exposure limit for Endosulfan?

(4) Does human exposure to Endosulfan occur mainly from eating contaminated food?

(5) Have any persons in Western Australia been exposed to Endosulfan above recommended or safe limits?

(6) If yes to (5) above, when and where?

(7) What is the recommended treatment for unsafe exposure to Endosulfan?

(8) What requirements are there to report discharges or spills of Endosulfan and to whom are reports to be made?

(9) Have any warnings being issued to the public or advice offered to health authorities concerning the consumption of fish which may be contaminated with Endosulfan?

Hon E.J. CHARLTON replied:

(1) Water for human consumption: 40 micrograms per litre (parts per billion)
Water for fish: 0.01 micrograms per litre

(2) Vegetables: From 0.2 to 2 milligrams/kilogram
Meat: 0.2 milligrams/kilogram
Fish: Nil (no maximum residue limit set)

(3) 0.1 milligrams/cub metre.

(4) Exposure to unsafe levels of Endosulfan would occur mainly from handling the product during spraying operations.

(5)-(6) No cases have been reported.

(7) Remove contaminated clothing, wash affected areas. If swallowed, induce vomiting. Seek medical attention.

(8) Significant spills of all dangerous goods should be reported to the Fire Brigade and Police.

(9) The Health Department has advised the public not to eat fish from a section of the Ord River as a precaution until further information is available.

FISHERIES - DUNHAM AND ORD RIVERS

Fish Deaths - Desiltation Work

849. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Primary Industry:

(1) In relation to the desiltation work recently undertaken in irrigation channels leading to the Dunham and Ord Rivers, who undertook the work?

(2) Was any research or inquiry undertaken to ascertain if there were any toxic substances which might be disturbed in the course of the work?

(3) Did the work result in dissemination of any toxic substances into the waters of these rivers?

(4) If yes, what has been the effect of these substances on fish and bird life in the area?

(5) Have any of the fish or birds affected by the toxic substances been analysed?

(6) If yes to (5) above, who conducted the analysis and what was the outcome?

Hon E.J. CHARLTON replied:

(1) The Water Corporation.

(2) No. Previous drain desilting operations had not indicated a problem with residues.

(3) It appears that the desilting has released Endosulfan from the sediments in the drains.

(4) Some dead and sick fish have been seen in the Dunham River, and in the Ord River downstream of the cleaned drains.

(5) Yes.

(6) Fisheries Department carried out histopathological examinations and the Chemistry Centre carried out analysis for Endosulfan. Dead fish from the Dunham River had pathological changes consistent with Endosulfan toxicity and contained significant levels of Endosulfan. Live fish from the Ord River had pathological changes consistent with Endosulfan toxicity and chemical analysis is still being carried out.

POLLUTION - ENDOSULFAN

Regulations

850. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Primary Industry:

(1) What legislation and regulations govern the storage, use and transport of the insecticide Endosulfan?

(2) What are the current guidelines for protection of aquatic ecosystems from Endosulfan?

(3) Have any inspectors made any inquiries or searches to ascertain if any person has used or spread any chemicals including Endosulfan on land, water or elsewhere in the East Kimberley area contrary to law?

(4) If yes to (3) above -

(a) when were those inquiries or searches made;

(b) where were they made; and

(c) what was the outcome of those inquiries or searches?

(5) If no to (3) above, why not?

Hon E.J. CHARLTON replied:

(1) Dangerous Goods Regulations - for transport and storage.
Health (Pesticides) Regulations - for use.

(2) The product label contains directions for protection of aquatic ecosystems. Aerial chemical applicators must obtain a chemical rating from the Commonwealth and be licensed by Agriculture Western Australia. The rating and licence involve examination on chemical handling, safety and environmental effects.

(3)-(5) Information is being freely provided about the current situation on a voluntary basis and inquiries are being made where necessary. Depending on sediment testing, there may be an issue of trying to distinguish between actions over a number of years.

GOVERNMENT CONTRACTS - EXCESS OF $10M

Number and Details

955. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Resources Development:

(1) How many contracts over $10m have been awarded by any Government departments or agencies within the Minister for Resources Development's portfolios since February 1993?

(2) Will the Minister list those contracts?

(3) What was the value of each of these respective contracts?

(4) What is the duration of each of these contracts?

(5) Who is the contract entered into with?

Hon N.F. MOORE replied:

(1) Nil.

(2)-(5) Not applicable.

GOVERNMENT INSTRUMENTALITIES - CLUB MEMBERSHIPS

Cost

969. Hon LJILJANNA RAVLICH to the Attorney General:

(1) Has any Government department or agencies within your portfolios paid for membership to a club or association for a member of staff since February 1993?

(2) If so, please provide -

(a) the name of the staff member;
(b) the name of the association; and
(c) the amount paid?

Hon PETER FOSS replied:

Director of Public Prosecutions

(1)-(2) No DPP staff member has had membership of a club or association paid for by Government.

Information Commissioner

(1) No.

(2) Not applicable.

Law Reform Commission

(1) No.

(2) Not applicable.

Equal Opportunity Commission

(1) No.

(2) Not applicable.

Legal Aid

(1) Yes.

(2) See paper No 1107.

GOVERNMENT INSTRUMENTALITIES - CLUB OR ASSOCIATION MEMBERSHIPS

Names and Cost

971. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Local Government:

(1) Has any Government department or agencies within the Minister for Local Government's portfolios paid for membership to a club or association for a member of staff since February 1993?

(2) If so, please provide -

(a) the name of the staff member;

(b) the name of the association; and

(c) the amount paid?

Hon E.J. CHARLTON replied:

With respect to the Department of Local Government

(1) No.

(2) Not applicable.

With respect to the Keep Australia Beautiful Council

(1) No.

(2) Not applicable.

With respect to the Metropolitan Cemeteries Board

(1) No.

(2) Not applicable.

With respect to the Fremantle Cemetery Board

(1) No

(2) Not applicable.

WATER RESOURCES - GREENBUSHES AND BALINGUP

Reticulation Points - Testing

987. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Water Resources:

(1) Has the Minister for Water Resources' department carried out testing of Greenbushes reticulation point and Balingup reticulation point for gross alpha and beta radiation in the past three years?

(2) If so, on what dates?

(3) Will the Minister table the results for this testing of Greenbushes reticulation point and Balingup reticulation point for gross alpha and beta radiation?

(4) Have any isotopes been identified in these tests?

(5) If yes, are they soluble, insoluble or caused from gas?

Hon MAX EVANS replied:

(1) The Water Corporation has sampled the Greenbushes reticulation for gross alpha and beta radiation on five occasions and Balingup reticulation on two occasions in the past three years. Analysis of the samples was carried out by either Australian Radiation laboratories or Western Radiation Services.

(2) Greenbushes - 3/4/95, 5/3/97, 11/3/97, 13/6/97 and 15/9/97.
Balingup - 3/4/97 and 5/3/97

(3) See tabled paper No 1106.

(4) Individual isotopes have not been identified in these tests.

(5) Not applicable.

WATER RESOURCES - SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM

Installation

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

(1) Has the Water Corporation completed the installation of the Supervisory Control and Data Acquisition ("SCADA") system at the 32 most critical pumping stations around our river system?

(2) If yes, when was it completed?

(3) What is the program for expansion of this system?

Hon MAX EVANS replied:

(1) No. The system is expected to be operating by 31 December 1997.

(2) Not applicable.

(3) The Water Corporation has undertaken to install a SCADA system on a further 108 pump stations that affect the Swan, Canning and Southern Rivers, by December 1999.

WATER CORPORATION - DEVELOPMENT PROJECTS

Equity Participation - Headworks Charges

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

(1) Has the Water Corporation considered exchanging water and sewer headworks charges for equity participation in development projects?

(2) If yes, has the Water Corporation held discussions or entered into any arrangements with developers to exchange charges for equity?

(3) If yes, when and what was the nature of the projects involved?

(4) How does the Water Corporation intend to maintain an objective view regarding decisions for future capital investment when it is itself a developer?

Hon MAX EVANS replied:

(1) The Water Corporation has considered options for equity participation in development, however, only on a joint venture basis and for projects which would stimulate development generally and benefit the community as a whole.

(2) Yes. The Water Corporation has held general discussions. However, no arrangements have been entered into.

(3) During 1997, for large land development proposals.

(4) Equity participation by the Water Corporation would be on a commercial basis and, therefore, would not impact on capital investment for servicing general development Statewide.

WATER CORPORATION - DEVELOPMENT PROJECTS

Equity Participation - Consultants

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

(1) Has the Water Corporation engaged any outside consultants to assist it with equity participation in development projects?

(2) If yes -

(a) what is the name of the consultant;
(b) what are the names of the consulting principals;
(c) what process was undertaken to choose the consultants;
(d) what other companies were considered?

Hon MAX EVANS replied:

(1) No.

(2) Not applicable.

MINING - COAL

Wesfarmers Coal Ltd - Land Resumption in Shotts

1105. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Resources Development:

(1) What formal or informal discussions has the Government had with Wesfarmers Coal Limited concerning the resumption of private land in the township of Shotts?

(2) Does the Government endorse Wesfarmers Coal Limited resuming private land in the township of Shotts before any attempt to negotiate a relocation strategy took place?

Hon N.F. MOORE replied:

(1) Wesfarmers Coal Limited has discussed the acquisition of property in the Shotts townsite with the Department of Resources Development.

(2) Negotiations to purchase properties in Shotts townsite to enable relocation of residents have been ongoing

for over twelve months. If those negotiations are unsuccessful, the Collie Coal (Western Collieries) Agreement Act provides for resumption of land by the State at the cost of the Company.

AGRICULTURE - ORD RIVER IRRIGATION SCHEME

Use of Chemicals

1107. Hon NORM KELLY to the Minister for Transport representing the Minister for Primary Industry:

(1) Will the Minister for Primary Industry table a list of all chemicals currently being used on, or in association with, crops grown in the Ord irrigation area of the Kimberley, and the purposes for which the chemicals are used?

(2) Can the Minister provide accurate records of the amounts of each chemical currently being used?

(3) Can the Minister provide accurate details of any studies that have been done into possible ecological, environmental or human effects of these chemicals?

Hon E.J. CHARLTON replied:

(1)-(3) I refer the member to the Minister for Primary Industry's letter of 3 November 1997, in which he provided a comprehensive listing of the chemicals used in the Ord Irrigation area.

ENVIRONMENT - ALCOA OF AUSTRALIA LTD

Kwinana Refinery - Water Discharge

1108. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

(1) Was the Department of Environmental Protection ("DEP") notified, by either Alcoa Australia or WOMA, regarding the usage and discharge of more than 20 million litres of water over a four to six week period during September and October 1994, in which the water was utilised to descale Alcoa's pipeline from their Kwinana refinery to the mud lakes residue area at The Spectacles?

(2) If not, why not?

(3) If so, did the DEP assess the environmental impact of this water discharge?

(4) If an assessment was performed, what was the -

(a) result of this environmental impact assessment; and

(b) pH level of the water discharged?

(5) If no assessment was performed, why not?

Hon MAX EVANS replied:

(1) No.

(2) The DEP was not informed because the descaling activity was carried out on company property and did not impact on the environment or the surrounding community. The water used in the operation was groundwater from irrigation bore BW1 which had a pH of 7 and a conductivity of 1050 uS/cm (for comparison, tap water has a pH of typically 7 to 8, and a conductivity of between 500 and 1000 uS/cm.

(3)-(5) Not applicable.

FUEL AND ENERGY - GAS

Dampier to Bunbury Pipeline - AlintaGas Expansion

1153. Hon MARK NEVILL to the Leader of the House representing the Minister for Energy:

In respect of the Dampier to Bunbury Natural Gas Pipeline ("DBNGP") -

(1) Is the AlintaGas expansion plan on the DBNGP around 50 per cent more expensive on a unit cost basis than a new pipeline?

(2) Will this expansion severely constrain gas market growth due to the need for cost recovery at commercial rates resulting in higher tariffs?

(3) Is the expansion of the current system to meet anticipated demand, a non-cost effective solution?

Hon N.F. MOORE replied:

(1)-(3) No.

WASTE DISPOSAL - POLYCHLORINATED BIPHENYLS

Destruction Plants in Western Australia

1167. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) Has the Western Australian Government been approached to subsidise PCB waste destruction?

(2) What plants exist in Western Australia or Australia that are able to destroy PCB's?

(3) Has the Minister for the Environment been made aware of any plants able to destroy PCB's either being constructed or commissioned in Western Australia?

Hon MAX EVANS replied:

(1) No approach has been made to the Environment portfolio to subsidise PCB waste destruction in Western Australia (other than the Government's contractual relationship to treat organochlorine waste at a plant in Kwinana).

(2) The plant operated by Eli Ecologic Australia Pty Ltd at Kwinana is licensed under the Environmental Protection Act to treat PCB waste.

(3) In addition to the plant mentioned in (2) above, I am advised that some years ago a mobile technology treated some PCB waste at the (then) Harold Holt Communications Station at Exmouth.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Clean-up

1168. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) In relation to question without notice 895, which options have been selected for decontaminating and disposing of the contaminated soil and water from the PCB Stephenson and Ward Medi-Collect incinerator site?

(2) Has some groundwater containing PCB's from the Stephenson and Ward Medi-Collect incinerator site been disposed of or decontaminated?

(3) If yes -

(a) what quantity of water has been decontaminated;
(b) what quantity of PCB's has been recovered;
(c) in what form was the PCB recovered (i.e. sludge, pure);
(d) what method of disposal has been used; and
(e) where has this disposal taken place?

Hon MAX EVANS replied:

(1) The options to be used for treating the soil and groundwater at this site remain as described in Question Without Notice No. 895 (16 October 1997).

(2) The recovery trial for separate phase PCBs in groundwater has been undertaken at the site since February 1997. No off-site disposal of PCB impacted material has been undertaken to date.

(3) As described in a recent report (dated 13 November 1997) to the Department of Environmental Protection by Fluor Daniel GTI (in relation to the recovery of separate phase PCBs from the groundwater at the site) the trial has provided the following results -

(a) Approximately 3,240 litres of groundwater has been treated by the carbon filter apparatus. This treated water has been returned to the underlying water table via discharge to an existing monitoring bore.

(b)-(c) Approximately 21 litres of separate phase PCBs has been recovered. In addition, 200 litres of PCB impacted scale and sludge has been recovered from backwashing operations.

(d) The recovered free phase PCBs and impacted sludge has been stored on the site in sealed containers. The materials will be disposed of to the appropriate disposal/treatment facilities as part of the main clean up operation scheduled to commence in December 1997.

(e) No off-site disposal has taken place to date.

FUEL AND ENERGY - NATURAL GAS

Discovery, Production and Use Levels

1169. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

(1) Currently what is the total of natural gas -

(a) used in Western Australia; and
(b) exported overseas and to other Australian states?

(2) What is the annual rate of new gas discoveries in PJ's per annum?

Hon N.F. MOORE replied:

(1) (a) Primary energy use of natural gas in Western Australia is about 300 petajoules per year. This includes gas used for processing, electricity generation, pipeline transport and end uses, as well as flared gas and losses.

(b) Around 7.5 million tonnes per year (about 400 petajoules per year) of LNG are exported overseas from Western Australia.

(2) There is no simple and straightforward answer to the question. Discoveries tend to occur in large discrete quantities and are spread unevenly over a long period. There may also be cases where a gas discovery has not been assessed immediately by further drilling to quantify the resource in accordance with accepted standards, typically because the discovery is considered non-commercial at the time. However, the following is provided for information.

The State's first commercial field, Barrow Island which is an oil/gas field, was discovered in 1964 and commenced production in 1967.

The Western Australian gas resources added by discovery from 1964 to the end of 1996 is about 72,000 petajoules. Evenly spreading this total resource over the 33 years since the discovery of Barrow Island (1964) results in a notional average of about 2,200 petajoules per year. This figure should not be taken as a forecast of discovery rates over future years or in any one future year.

ROADS - NORTH WEST COASTAL HIGHWAY

Flooding - Effect on Nanutarra Roadhouse

1183. Hon MARK NEVILL to the Minister for Transport:

(1) How many times has the Nanutarra Roadhouse been cut off from Carnarvon due to flooding on the North West Coastal Highway since 1980?

(2) How many times has the Nanutarra Roadhouse been cut off from Karratha due to flooding on the North West Coastal Highway since 1980?

Hon E.J. CHARLTON replied:

(1)-(2) On average, twice per year for an average period of six days at a time. Complete records are not available for the period 1980 to 1991 and the values are based on Main Roads best estimate.

ENERGY COORDINATION AMENDMENT BILL - PETROLEUM INDUSTRY LIAISON COMMITTEE

Advice

1186. Hon MARK NEVILL to the Leader of the House representing the Minister for Energy:

(1) Was the *Energy Coordination Amendment Bill 1997* submitted to the Petroleum Industry Liaison Committee ("PILC") for comment?

(2) What advice was given by PILC and what was the outcome of that advice?

Hon N.F. MOORE replied:

(1) I am not aware of such a submission.

(2) I am not aware that PILC has provided advice to anybody.

ROADS - INSURANCE COMMISSION OF WA ROAD SAFETY FORUM 2001 BOOKLET

Cost

1188. Hon N.D. GRIFFITHS to the Minister for Transport:

(1) Who printed the booklet "The Insurance Commission of WA Road Safety Forum 2001 - a road safety odyssey"?

(2) What was the total cost of the booklet?

(3) What was the cost of the distribution of the booklet?

(4) To whom was the booklet distributed?

Hon E.J. CHARLTON replied:

(1) Muhlings Pty Ltd.

(2) $14 534.80 for 10,000 copies.

(3)

Envelopes:	$1580.00
Addressing:	$1093.02
Mailing:	$7664.05
Total:	$10337.07

(4) To 8982 organisations and individuals identified as having an involvement and interest in road safety initiatives and programs.

LOCAL GOVERNMENT - CITY OF WANNEROO

Commissioners - Disclosure of Financial Interests

1194. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Local Government:

I refer to the five Commissioners appointed to replace the Wanneroo City Council -

(1) Will those Commissioners be required to disclose any financial interests they may have when conducting the business of the City of Wanneroo as councillors are required to do under the *Local Government Act*?

(2) If not, why not?

(3) Is yes, under what statutory provision are they required to make those disclosures?

Hon E.J. CHARLTON replied:

(1) Yes.

(2) Not applicable.

(3) The same statutory provisions of the Local Government Act 1995 that apply to councillors (s5.56). The only exemption relates to payment of their remuneration allowances and expenses.

MINISTRY OF JUSTICE - COMMUNITY SERVICE ORDERS

Compliance

1219. Hon KEN TRAVERS to the Minister for Justice:

(1) How many community service orders are supervised through -

(a) the Ministry of Justice; and

(b) private agencies?

(2) What procedures are in place to ensure compliance by offenders who are supervised by private agencies?

Hon PETER FOSS replied:

(1) As at 20 November 1997 community based services is currently supervising 2 275 community service orders, or other community supervision orders with community service requirements. While offenders are placed in voluntary or non-profit organisations to perform the work, the Ministry of Justice retains responsibility for the supervision of the order.

(2) Each community based services branch maintains its own direct liaison with projects through its community corrections staff and specialist work order officers.

QUESTIONS WITHOUT NOTICE

HEALTH - GENERAL MANAGER OF PUBLIC HEALTH

Qualifications of Applicants

1125. Hon N.D. GRIFFITHS to the Minister representing the Minister for Health:

(1) When was the decision made to advertise the position of general manager, public health?

(2) Who made this decision?

(3) What brief has been given to Deloitte Touche Tohmatsu to consider applications for the position?

(4) Who will consider recommendations from Deloitte Touche Tohmatsu?

(5) What qualifications will be required for applicants for this position?

(6) Will medical and/or academic qualifications in the area of public health be required?

(7) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The decision to advertise the position of general manager, public health was made on 17 October 1997 after being originally advertised on 1-2 December 1995 and an executive search having been under way since 1 May 1996.

(2) The decision was made by the Commissioner of Health.

(3) Deloitte Touche Tohmatsu has a brief to provide administrative support to the selection panel.

(4) Deloitte Touche Tohmatsu will not make a recommendation with regard to the appointment. This is the responsibility of the selection panel.

(5) Relevant management or health tertiary qualifications are desirable, with postgraduate qualifications preferred.

(6) No.

(7) This is a general management role and is subject to the senior executive service competencies.

GOVERNMENT INSTRUMENTALITIES - UNION DUES

Cessation of Deductions

1126. Hon TOM STEPHENS to the Attorney General representing the Minister for Labour Relations:

(1) Was it a Cabinet decision to order all government agencies to cease arrangements for deduction of union dues arrangements from the first pay period after 1 January 1998?

(2) If so, what was the reason for this directive?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The decision officially confirms a process which has been in train for some time whereby unions are making arrangements for their members to pay union dues by direct debit or alternative methods. The Government gave three months' notice of this to enable the unions to have a smooth transition to more appropriate arrangements.

PLANNING - METROPOLITAN REGION SCHEME AMENDMENT No 993/33

Sherwin Lodge Development

1127. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

I refer the Minister to metropolitan region scheme amendment No 993/33, proposal 12, and ask -

(1) What is the nature of the illegal development constructed by Sherwin Lodge on reserve 29130?

(2) When will Sherwin Lodge cede the wetland area under its jurisdiction in exchange for this MRS amendment?

(3) Will this amendment legitimise an illegal act carried out by Sherwin Lodge?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Reticulated lawn and garden, garden sheds and incinerators.

(2) Subject to amendment No 993/33 to the metropolitan region scheme, arrangements have been made to effect the boundary adjustments between the two crown reserves as agreed by the City of Canning, Sherwin Lodge and the Department of Land Administration.

(3) The finalisation of amendment No 993/33 and subsequent changes to the boundaries of the two reserves will regularise current activities which have occurred in the past due to inadequate boundary definition. Future management arrangements to provide a fire safe buffer to Sherwin Lodge consistent with the Yagan wetlands management plan November 1966 will also be achieved.

MINING - LEASES

Prioritisation of Applications

1128. Hon TOM STEPHENS to the Minister for Mines:

(1) Has the Department of Minerals and Energy developed a prioritisation system for applications for mining leases?

(2) If so, how many mining leases are now subject to prioritisation?

(3) How many tenements does this cover?

(4) How many mining lease applications are subject to the right to negotiate under the Native Title Act in Western Australia?

(5) How many of these applications are lodged by companies that have reached the end of their five year exploration licence?

(6) Can a company continue to explore areas while an application for a lease for that site is subject to the right to negotiate?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes. Prior to advertising an application for a mining lease under section 29 of the Native Title Act, applicants are asked whether they want priority processing. If they respond in the affirmative, the application proceeds into the native title process; if they respond in the negative, the application is placed on hold.

(2)-(3) Currently 803 applications for mineral titles are subject to priority processing, which includes 455 applications for mining leases.

(4) Currently 1 520 applications for mining leases are subject to the right to negotiate.

(5) This information is not available in the time permitted and I ask that the question be put on notice.

(6) Yes, provided the lease is a conversion from a prospecting or exploration licence.

TAXATION - STAMP DUTY

Hire Purchase and Lease Agreements

1129. Hon MURIEL PATTERSON to the Minister for Finance:

Has the State Government considered, or will it consider, joining New South Wales, Victoria and the Australian Capital Territory in setting a common rate for stamp duty payable on hire purchase and lease agreements?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

The Commissioner of State Revenue is investigating the merits of changing current arrangements for the stamp duty treatment of hire purchase and lease agreements. This investigation includes an examination of the recent changes in New South Wales, Victoria and the Australian Capital Territory. Furthermore, the commissioner is in the process of contacting relevant industry representative bodies to seek their views as to the efficacy of operation of the current Western Australian provisions. I expect a report from the commissioner early in 1998, and, based on that information, consideration will be given to reform of the current arrangements.

FORESTS AND FORESTRY - DIEBACK

Consultative Committee - Membership

1130. Hon NORM KELLY to the Minister representing the Minister for the Environment:

(1) Other than Mr Owen Nichols, which independent persons will sit on the new dieback consultative committee?

(2) Did Mr Nichols formerly work for Alcoa of Australia Ltd?

(3) Is the Minister aware of the many statements made in the report of the dieback review panel that raise concerns about the role of the Department of Conservation and Land Management's logging activities in spreading dieback?

(4) Is the Minister aware of widespread concern that recent CALM logging activities have extensively spread dieback into previously dieback free forests such as Rocky block?

(5) What guarantee can the Minister give that CALM's planned logging of Hilliger forest block near Nannup will not introduce or spread dieback into that forest?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Letters of invitation are in the process of being sent to potential members of the Dieback Consultative Council. It is not possible to specify the individual membership until acceptances are received.

(2) Yes.

(3) The Minister for the Environment announced recently that all 33 recommendations of the dieback review panel report would be implemented after considering the advice of the Dieback Consultative Council. One of the recommendations is to progressively refine existing hygiene strategies to reduce the risk of infestation in forest operations, including logging.

(4) The Minister is aware that the Legislative Council Standing Committee on Ecologically Sustainable Development, on which the member sits, has sought information from CALM on this issue.

(5) Unfortunately, prelogging dieback surveys by experienced interpreters have revealed that dieback is already present in large proportions of Hilliger forest block. Harvesting contractors will, as usual, follow CALM's existing guidelines which ensure that the risk of spreading existing infections into uninfested areas of forest is minimised.

RESOURCES DEVELOPMENT - WAGERUP ALUMINA REFINERY

Energy Consumption

1131. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Resources Development:

(1) What is the current energy consumption of the Wagerup alumina refinery?

(2) What will be the energy consumption after the proposed expansion of up to 3.3 million tonnes per annum?

(3) Are there any plans to implement a co-generation policy?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) For commercial reasons, the information requested is not available. However, on the basis of the alumina industry's average energy requirements, it is estimated that the Wagerup refinery would consume 22 petajoules per annum at the present alumina capacity of 1.7 million tonnes per annum.

(2) On the same basis, with anticipated energy efficiencies, the projected energy consumption of the Wagerup refinery at the proposed alumina capacity of 3.3 million tonnes per annum is likely to be in the order of 35 petajoules per annum.

(3) Each of Alcoa's refineries at Kwinana, Pinjarra and Wagerup operates a gas fired co-generation plant which provides the refinery's electricity, steam and process heat requirements.

DOMESTIC VIOLENCE - SOUTH WEST AND GREAT SOUTHERN REGIONS

Facilities Available to Women

1132. Hon CHERYL DAVENPORT to the Minister representing the Minister for Women's Interests:

(1) What facilities are available to women escaping domestic violence in the south west and great southern regions?

(2) Is the Minister aware that, because of closer access, women escaping domestic violence in the south west are presenting at local hospitals where nurses have been placed in the position of refusing entry to violent men in order to protect their partners?

Hon MAX EVANS replied:

I thank the member for some notice of this question and ask that it be placed on notice.

FISHERIES - DAMPIER ARCHIPELAGO

Rock Lobster Fishing - Compensation for Mr Piccoli

1133. Hon KIM CHANCE to the Minister representing the Minister for Fisheries:

(1) In respect of Mr Arnold Piccoli's claim for compensation consequent on the closure of the Dampier Archipelago for commercial rock lobster fishing, can the Minister advise if the opinion of the Valuer General has been sought concerning the value of Mr Piccoli's lost business in order to facilitate some form of compensation?

(2) If so, has the Valuer General's advice been received?

(3) If so, did the valuation accord with Mr Piccoli's own valuation in broad terms?

(4) What steps will the Minister for Fisheries now take to resolve this issue in a fair and just manner?

(5) Can the Minister advise when the changes will be implemented?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(5) The Minister for Fisheries advises that as a consequence of the regulation, cited as the "Prohibition of Commercial Fishing for Rock Lobster (Dampier) Order 1997", which passed through the Legislative Council on 18 November 1997, he is now considering what action must be taken.

LAND - KALGOORLIE-BOULDER

Native Title Requirements

1134. Hon TOM STEPHENS to the Minister representing the Minister for Lands:

(1) Can the Minister confirm that there are 1 200 lots in the Kalgoorlie-Boulder area that could be developed without the requirement to address the Native Title Act?

(2) If so, does the Minister support the Premier's claim that the operation of the Native Title Act 1993 is hindering development in the Kalgoorlie-Boulder area?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) There is no capacity for the State to make available any lots from crown land without addressing the requirements of the Native Title Act.

(2) The State is attempting to negotiate under the Native Title Act the release of an area of crown land that has the potential to provide over 5 000 lots. Because of the Native Title Act requirements, development in the Kalgoorlie-Boulder area is certainly being hindered.

TOURISM - ELLE RACING

Fremantle Biscuit Factory Accommodation - Cost

1135. Hon KEN TRAVERS to the Minister for Tourism:

Some notice of this question has been given.

(1) Did the WA Tourism Commission pay for the Elle Racing team to stay at the Fremantle Biscuit Factory in October-November 1996?

(2) If yes, how much did that cost and when did it make the payment?

Hon N.F. MOORE replied:

I have a sneaking suspicion that this question has been answered on 15 occasions previously.

(1)-(2) Yes. The WATC paid the Biscuit Factory in Fremantle $5 625 for accommodation for the Elle Racing crew before the contract was signed with Elle Racing Pty Ltd. This amount represents only part of the crew's accommodation costs. A number of Fremantle businesses and the WATC provided support to the Elle Racing crew members when they were in Fremantle prior to the contract's being signed and as an incentive to encourage the crew to base the yacht in Fremantle.

ROADS - WOODIE WOODIE ROAD

Assessment of Viability

1136. Hon GREG SMITH to the Minister for Transport:

Can the Minister outline to the House the criteria used to assess the viability of road projects built primarily to service remote projects, such as the Woodie Woodie road?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. Road projects in remote areas are assessed to provide the greatest economic and social benefits to the people of the region and the State. In the specific case of the Ripon Hills road, the new route will primarily service the mining industry of the East Pilbara region, but it will also assist tourism. In particular, the route will facilitate the carting of manganese from Woodie Woodie and will service the Telfer gold mine and the Nifty copper mine, along with potential sites such as the Kintyre uranium mine and the Maroochydore copper mine. In the longer term, the road will provide access to the Rudall River National Park and ultimately may well form part of the Pilbara to Alice Springs link

A road has also recently been completed through Karijini National Park, and in the next few weeks we will open the road linking the north west coastal area through to Exmouth. The construction of those roads is designed to ensure safety, social and tourism benefits and overall development of that area.

It is ludicrous that Western Australia has only one access route to eastern Australia - the Eyre Highway - other than

the route through the top end. Tragedies such as that have stifled the development of Western Australia and the nation as a whole. They are the basic parameters on which those developments take place. I can assure members that there are 100 more projects which should be implemented and which will bring great wealth and benefit to all who use them.

MINING - FATALITIES

Number

1137. Hon GIZ WATSON to the Minister for Mines:

(1) What was the annual fatality rate for miners in the Western Australian mining industry for each of the past five years?

(2) How does the fatality rate in this industry compare with the fatality rate across all workplaces?

(3) Why is the mining industry exempt from the requirements of the Occupational Safety and Health Act?

(4) In view of the Department of Mines' inability to ensure a safe workplace in the mining industry, will the Government transfer the control of occupational health and safety in the mining industry to WorkSafe WA?

(5) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)

YEAR	FATAL INCIDENCE RATE (Fatals per 1 000 employees)
1993	0.21
1994	0.12
1995	0.22
1996	0.18
1997	0.24

(2)

YEAR	FATAL INCIDENCE RATE (Fatals per 1 000 employees)	
	Non-mining	Mining
1994-95	0.03	0.26
1995-96	0.02	0.11
1996-97	0.01	0.19

Fatal injuries to defence force personnel are not included. Fatal road traffic accidents are not included in the non-mining statistics. The non-mining workplaces include all retail and service sectors.

(3) The safety and health of mining industry employees in Western Australia is regulated by the Mines Safety and Inspection Act and the Mines Safety and Inspection Regulations. The Mines Safety and Inspection Act mirrors the provisions of the Occupational Safety and Health Act and includes some further obligations.

(4) No.

(5) The current arrangements are considered to be the most effective way of achieving improved levels of safety in the mining industry.

PUBLIC SERVICE - CHIEF EXECUTIVE OFFICER SELECTIONS

Cost

1138. Hon LJILJANNA RAVLICH to the Minister representing the Minister for Public Sector Management:

(1) What was the average cost per chief executive officer selection in 1996-97 compared with that in the previous year?

(2) Why has the Minister decided to appoint the commissioner's nominations for only 10 of the 15 positions for which advice was provided?

(3) Was the recommendation for the position of Mental Health Review Board president made by the Commissioner for Public Sector Standards under subprogram 1.3 chief executive officer selection?

(4) If so, what was the estimated cost of the selection process and the subsequent recommendation?

(5) Why does it cost so much?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) 1995-96 - $20 931; 1996-97 - $31 847.

(2) A decision was made on the other five positions of the 15 mentioned after conclusion of the 1996-97 financial year and will be included in the commissioner's report for the 1997-98 financial year.

(3) No.

(4) The Health Department has advised that the selection process cost an estimated $3 734.

(5) That sum includes the cost of travel arrangements involved in the selection process.

HOSPITALS - MANDURAH

Staff - Number

1139. Hon J.A. COWDELL to the Minister representing the Minister for Health:

(1) How many staff were employed at Mandurah Hospital at 31 August 1996?

(2) How many additional staff does the Peel Health Service estimate will be employed when the new Mandurah Hospital becomes fully operational by August 1998?

Hon MAX EVANS replied:

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

HOSPITALS - ROYAL PERTH

Patient Care Assistants - Privatisation

1140. Hon TOM STEPHENS to the Minister representing the Minister for Health:

(1) Can the Minister confirm that the services provided by patient care assistants at Royal Perth Hospital are to be put out to tender to the private sector?

(2) If yes, why has this decision been made?

(3) If yes, why have current patient care assistants not been informed of this decision?

(4) Has the tendering process been conducted and finalised?

(5) If yes, what company has received the contract?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) No, but as in all situations, the hospital constantly monitors the services it provides in accordance with government policy on privatisation. Patient care assistants are no exception.

(2)-(3) Not applicable.

(4) No.

(5) Not applicable.

TRANSPORT - BUS

MetroBus - Employee Entitlements

1141. Hon NORM KELLY to the Minister for Transport:

(1) Has the Minister finalised the proposed employment arrangements for MetroBus employees affected by the MetroBus close down proposal?

(2) If so, what are the arrangements that have been made for employee superannuation entitlements?

(3) Is a discount being applied when their preserved benefits are rolled over to a private sector superannuation fund?

(4) Are employees being compensated for that discount; if so, to what extent?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(4) Yes. I understand that MetroBus has by administrative action agreed to compensate affected employees to the value of any discount applied on rollover of their superannuation preserved benefits. This has nothing to do with any policy in place on superannuation fund discounts. This is simply a close down arrangement put in place by MetroBus in an arrangement with its employees. I understand it has been negotiating with them.

LOCAL GOVERNMENT - CITY OF WANNEROO

Court Actions

1142. Hon KEN TRAVERS to the Minister representing the Minister for Local Government:

(1) Is the City of Wanneroo a defendant or respondent to any court actions?

(2) If so, what are the names of the parties to those actions?

(3) In which court is each action filed?

Hon E.J. CHARLTON replied:

I request that the question be placed on notice.

TRANSPORT - BUS

Path Transit - Accident at Cottesloe

1143. Hon KIM CHANCE to the Minister for Transport:

In respect of the Path Transit bus driver who crashed his bus on Sunday, 16 November at Cottesloe -

(1) Is there an investigation of the cause of the crash?

(2) Can the Department of Transport confirm that for the week preceding the crash the driver had 10-hour breaks between completing overtime and commencing the next shift?

(3) Do the terms of contract between the Department of Transport and private operators ensure that drivers with these companies are required to take breaks between shifts?

(4) If not, what provisions are in place to ensure drivers are not working excessive hours and endangering their own and public safety?

(5) What was the extent of damage to the bus and who is liable for that cost?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(2) Yes.

(3)-(4) The terms of the contract between the Department of Transport and its service operators specifically require the operator to ensure the safe carriage, protection and security of passengers, employees and others using the service, and to comply at all times with the provisions and requirements of all industrial awards or agreements registered with the Industrial Relations Commission and applicable to the operation of the services. In Path Transit's case, the Department of Transport Worker Path Transit Award 1997 specifies the hours of work and mandatory break times.

(5) The damage caused to the bus is estimated at $90 000 to $100 000. Although the buses are insured by the Department of Transport, as the owner, with the State Government Insurance Commission, the service operator is responsible for both the insurance claim excess and any increase in the Department of Transport's insurance premium which arises as a result of the operator's claims experience. There were no passengers in the bus at the time. The driver was on his way back to the depot. He had used the necessary

breaks which are in place. He is a very experienced bus driver. He was previously a MetroBus driver. I understand, although investigations are taking place, as I have said, that he was distracted and then the accident happened.

PORT KENNEDY - PENGUIN STUDY

Report

1144. Hon J.A. SCOTT to the Minister representing the Minister for the Environment:

(1) Has the penguin study for Port Kennedy been completed yet? If yes, when was it completed; if not, why not?

(2) What were the findings of the study?

(3) Is a report available on the study? If not, why not; if yes, what is it called and when will it be available?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) No. There is a need to monitor penguin foraging ranges over a complete annual cycle.

(2) The penguin study is being finalised by scientists involved in the study.

(3) No.

ROYAL COMMISSIONS - CITY OF WANNEROO

Audit Documents

1145. Hon BOB THOMAS to the Minister representing the Minister for Local Government:

This question was submitted by Hon Ed Dermer, who is currently absent on urgent parliamentary business. In the light of the royal commissioner's comments concerning his inquiry into the City of Wanneroo that he did not have the opportunity to examine the audit documents of the City of Wanneroo and that matters of concern about its financial administration "should have been raised through the audit process and made the subject of adverse comment and corrective action", as referred to in the royal commission report at page 1017 -

(1) Will the commissioners or the inquiry panel now examine the audit documents?

(2) Will the conduct of the city council's auditors be the subject of any investigation or inquiry by the commissioners or the inquiry panel?

(3) If no to either question, why not?

Hon E.J. CHARLTON replied:

I ask that the question be put on notice.

INSURANCE - THIRD PARTY

Number of Claims Lodged

1146. Hon GIZ WATSON to the Minister for Finance:

(1) How many pecuniary claims were lodged for third party insurance compensation in the financial years 1992 to 1997 for the following amounts -

(a) $0 - 5 000
(b) $0 - 10 000
(c) $0 - 20 000
(d) $0 - 30 000
(e) $0 - 40 000
(f) $0 - 50 000?

(2) How many non-pecuniary claims were lodged for third party insurance compensation in the financial years 1992 to 1997 for the following amounts -

(a) $0 - 5 000
(b) $0 - 10 000
(c) $0 - 20 000

(d) $0 - 30 000
(e) $0 - 40 000
(f) $0 - 50 000?

(3) How many notice of intention to claim forms were lodged for third party insurance compensation in the financial years 1992 to 1997 for the following amounts -

(a) $0 - 5 000
(b) $0 - 10 000
(c) $0 - 20 000
(d) $0 - 30 000
(e) $0 - 40 000
(f) $0 - 50 000?

Hon MAX EVANS replied:

(1) Refer to (3) as every claim lodged has a pecuniary component.

(2) Refer to (3) as every claim lodged has a non-pecuniary component - above $10 000 since 1 July 1993.

(3) The number of notice of intention to claim forms lodged for third party personal injury insurance by financial year were as follows -

1992-93	10 254
1993-94	7 235
1994-95	6 867
1995-96	6 709
1996-97	5 810

It is not possible to split these claims into dollar bands as requested, because when a claim is lodged it simply provides the accident and injury details. In addition, claims are, on average, settled at least two years after the claim is lodged.

ROADS - GREAT NORTHERN HIGHWAY

Realignment

1147. Hon TOM STEPHENS to the Minister for Transport:

(1) Are there any plans to realign Great Northern Highway around the Bluebird mine?

(2) If yes -

(a) What is the cost?

(b) Who will be liable for the expenditure?

(c) Who will construct the road?

(d) Have Environmental Protection Authority approvals been obtained?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Yes.

(2) (a) Approximately $5m.

(b) St Barbara Mines Ltd.

(c) St Barbara Mines Ltd will construct the road to national highway standard as required by Main Roads.

(d) As part of the agreement with Main Roads, St Barbara Mines Ltd will be required to obtain all necessary environmental clearances.

HOSPITALS - BOARDS

Contracts - Legal Status

1148. Hon KIM CHANCE to the Minister representing the Minister for Health:

Given the Minister's answer to my question without notice yesterday that contracts for service between the Commissioner for Health and boards of hospitals and multipurpose services are non-binding and non-enforceable -

(1) Why are the agreements styled as, and named, contracts?

(2) Why are the agreements not clearly defined as being agreements to meet an indicated level of service, the performance of which is a condition of the grant to the board?

(3) Can the Minister provide me with an example of a contract clause in such a contract which expresses the non-binding nature of the contract?

(4) What legal advice has the Minister relied on to form the view that contracts are non-binding, and is he aware that other legal advice holds these to be binding contracts?

Hon MAX EVANS replied:

(1) They are not. They are referred to colloquially as a "contract".

(2) Agreements do bear titles descriptive of their content.

(3) The document used in the budget allocation "Memorandum of Understanding, Health Service Agreement for the Purchase and Provision of Health Services" between the Health Department and a public hospital board states "This Agreement was entered into for administrative and performance management purposes".

(4) (a) The legal services branch at the Health Department of Western Australia.

(b) No.

HOSPITALS - MANDURAH

Emergency Department - Staff

1149. Hon J.A. COWDELL to the Minister representing the Minister for Health:

(1) Is Health Solutions required as a condition of its contract to provide a fully salaried position for an accident and emergency specialist in the emergency department of the new Mandurah Hospital?

(2) Will the emergency department of the new Mandurah Hospital be licensed as meeting the Health Department's guidelines outlined in the eighth report of the Auditor General for 1997?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) In the period to the year 2000 the emergency department must have 24 hour access to medical officers on site or available within 10 minutes. There must also be specialists in general surgery, anaesthetics, paediatrics and medicine available for consultation. From the year 2000 onwards the emergency department must have a full time director in addition to experienced medical officers on site 24 hours a day.

(2) The contract with Health Solutions for the Peel Health Campus states that the operator must obtain and renew all licences, comply with all material terms and conditions attaching to or contained in licences and on request provide a copy of all licences, and on request provide to the State copies of all licences certified by the operator's contract manager as true copies.

HEALTH - IMMUNISATIONS

Surveillance and School Enrolment Pilot Program

1150. Hon B.M. SCOTT to the Minister representing the Minister for Health:

Can the Minister advise the House of progress to date in the immunisation surveillance and school enrolment pilot program on immunisation?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

The immunisation surveillance and school enrolment pilot program which commenced in nine local primary schools in the area serviced by Swan Health Service this year has proved highly success. In fact, Mundaring Primary School has achieved a 100 per cent immunisation rate for incoming students. That means that every child enrolling for its preprimary program is fully immunised.

Swan Health Service is already receiving telephone calls from other health services eager to introduce the program in their areas. The results during the period of surveillance indicated that the percentage of children in the nine schools who were fully immunised at four and five years of age rose from 65.4 per cent in November 1996 to 80 per cent in May 1997. There was a 50 per cent improvement in the number of children with no immunisation records; that is, the number of children with no records fell from 18.7 per cent in November 1996 to 9.1 per cent in May 1997.

All these achievements have been possible through recording vaccination data by school health nurses, which takes an average of only 10 minutes per child. The surveillance provides better public health management of infectious disease outbreaks at schools, the opportunity to follow up incompletely immunised children, feedback on the success of local immunisation programs and trouble spots, and ultimately an early warning system to allow for early intervention to ensure vaccination levels reach the safe rate of at least 90 per cent. Given the success of the program, Swan Health Service will not only continue it in 1998 but also extend it to all schools in the area serviced by the health service.

This pilot is a joint effort by the Health and Education Departments. I congratulate all the staff of those departments who have been involved in implementing the program. This pilot is another example of the Government's continuing effort to increase the number of children who are immunised and in so doing reduce the number of young children in contact with preventible diseases.
