WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE COUNCIL

Wednesday, 10 September 1997

Legislative Council

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

FAMILY COURT (ORDERS OF REGISTRARS) BILL

Assent

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

PETITION - WORLD HERITAGE LISTING

North West Cape

HON GIZ WATSON (North Metropolitan) [4.04 pm]: I seek leave of the House to table a petition which has been refused the Clerk's certification because of an error in its wording.

The PRESIDENT: I am more than happy to propose that leave be granted. Will the member explain the situation so that members will understand the problems inherent in the petition before they decide whether leave should be granted.

Hon GIZ WATSON: The petition commences with the wording -

> To the Honourable the President and Members of the Legislative Council in Parliament assembled.
>
> We the undersigned residents of Western Australia request that the Council -
>
> > apply for World Heritage Listing for the whole North West Cape area -

The problem is that one step has been omitted.

The PRESIDENT: That is sufficient for members to understand the problem. Is leave granted for that petition to be presented?

Leave granted.

Hon GIZ WATSON: I table the following petition bearing 1 010 signatures -

> To the Honourable the President and Members of the Legislative Council in Parliament assembled.
>
> We the undersigned residents of Western Australia request that the Council -
>
> > apply for World Heritage Listing for the whole North West Cape area including Commonwealth and State Sea territories, and the terrestrial and estuary ecosystems, to safeguard this precious environment for future generations.
> >
> > reject any proposal which could harm the fragile ecosystem of the North West Cape including any further development on the West Coast.
> >
> > support increased funding to CALM and other agencies to upgrade and maintain management resources for the North West Cape.
>
> Your petitioners as duty bound will ever pray.

[See paper No 758.]

MOTION - CONDOLENCE

Mother Teresa

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.08 pm] - without notice: I move -

> That we, the members of the Legislative Council in the Parliament of the State of Western Australia, express our deep regret at the death of Mother Teresa of Calcutta; and place on record our admiration and appreciation of her noble and selfless work for the comfort and dignity of the world's poorest people, and of her humility and spirituality that reached out to us all across national, racial and religious divides.

While millions of people throughout the world mourn the passing of Mother Teresa this should also be a time of

thankfulness for her great work and example in caring for the needs of the very poorest of humanity while affirming her Christian convictions.

Agnes Bojhaxiou was born on 27 August 1910 in the former Yugoslavia to an Albanian Catholic family. She grew up conscious of her Catholic faith in a predominantly orthodox and Muslim community and equally conscious of her mother's example of opening their home to the poor. At the age of 18 she entered the congregation of the Sisters of the Blessed Virgin Mary in Zagreb and took the name of Teresa by which the world knows her. When her order posted her to Bengal she saw firsthand those who lived and died on the streets of Calcutta.

In her determination to bring support and dignity to their lives, she was to create the Missionaries of Charity, which today has 80 foundations in 67 nations, with 4 000 nuns and 40 000 lay workers. This was a monumental task. Like the Blessed Mary Mackillop, at times Mother Teresa had to overcome the doubts of church authorities.

Mother Teresa was very much an inspiration for the late twentieth century, advocating the relief of third world poverty and inspiring many from affluent societies to contribute not only money but also their time and commitment to the poor of Calcutta and elsewhere.

What made Mother Teresa unforgettable was her refusal to bow down before the materialism of this century. She did not compromise on matters of religious faith, as it was her faith which inspired and sustained her work. She reminded the world that the poor are not merely a nameless mass requiring material assistance, but unique individuals who have the right at the very least to leave this world in dignity. It is very typical to read that when Pope Paul VI was presented with a Rolls Royce, and he donated it to the Missionaries of Charity to be sold to raise money, Mother Teresa took many dying people for rides in the splendid vehicle before the sale took place.

Mother Teresa described her work in the following terms -

> We are not nurses. We are not social workers. We are religious. What I do is for Jesus. I see Jesus suffering in the poor.

This Christian vision has inspired many thousands who are Hindu, Muslim or hold no religious belief. What this world so often lacks is genuine spirituality, genuine humility and genuine kindness. We saw these qualities embodied in Mother Teresa and given a practical expression.

The Government and the people of India have sustained a great loss in the death of Mother Teresa. We can all profoundly hope that the work of mercy will continue. We extend our good wishes to Sister Nirmala who succeeds to the leadership of the Missionaries of Charity.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.12 pm]: I second the motion. I rise on behalf of the Labor Opposition to express its support for the sentiments contained in the motion expressing a sense of loss, respect and admiration. The passing of Mother Teresa of Calcutta serves to remind us all of the basic human values of compassion and understanding which are not ultimately extinguished, no matter how the tides of the human condition might turn. The death of Mother Teresa reminds us today, especially today, that an individual through the pursuit of the ideals of compassionate service to those in need, and of self-sacrifice for a greater good, can act as a very powerful force for the betterment of our communities.

As the Leader of the House said, Mother Teresa joined the institute known as the Loreto Sisters in 1928 and took the name of Teresa. The Loreto Sisters, both in India and in our country, are associated with education. Members will know that in India, as in Australia, this organisation of women was typically involved in the education of Catholic women. The Catholic community of India is less than 1 per cent of the population, and typically comes from a higher socioeconomic position than the wider section of the Indian population. Therefore, Mother Teresa was keen to move on to what became her life's work; she sought to leave the confines of that convent.

The institute which she left is now the chapel in which her body is placed. The chapel of the institute we see on television at the moment is at the Loreto Sisters institute Mother Teresa left many years ago. We see the stained glass of that chapel in which she prayed and to which she referred so passionately in some of her writings. This was in reference to her early experience of formation at the Loreto Sisters institute. Mother Teresa taught, and was later principal, at Calcutta's St Mary's High School, which also shared that chapel.

In 1948 she was given permission to leave that convent to begin her work among the poor of Calcutta. She established a hospice for the destitute and dying after she found a dying woman lying in the street covered in rats and flies with no hope of succour before her death.

In 1950 Mother Teresa founded the religious order now known as the Missionaries of Charity, and she headed that order for most of the rest of her life. She saw the expansion of that order into over 67 countries, including Australia, with 80 centres providing such services as the provision of food for the needy, hospitals, schools, orphanages, youth

centres, and shelters for lepers and the dying. In Australia, the Missionaries of Charity have missions established in Fitzroy, Victoria; Bourke, Dareton, Orange, Queanbeyan, Sydney and recently Wagga Wagga in New South Wales; and in Darwin, Katherine and Tennant Creek in the Northern Territory.

I was privileged to be in Redfern during a visit by Mother Teresa to the Aboriginal community with whom I had been working in the early 1970s. She arrived to explore the opportunity for work in the Australian community. It was from that visit that Mother Teresa developed an interest in and commitment to working with the Aboriginal community of Australia. So much of her missionary work, and that of her sisters, started from that visit and spread to other centres across Australia. These centres have involved these sari'd women working regularly with the Aboriginal population of our country, and more widely.

In her lifetime of selfless work for the poor, Mother Teresa had to overcome obstacles of the sort most of us have never had to confront, let alone conquer. She had to quickly learn Bengali, the language of the poor in Calcutta. She won the hearts and minds of the people of that city, regardless of their caste or religious affiliation.

She convinced the Catholic Church of the value and necessity of her work. In doing so, she ensured that her ideals of love and compassion for the needy, and the practical extension of those values in providing help to the most destitute, would be her legacy to all humanity. Despite the accolades and honours awarded to Mother Teresa in her lifetime, she remained profoundly humble and insisted on living as simply as she ever had.

The Archbishop of Canterbury, Dr George Carey, said yesterday that, "The public response to the tragic death of Diana, Princess of Wales, shows that there are deep reservoirs of faith, hope, love and goodness in the people we serve and represent." In many ways the public response to the life and death of Mother Teresa is evidence of those same deep reservoirs. We see on display something instinctively human about respect for human life, the human condition and the need for the display of compassion in our world. The values on which Mother Teresa interacted with the sick, hungry and destitute were basic and essential human values.

There is a challenge for all of us to acknowledge the tremendous contribution Mother Teresa made in her lifetime of service. For the act of recognition in which we are engaged in the House is not just projecting a recognition of what other people do, but a recognition that we should understand and appreciate these values; we must recognise that we have an obligation to emulate those actions and incorporate those values in our work as we conduct our life and seek to make our contribution to improving our community, State, nation and world.

Today I had the opportunity of lunching with some guests from India, a Hindu woman and a Catholic man, a husband and wife, who told me of the esteem in which Mother Teresa is held across all sections of the Indian community, across the religious divide, among believers and non-believers. That respect is quite clearly the same respect in which the woman was held in the wider international community. She embraced the motto, which is worth emulating by all of us in our lives and in the lives of our communities, that we should live simply so that others may simply live.

Question put and passed.

TURF CLUB LEGISLATION AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

MOTION - STANDING ORDERS COMMITTEE

Private Members' Business - Amendment to Motion

Resumed from 9 September.

HON PETER FOSS (East Metropolitan - Attorney General) [4.22 pm]: I was saying before I was interrupted yesterday that I think I have a good record of wishing to see the various types of business of this House disposed of, especially the business in which all of the House has an interest. I refer particularly to regulations.

Hon N.D. Griffiths: I know your views on the guillotine.

Hon PETER FOSS: I will suggest that there should be one. I will get on to that. I would like us to adopt a bipartisan attitude. This is an important debate, and I will certainly adopt a bipartisan attitude.

I was drawing the attention of members to the provision in this House for the disallowance of regulations. I mentioned that there are two problems. We find that the Notice Paper is being crowded with motions which never get to be heard, partly because every day we have an urgency motion. One of the things I was saying is that we should try to limit that, because it is closing out the very opportunity for private members of putting something

forward. I was particularly concerned that motions for disallowance were not being properly dealt with. I raised in this House the fact that we needed to deal with the situation where we did not get the opportunity of moving motions to disallow regulations. While a Minister, and as one of the people whose delegated legislation would get knocked on the head, I suggested that we needed a process to bring those motions forward. As a result of my urging the House, we now have that process.

Hon Kim Chance: It was an excellent move.

Hon PETER FOSS: I thank the member. It was regarded at the time with some suspicion because some people could not believe that I was genuinely trying to bring those matters forward, but I was. We now have the pro forma moving of motions to disallow regulations.

Hon John Halden: It was a rare exhibition of sincerity on your part.

Hon PETER FOSS: The member is quite wrong. I will take up that point, because all too often we suspect the motives of each other in this place.

Hon N.D. Griffiths: We follow your example.

Hon PETER FOSS: That may be so, but I said that we all too often suspect the motives of each other. I was not saying the member or members opposite but I said "we all". That is part of the problem in this place; we never give people credit for genuinely believing what they do. The biggest single problem in this House very often is miscommunication. That is not confined to this House; most of the world's problems arise from miscommunication.

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: That is one instance where even as a member of the Government I continue with the attitude I had in opposition, which is that the disallowance process is important. We have had the end part of the process dealt with in standing orders, but the beginning part of the process was not because if the motion never got to be heard, we never got to deal with it.

I was also concerned about the regularity of urgency motions. We seem to get locked into some of these things. Members opposite are probably concerned about the regularity of urgency motions. To some extent those motions became a bit of a joke. Every day something urgent happened. Once we got into the habit of having an urgency motion every day, it seemed that we had to have one every day, notwithstanding that perhaps the people most closed out by it were the private members. That situation in itself needed to be addressed. I am glad to say that was discussed and dealt with under our sessional order which members will see at the front of their standing orders book, where it indicates that urgency motions may be moved only on Tuesdays. That was an important move.

There is no doubt that filibustering is the biggest waste of everybody's time. Why do we do it? There are often reasons for doing it which relate to power. When we were the Government and had the majority in this House, because the Opposition knew it would lose the vote the only way in which it could defeat something was to filibuster it. The Opposition knew that in the end the legislation would be passed but it felt that it was obliged to do its duty by the people it represented by doing everything within its means. The only thing within its means was filibustering. When we had the majority of power and we were in opposition we also filibustered, one of the reasons being that, generally speaking, we did not wish to defeat government legislation but to give it a hard time. When it came to the crunch, most times we allowed the legislation to pass because we saw that there is a limit to how much Oppositions can interfere with government legislation. A Government must get on and govern.

We can certainly defeat those things we regard as totally wrong in principle. It does not apply to defeating legislation where the Government says, "If we want to govern we need this legislation. You might not agree with it but you must give us as the Government the opportunity to govern." People cannot complain if they defeat the Government's capacity to govern. If I may digress, in management we cannot say to somebody, "I will hold you accountable for how you have managed", if we do not let that person manage the whole. I adopted this policy with arts agencies. They complained that the Government, when handing over money, imposed too many conditions as to what they had to put on, including the mixture of plays, and interfered in aesthetic decisions. They said, "You cannot hold us responsible for losing money because you dictated what we had to put on." The first thing I did as Minister for the Arts was to change that. I said, "All I ask of you is that you have a good manager, a good artistic director and a good board. You tell me what you want to do and you do it. I will hold you accountable at the end." If we dictate what the decisions will be we can hardly hold people accountable.

With the legislation that passes through this House we must have a number of considerations. Firstly, when we are dealing with matters to which we are opposed in principle and do not want to see in legislation, quite plainly we

should oppose. Secondly, things are presented where we would not do it in that way but a scheme is put up by the Government. As long as we do not have an objection in principle, we must at least allow the Government to make its own bed and lie in it, otherwise we cannot complain about the result. In between those things are the areas where we say that we accept that the Government should be allowed to get on with the job. We are not opposed to the idea in principle but we have a small problem with wording or whatever. Under those circumstances it is reasonable to say, "That wording is not fair" or "In this little part I have a problem with the rights of the individual" and so forth, but not dealing with the major scheme of the Act. We might say, "We do not believe that this little point will make a great deal of difference to your ability to carry out the scheme, but it will make a difference to the quality of the legislation." It is quite proper to totally oppose and defeat legislation to which we have an in principle objection. It is quite proper to suggest appropriate small amendments where we see that they do not affect the overall scheme. However, where we do not agree with the way the Government is going about carrying out the business of government and the legislation it needs to support it, it is quite wrong to defeat that sort of legislation. We cannot hold a Government responsible if we take those tools away from it.

That is the attitude we tended to take in opposition. However, with a number of things even on principle we tended to filibuster just to say, "We are opposed to it. We will not defeat it but we will filibuster it." The problem with that is that it defeats everybody; it holds up the Government and it wastes the opportunity of opposition.

It is interesting that the speeches that were made by everyone on the opposition side during the debate on the first wave labour relations legislation were not very valuable contributions and I think will never again be read in *Hansard*. They were, generally speaking, plainly filibustering of little worth. However, when we brought in the timetable - most people thought the guillotine was in operation, but it had not been moved - suddenly for the first time we heard some of the most valuable contributions to the debate, because members knew that the debate had to finish at a certain time and they wanted to get something on the record that was worthwhile. However, when there was no limitation, all we heard was rubbish.

I suggest that we should have time management to specify when a matter will come to the vote. The Senate has time management. Time management is particularly appropriate when the Government does not have a majority. There is a balance between government and opposition, because we know that if we bring a matter to the vote too quickly and we have not satisfied the majority in the House, we will lose the vote. The Constitution requires appropriate checks and balances. It does not require total power of check or total power of government.

I encourage members to read a fascinating book that I am reading by Lord John Campbell entitled *Lives of the Lord Chancellors and Keepers of the Great Seal of England.* That book explains how our constitutional checks and balances have developed and the meaning behind some of the things that happen in our parliamentary system, and it is fascinating reading for any student of constitutional history.

The book demonstrates that there have been excesses on both sides. Lord Shaftesbury, during the reign of Sir Charles the Second, which was a time of many excesses on the part of the Crown, was the person who moved the first habeas corpus Act, one of the most valuable defences against arbitrary power that we have ever had. He also tried to bring in the first Act to establish that judges could be appointed for the term of their lives if they were of good behaviour, but that did not get through. He had himself been guilty at times of great excesses on behalf of the Crown, which is how he got to be Lord Chancellor. The book demonstrates that humanity does not change. There are times when humanity can work effectively and times when it cannot work effectively. At times of extremes it often does not work effectively.

It is interesting to look at how the House of Commons was built. It was originally St Stephen's Chapel, and being a typical chapel the members of the choir sat on benches and faced each other across the chapel. In this Chamber we use that part at the back of the church where all the pews face the front. When people are put on opposite sides of a room, although previously they may have had some reason to disagree, it is almost guaranteed that they will be opposed to each other. We overcame that in this House to some extent when we established - it is still enshrined in the standing orders - that the seat into which members came in this House is the seat in which they must stay. Previously even with a change of Government the only seats that changed were three seats on the front bench. Therefore, in this Chamber, opposition and government members would be dotted among each other. It is pretty difficult for a member to get involved in a filibuster if the person whom he is criticising is sitting alongside him.

Hon Tom Helm: It would not be a problem if it was you!

Hon PETER FOSS: Hon Tom Helm does not agree; I can accept that. From a physical point of view, it is much easier for people to oppose each other when they are lined up opposite each other. In the continental Parliaments, members tend to have a large semicircle, and although they still have strong differences of opinion, there are graduations of belief all the way around the circle. We have a bit of that here on the crossbenches.

In the American Parliaments, often all the members face the front. I have just visited the lower House of the State of Oregon, which is quite fascinating. Members sit at individual desks and face the Speaker or President. The method of voting is also quite different from ours, because in the lower House members press a button, and in the upper House there is a roll call. Little things like that can make a major difference to how we behave towards each other. The seating arrangement in this House is such that we are bound in many ways to fight each other.

Hon Tom Helm: It is not you personally. It is what you stand for that I do not like.

Hon PETER FOSS: All too often we get involved in unnecessary argument. How many things go through this House on which we disagree totally?

Hon Tom Helm: Not many.

Hon PETER FOSS: That is right. We could save ourselves a lot of pain if we did not have to go through the enormous performance of members opposite making 17 speeches on every piece of legislation every time. Did members opposite really enjoy filibustering on the labour relations legislation?

Hon Tom Helm: Yes! You love the sound of your own voice, and we do too.

Hon PETER FOSS: I felt that members opposite were locked into doing that because they had the time and had to do everything they could to use that time.

Hon E.R.J. Dermer: We were defending the Constitution.

Hon PETER FOSS: If we had some form of time control, members could make good and effective speeches, but in the end we would get to the vote, which would be decided on the numbers. We should save ourselves a lot of pain and just get to the vote. That would give us more time to review legislation. The time that we spent on the labour relations legislation could have been better spent on some other legislation on which we could eventually have reached some agreement and done something worthwhile. All we did with the debate on the labour relations legislation was show how we can beat our heads together. I do not think we achieved a great deal. We could have debated that legislation in one-third or even one-tenth of the time. On that sort of legislation we could make it clear that we are totally opposed on principle and could not possibly agree, and we could then get the vote out of the way and get on with the job that we all say we want to do, which is to serve the people of Western Australia properly.

Hon Tom Helm: The guillotine might not be enough.

Hon PETER FOSS: There are other casualties in this too: While members opposite were filibustering on the labour relations legislation, it suited them to also filibuster on everything else, because anything on which they filibustered delayed the debate on the labour relations legislation. If we had managed to get the labour relations legislation out of the way and completed, we could have dealt with something else. I am sure that many of the Bills on which members filibustered during that time they would not have filibustered on in other circumstances. We should have been able to get together as a House and work it out. The problem is that, in the end, filibustering does no-one any good because 18 beats 17 or 17 beats 16 every time. We need sensible opportunities to make a change, and there is legislation which provides us with the opportunity to make a change.

Hon E.R.J. Dermer: We filibustered because you rorted the result of the last election by not following the will of the people on the labour relations legislation.

Hon PETER FOSS: We can go through that argument again. I do not agree with it. I can go through the constitutional basis, but I will not repeat what I said at that time. I do not want to make cheap political points. I am not criticising members opposite for filibustering. They had no alternative. What else could they do?

Hon Tom Helm: If we had agreed with what you are saying, what method would we have had of airing our feelings?

Hon PETER FOSS: It starts with us. We have to tell members opposite what our legislative program is. We have done that. It may not be accurate, but for the very first time a Government has told members of this Chamber what legislation it wants to have passed. That is what I have been urging for a long time, because how can we say that members opposite are not meeting our legislative program if we do not tell them what it is? We are now telling members opposite what it is, and that is a good start. One reason that it is difficult for us to tell members opposite about our legislative program is that we have a crazy system, which we inherited donkey's years ago, for drafting legislation. Legislation does not just turn up a month before it gets into the Parliament but may take years to be drafted. The Mental Health Bill is a good example. That Bill used to be nearly complete, but it would not get to the Parliament in that session and would go back for consultation, and it would then nearly get to the Parliament again the following year, so eventually we said," Let us at least get it to the Parliament and if it needs to be amended we can do it there."

The legislative process should be properly followed, especially when we are dealing with non-partisan legislation of major importance. We must make that distinction. The Government has major policies that might be important to support what it is doing as a Government and it has partisan policy. In addition, some legislation is not specific to the Government's program; nevertheless, it is important. Mental health and local government legislation fall into that category. Everyone agrees that such measures must be passed, but they involve massive legislation. There are also smaller elements of good government - things that need to be done to tidy up issues and pick up problems - and various others bits and pieces.

I have tried to get all of that legislation progressed. It should all be dealt with, but not necessarily expeditiously, and we must know it is being dealt with. If we start trying to predict the timing, we might get it wrong to start with, but over a period of years we will eventually get it right. We will be able to say that we are introducing legislation now and there is a good chance that it will be finalised in one month, six months, two years or whatever. We would all know where we stood and would be better off. The Government has started that process of lining up legislation and processing it in some sort of order. As a result, Ministers can tell members opposite what the legislation is and legitimately say what is a reasonable amount of time to spend on it. When that time has elapsed, we should vote on it. Once we know that that is when it is expected to be dealt with, we will have a better chance of planning and there is a greater chance for private members' legislation to be processed.

I am not suggesting that members opposite should not try to trip up government members and to make us look fools and so on. However, they should also be looking at their role apart from that. I know that some of the issues they really want to raise are those that they hope will make the Government look silly. That is perfectly legitimate.

Hon Tom Helm: Sometimes we can leave you to your own devices.

Hon PETER FOSS: Please leave us to our own devices!

I refer members to questions. I can see a change. We have questions without notice, questions without notice of which some notice has been given and questions on notice. Interestingly enough, very few genuine questions without notice are asked. Hon Nick Griffiths is one of the few members who asks questions without notice, and I look forward to my regular question from him.

In the past, questions of which some notice has been given were those directed to Ministers in the other House and those directed to Ministers in this House but which required more detail. Anything that required any research was asked as a question on notice. We have bumped up one level; almost every question is a question without notice of which some notice has been given. Questions on notice are now compendious, which is against the standing orders. They usurp the role of the Estimates Committee and challenge the whole question of ordinary accountability.

Hon J.A. Cowdell: Answers, even to simple questions, take four or five months.

Hon PETER FOSS: The Government must answer them all. The number of people devoted to answering questions is stupendous. We get asked about every contract undertaken by every agency. By the time we have worked out all the permutations, thousands of items have been researched individually and calculated. Government members have been answering those questions. We should be looking at the situation much more rigorously. The same people are answering these questions; we do not give the short questions to one person and the long questions to someone else. As well as answering those questions, they are given three times as many questions without notice as are asked. Ministers sit here wondering whether they will be asked. I do not know what members opposite gain from the answers that they could not gain from reading annual reports.

Hon E.R.J. Dermer: Are you suggesting a longer question time?

Hon PETER FOSS: I am suggesting that members opposite should ask the right questions. If they were to ask questions without notice during question time they would have more than enough time. Questions seeking information should do just that; they should not simply be trying to get lengthy answers. The information requested should be something members genuinely need to know now.

Hon Tom Helm: That is why we give notice.

Hon PETER FOSS: But we are given three times as many questions without notice of which some notice has been given than are asked. Members opposite should stop asking multiple choice questions. They are not proper and take weeks of work. In one case it took several weeks for a couple of people to do the research to answer one question. I have told the officers not to answer those questions in future. I have asked them to estimate the research time required and, if it is too long, I will refuse to answer the question.

Hon Tom Helm: That is right.

Hon PETER FOSS: Ministers try not to do that; we tend to err on the side of answering questions.

Hon Tom Helm: How do we know how long it will take?

Hon PETER FOSS: Members must have some idea. I have seen a question asked of every Minister in this House and the other House requesting extremely detailed information. Then a member from the other House asked a similar question but different enough to require more research. Perhaps we should look at some of those questions and discuss how to deal with them. It is choking the system.

If members want a quick answer to a question of which some notice has been given, they should not ask questions that would be better asked in Estimates Committees. We have the FAAA, the Auditor General and so on. Given the sorts of questions members are asking, they should be saying, "How about reframing the annual accounts according to this and tabling them in Parliament?"

I suspect that half of the answers provided are not read. I have sometimes had the same question asked of me three times by the same member. Admittedly, since I have been sending rude replies it is a bit better, but it is happening.

Every bit of time spent serving this House costs money. If members opposite want a proper service on questions on notice then they must not abuse the system. They might not realise that is happening. However, members are asking questions - sometimes prepared by some cunning other person - and the net result is that the service this House should be getting is being undermined because it is being overdone. I would be happy to provide some examples, and perhaps we can discuss the issue. It is a proper topic for discussion. If members want service, they cannot overload the system. They cannot expect those answering the questions to run around between the time they get the question without notice in the morning and question time and also do other things. It is very important. We all have responsibilities and we should not simply say that it is up to the Government.

Finally, I refer to politicisation of the some of the standing committees. I would not like members opposite to be offended by this. I draw attention to Hon John Cowdell. The Legislation Committee worked well in my time in opposition. It worked without any support; most of the writing and legal work was done by me. Hon Joe Berinson did not provide any support; in fact, he was dead against the standing committees. He did not want them to work and he fought them very strongly.

The committee elected a government chairman and it tried to take a non-partisan attitude and brought down unanimous reports. Those reports sometimes caused problems for Hon Garry Kelly, but we did not give him a hard time in this House, and that was important. I am trying not to sound partisan, but one of the reasons the Legislation Committee failed is that the committee caused considerable embarrassment to Hon Derrick Tomlinson and Hon Garry Kelly. Sometimes Hon Garry Kelly voted against the committee's recommendations, but we did not give him a hard time by moving motions of no confidence because we realised the situation. He probably suffered anyway because he was not re-endorsed. At least we did not ask him to commit instant suicide by crossing the floor, nor did we expect him to do so.

Hon J.A. Cowdell: In the past four years, 95 per cent of the committee's recommendations have been unanimous.

Hon PETER FOSS: I do not deny that. That was the same situation with Hon Garry Kelly. I have criticisms of some of the processes at that time -

Several members interjected.

Hon PETER FOSS: The member spent the whole time going over what the committee said. My criticism was that the committee did not even ask me to appear before it. I could have told the member some reasons against that.

Hon J.A. Cowdell: And we made a change in response to your complaints.

Hon PETER FOSS: That came up in this House, but Hon John Cowdell fought it every inch of the way. If committees are to work on a non-partisan basis - and the Legislation Committee must operate on a non-partisan basis - members must be careful what they send to them. If they send totally partisan Bills to the committee, they must give it a circumscribed reference where it must deal with those things that are not at the core of the disagreement. To do otherwise is silly, and it is just asking for some form of disagreement. They must allow and recognise that that person has party responsibilities and they must stick together.

Hon J.A. Cowdell: That was exactly what we were asking for - that people did not sign off a committee report if, within three hours, they would disown it in this House.

Hon PETER FOSS: Hon John Cowdell forgets that the committee must be allowed to make that report as appropriate. The Government can then be attacked for not following it, not the chairman of the committee. Members of committees must give some loyalty to their Chair. If they do not, they will need to check every time with the views

of their party room. Members must accept the reality of the situation. If members want people to agree on a point and they have made a concession in the committee, they should not then hammer people hard in this place. That is not fair.

Hon J.A. Cowdell: You are supposed to bring in a unanimous report and happily let that report die on the floor of the House and not support it?

Hon PETER FOSS: In the end it is decided on the numbers in this House. I do not suggest that the Government cannot be criticised for not following the report, but it is not appropriate to move a vote of no confidence in the chairman of the committee, given the political realities of this place.

It might seem clever and appropriate, but what happened on the occasion to which I have referred? The result was no Legislation Committee. Members opposite know that committee has the capacity to do useful work in this House. If they want that committee to continue, they must recognise the political realities. To twist the chairman's tail over political realities is to doom the committee system. There will be political committees in this House, but I do not believe the standing committees should be political. They can be used for political purposes, but an attempt should not be made to hold people to that. When they have a political advantage it cannot be said they have been remiss in supporting the view of the committee.

Hon J.A. Cowdell: You referred to one incident.

Hon PETER FOSS: I can think of two. The member has twice moved a motion of no confidence in the chairman. My first reaction was that it was the end of the committee system. I am not saying that so the member feels obliged to defend himself, but he has not thought through the consequences although the consequences that have occurred were predictable.

Hon Kim Chance made use of one committee which worked out. We must work out in which standing committees we hope to have a good working relationship between members, where they try not to pull political stunts on one another. However, if politics dictate that members must go different ways, despite what the committee members thought in the committee, it is the wrong spirit to attack other members of the committee. By all means, members can attack the Government and say it is not following the committee's unanimous report. However, why make it ad persona and go against another person? What will it do to the confidence and the camaraderie between members? The one place in which it was found possible to get away from the posturing and to get on with some business was in committees. There have been some good committees, in which we have tried out the politics and the balance. I have been on a few committees with Hon Kim Chance where we have fought politically, but we have compromised so that we could all live with it and deal with those things in this House without too much vituperation. We have done well. However, if we had started attacking each other over our conduct in the committee it would have damaged the worth of the committee.

Many new committees have been established and members of them wish to see them work. Let us forget the politics for the time being. To the extent that Hon John Cowdell believes the role of members is purely to serve the State and do good, if he thinks the committee system is part of that he should play the ball and not the man. Once the matter is brought to this House and a member plays the man, serious problems arise. I suggest we treat those committees as places where disputes arise, but we should not play the man in this House. The committee report should be used in the way members want it to be used. I suggest there should be time management. If members do not like what the Government is proposing, they should vote against it. If all these things happened according to time, there would be time for everybody to do all the things they want to do.

The question has been raised of why members of the Executive are in the upper House. I do not know what a House of Review is. People talk of a House of Review as though it is something absolute people can recognise. Each House reviews the other and is a check and balance on the other. The important point about a bicameral system is that there is no pure democratic election. A representative Parliament is a compromise. The only true democracy was the original Greek democracy under which everybody voted on everything. Under a representative system, each method used will give a different result. There might be four or five methods of election, each of which could provide totally different results. That happens with the lower House and the upper House. The difference between them is that they are elected on a different basis. Under the old system the differential occurred because members of the upper House were elected for six year terms and members of the lower House had three year terms. There was a slower change of membership and a much more conservative view. That conservatism still is present. I represent 235 000 people, in common with Hon Nick Griffiths, Hon Ljiljanna Ravlich and Hon Derrick Tomlinson.

Hon N.D. Griffiths: It is 247 000.

Hon PETER FOSS: We tend to take a broader view of our constituency and to take a different attitude. It takes more people to make members of the upper House panic than it does to make members of the lower House panic. For

example, if a lower House member received 100 telephone calls on a certain subject, he would feel the need to take immediate action. Members of the upper House would need about 10 000 telephone calls to have the same effect in terms of re-election. Members in this place tend on a long term basis to be more related to their party lines and political philosophies. We represent those philosophies in this House. That does not show on the floor of the House, but it has an impact in the party room. The party room makes a decision. People may say that having two Houses of Parliament has no effect, but it does because within the party room we have influence in our own different ways. The important point is that we meet separately and often reach a different decision from the other party room, and often those differences must be worked out within the party. It is not always apparent in this House, because it would be embarrassing to raise the differences in this Chamber. We tend to raise those differences in the party room. The different methods of election lead to different views being formed, and that is where the influence comes in. The important point about a bicameral system is that no view in that representative democracy totally prevails.

Hon Tom Stephens: Will you please let this motion be dealt with by the House before the Minister cuts off time for consideration of this business?

Hon PETER FOSS: I would like it to be extended.

Hon Tom Stephens: You are filibustering.

The PRESIDENT: Order, members!

Hon PETER FOSS: I am not filibustering.

Hon Tom Stephens: You have been off the point for so long, it is offensive.

The PRESIDENT: Order! I ask the Attorney General and the Leader of the Opposition not to interject and carry on a conversation between themselves.

Hon PETER FOSS: I make it clear that I am not filibustering. I note that members opposite have been listening with keen attention. I have not spoken for longer than the member who introduced this. I regard this as a very serious motion and I am treating it very seriously. I hope members will listen to what I am saying because these matters should be listened to by members of this House. I am not filibustering.

Hon Tom Stephens: Persuade your leader to continue the time for the debate so that at least we can deal with it.

Hon Derrick Tomlinson: It is your motion.

The PRESIDENT: Order!

Hon Tom Stephens: Let the House deal with some business.

The PRESIDENT: Order! The Leader of the Opposition will come to order.

Hon PETER FOSS: We are dealing at the moment with private members' business which happens to have been initiated by the Leader of the Opposition. It is a very good motion and I think I have spoken on it succinctly and appropriately.

Hon Tom Stephens: You are preventing it from being carried.

Hon PETER FOSS: The debate is as important as the carriage of this motion. I hope the Leader of the Opposition sees it that way too. I think I have made a genuine and useful contribution, so that when it is before the standing orders committee, it will have some basis on which to consider it. If the Leader of the Opposition will allow me to talk to the motion, I will continue. If he keeps interrupting me, I will not be able to do so.

The PRESIDENT: Order, members! One hour having elapsed since the commencement of the House today, the leave of the House is required if the debate is to continue. Is leave granted? Leave is not granted.

Debate adjourned, pursuant to standing orders.

Hon Tom Stephens: You are a disgrace!

Withdrawal of Remark

Hon PETER FOSS: I ask that that remark be withdrawn.

The PRESIDENT: Which remark is the Attorney General referring to?

Hon PETER FOSS: I was called a disgrace by the Leader of the Opposition.

The PRESIDENT: If the Attorney General has taken offence, I ask the Leader of the Opposition to withdraw.

Hon TOM STEPHENS: In conformity with standing orders, I withdraw.

[Questions without notice taken.]

EQUAL OPPORTUNITY AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Giz Watson, and read a first time.

Second Reading

HON GIZ WATSON (North Metropolitan) [5.32 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to ensure that nursing mothers no longer suffer discrimination when they feed their babies in public places. It is intended to identify and encourage breastfeeding as a natural element of parental care and clarify and validate breastfeeding as not only acceptable but also the preferred method of feeding babies. Although it is appreciated that the current status of breastfeeding in public is that it is not illegal, the legislation will reinforce positive community attitudes and serve to invalidate existing prejudice or discrimination. The amendment is largely in response to incidents where mothers have been expelled from public places for breastfeeding their infants. It also seeks to dispel any taboos that people may be maintaining and perpetuating.

Historically in our society women have been provided with rooms in which to breastfeed their babies. This has meant they have been shunted out of sight and banished to special areas, usually rooms attached to toilets, to commit their strange perversion of breastfeeding. The fact that women have tolerated this situation for so long reinforces their former powerlessness to gain recognition that breastfeeding is a very natural and desirable part of the mother-child relationship and that toilet blocks are inappropriate places to feed infants as they are for anyone wanting to eat. This also has effectively denied the right of the child to receive this form of nourishment.

The Bill recognises the need to encourage breastfeeding and sends a message to the public that breastfeeding provides an important economic and medical benefit to society as a whole, to individuals and to the future of our children. Although it is recognised that breastfeeding in public is not illegal, the practice has been the subject of revulsion and condemnation by some who view the activity as committing indecent exposure. In formulating this amendment I considered the sort of harassment mothers have suffered in the 1990s. As a result of this some mothers may have chosen to give up breastfeeding sooner or they may have opted never to breastfeed at all. While women today are generally aware of their rights they are nonetheless cognisant of the fact that every time they breastfeed their babies in a public place they are committing themselves to harassment by some stranger.

Any redress sought at law is handled through the Human Rights and Equal Opportunity Commission. However, to date, no precedent has been set which establishes the right to breastfeed in public. Worldwide evidence demonstrates that seeking redress is a long and painful process often taking years and that any mother who initially takes action for her own grievance usually ends up fighting a battle on behalf of mothers who follow her. This takes tenacity and is often viewed as behaviour unbecoming of a mother. It is an issue which tends to bring out prejudices, sometimes even in people who are strong supporters of breastfeeding.

Experience has shown that while the issue of breastfeeding in public remains the problem of an individual, not enshrined in law as an absolute right, the individual rarely comes out a winner. The public record of human rights legislation shows that women are often poorly served. Added to this women who breastfeed are arguably at the most vulnerable stage of their lives. The law's reluctance or inability to acknowledge this vulnerability, for example, when standing up against establishments, inevitably means that their human rights are neglected.

I was surprised to learn that women do not generally have a legally protected right to breastfeed their babies in public. It is understandable that most will choose to breastfeed in private so that they are not subject to the threat of harassment. To this time breastfeeding has been defined as a private matter which has effectively prevented women from gaining the right to breastfeed in public. Until now the law has defined any problem relating to breastfeeding as a private matter between the person making a complaint and the individual complained against. Disputes have been resolved by encouraging a reasonable compromise about the incident without dealing with the issue. This has resulted in conciliation rather than legislation to establish breastfeeding as a legally protected right.

This has led to a worldwide push to legitimise breastfeeding with widespread recognition today of the benefits to individuals and society of breastfeeding. At the forefront of this is a leading proponent of breastfeeding and the law, Elizabeth Baldwin, an American lawyer. The work of this Florida lawyer discusses numerous studies which have

shown that babies who are breast fed are far healthier. They show lower rates of death, meningitis, childhood leukemia and other cancers, diabetes, respiratory illnesses, bacterial and viral infections, diarrhoeal diseases, allergies, obesity, and developmental delays. Her findings also show that women who breastfeed demonstrate lower risk of breast and ovarian cancers. In purely economic terms this shows the benefits to society in lower medical costs and hospital admission rates of breast-fed babies.

Similarly British research shows breast milk is a far safer and more nutritionally balanced complete food for babies. Breastfeeding meets the needs of the child and the mother for emotional comfort. It is a living vaccine. Statistics show that in contrast bottle-fed British children are five times more likely to require hospital attention than their breast-fed counterparts. British research holds that breastfeeding saves the state millions of pounds every year. Bottle-fed babies in Britain are more susceptible to serious medical conditions. The cost of treating bottle-fed babies for gastroenteritis alone is estimated to be upwards of £35m a year.

Legislation is necessary to remove any perception that breastfeeding in public is indecent exposure, not because it is illegal to breastfeed in public. The Bill sets out to establish a law that mothers have the right to breastfeed in public and babies have the right to receive this nourishment. This legislation will serve to encourage breastfeeding by removing any stumbling blocks. Legislation which recognises the importance of breastfeeding takes an important step in helping to achieve greater rates of healthier, stronger mother-child relationships.

Debate adjourned, on motion by Hon Muriel Patterson.

STATEMENT - MINISTER FOR MINES

Griffin Venture Incident - Second Barrell Review

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [5.40 pm] - by leave: In the light of the recently released "Second Review of the Management of Safety in the Offshore Operations of BHP Petroleum" conducted on behalf of the Commonwealth Government by a North Sea safety expert, Dr Tony Barrell, I wish to respond in a general sense to numerous statements and allegations previously made in this House by Hon Jim Scott concerning a gas-freeing incident which occurred on 29 May 1994 on BHPP's floating production, storage and off loading facility *Griffin Venture*.

One of the most serious allegations made by Hon Jim Scott is that there was a "cover up" by BHPP with the concurrence of the Western Australian Department of Minerals and Energy in order to prevent alleged breaches of safety or other laws being properly investigated.

On the premise that Dr Barrell's review of this incident and its aftermath should be accepted as expert and impartial, my comments will consist mainly of appropriate quotes from the body of Dr Barrell's report, as follows -

> In . . . my 1996 review, I commented on the . . . joint report into the May 1994 gas-freeing incident conducted by (WADME) and the Australian Maritime Safety Authority (AMSA) . . . My view at that time was that the joint WADME/AMSA report was balanced and objective and that there was no evidence to support any suggestion of a 'cover up'.
>
> The additional evidence I have now considered leads me at least to make some further remarks about the content of the report.
>
> Mr Visscher (*a crew member on Griffin Venture*) has alleged that WADME did not receive, as claimed, a copy of BHP Petroleum's draft Mk 11 report on Friday 10 February 1995. He alleges that the report was not received until March and that WADME had colluded with BHP Petroleum regarding the date on which the report was received, and the date in which the investigation of the May 1994 incident was actually commenced by the Department.
>
> I am satisfied that a copy of the draft BHP Petroleum report was hand delivered to WADME on 10 February 1995 as stated, but I can understand how Mr Visscher might have subsequently formed his stated view that all was not completely "above board" in respect to this issue. In subsequent written references to the receipt of the BHP Petroleum report and ensuing investigation, WADME's wording lacked clarity and contained a measure of ambiguity, particularly regarding how and when the investigative process unfolded. Further, there is circumstantial evidence suggesting that in their conversations with Mr Visscher regarding the May 1994 gas-freeing incident, WADME officials were very guarded and cautious when discussing what was known of the matter by the Department at that time. Perhaps WADME officials did not want to say much at all about the incident until such time as they felt they were fully acquainted with the facts.
>
> In part, the above may have been attributable to somewhat loose document drafting. There may well have also been confusion as to what WADME were actually in the process of undertaking at any given moment -

> an initial assessment of the matter, a 'desk top' review, a preliminary investigation, or a formal inquiry. It is also worth noting that, when WADME officials were informed of the incident, it was more than seven months since it occurred, and hence it would not be surprising if there was less urgency in their response than might now seem warranted.
>
> Whatever the motivation for, or causes of the manner in which WADME approached this issue in 1995, it resulted in a lack of confidence on the part of some parties in that Department's handling of the matter and its independence as a regulator. This was unfortunate, as it did nothing to discharge the tense atmosphere that had attached itself to the investigation of the gas-freeing incident. It also led to a series of questions and answers in the West Australian Parliament which did little to resolve this matter to the satisfaction of all parties.
>
> I do not believe that BHP Petroleum set out to 'cover up' the 29 May 1994 gas-freeing incident. However, it is in my view relevant to note that the WADME/AMSA report considered the initial BHP Petroleum investigation, conducted by the Dampier Manager shortly after the incident, to be of insufficient depth and that it did not appear to have fully analysed the information obtained. Further, the investigators also noted that in light of Mr Visscher's allegations regarding the safety of tank operations, it would have been appropriate for the Dampier Manager to conduct a review of the procedures to ensure they were adequate.
>
> On the other hand, the BHP Petroleum Mk11 report on tank operations was in many respects a very useful document that highlighted existing problems at that time with undisguised frankness . . .
>
> The stated objectives of the BHP Petroleum review were not only to investigate the relevant events but also any personal conflicts that may have been material to any breach of the safety of tanker operations. In my view, the inclusion of personal conflicts in the review objectives was indeed appropriate, as I believe they were an important contributor to the situation as it developed aboard the *Griffin Venture* in May of 1994.
>
> Given the somewhat differing aims of the reviewers and Mr Visscher, it is easier to understand how the end result could lead to Mr Visscher's claims of a 'cover up'.
>
> With the great benefit of hindsight and in light of the fact that the issues are still in contention three years later, it would have been helpful if the matters above had been dealt with more rigorously earlier in the day. However, I found no evidence of cover up in the particular sense of persons falsifying evidence to cover up breaches of safety or other laws.
>
> Whilst in my opinion there was no cover up afterwards, some persons endeavoured to play down the significance of the incident.

Hon Jim Scott previously in this House has been persistent in his allegations of cover up, negligence and even illegality on the part of WADME. It is therefore very important to emphasise what Dr Barrell has said in this regard -

> The joint WADME/AMSA report was balanced and objective.
>
> There is no evidence of a cover up by either WADME or BHPP.
>
> The manner in which WADME approached this issue in 1995 led to certain unfortunate misconceptions on the part of some parties.

With the benefit of hindsight it is evident that WADME could have responded differently and avoided contributing to the unfortunate misconceptions mentioned by Dr Barrell. However, such procedural deficiencies, which were not entirely unreasonable in the circumstances as explained by Dr Barrell, are a far cry from Hon Jim Scott's unfounded allegations of cover up, negligence and illegality against the department.

WADME's procedural deficiencies in 1994, particularly the loose document drafting and the perhaps unduly cautious approach of the inspectors when discussing the matter, were mainly due to the relative inexperience of the inspectors and high staff turnover. The department has for some years found it difficult to retain suitably experienced officers. The Government has responded to these problems by providing funds in the last Budget to recruit the required additional staff for WADME, providing intensive training in investigative procedures to existing inspectors and preparing legislation, now in the final stage of drafting, to introduce a dedicated petroleum safety Bill. These measures will provide greater certainty not only in the reporting of incidents, but in the department's ability to bring forward prosecutions of recognised breaches.

Regarding BHPP's attitude to safety at the time of the gas freeing incident, Dr Barrell stated -

> I am firmly of the belief that there was not a healthy safety consciousness in BHP Petroleum at the time, and that the importance attached to maintaining production above safety considerations was inappropriate and

> that there was an unwritten understanding within the company that problems should be dealt with locally wherever possible. I am happy with the progress the company has made towards eliminating these 'cultures' or 'mindsets'.

I think it is appropriate to note a little more of what Dr Barrell has stated regarding BHPP's progress in respect of safety -

> It has been especially pleasing to note the progress by BHP Petroleum staff in developing and implementing the new safety procedures, both ashore and on the floating facilities. This includes those persons who were on the *Griffin Venture* during the incident of 29 May 1994 or involved in subsequent events. The improvements are to the credit of those employees and the new management team within the company. I consider that BHP Petroleum is now well positioned to achieve its stated goal of achieving international best safety practice in the foreseeable future.
>
> In addition, BHP Petroleum has written to the Minister for Resources and Energy offering to involve officers of his Department and the State/NT regulators in activities which confirm the long term commitment of its senior management to the continued improvement of the company's offshore safety management arrangements.
>
> In my opinion, BHP Petroleum has amply demonstrated that it genuinely intends to continue to maintain a high standard of safety in its offshore operations. I feel that there is nothing to be gained in considering any prosecution of BHP Petroleum for possible offences which occurred three years ago, particularly when none of the present senior managers with line responsibility for safety were with the company at that time or had responsibility for the situation on the *Griffin Venture*.

Hon Jim Scott has contended that the lives of all on board the *Griffin Venture* and the surrounding environment would have been in grave jeopardy on 29 May 1994 had the gas-freeing gone ahead on that day. Dr Barrell's findings regarding the extent of this threat are interesting -

> The threat to the vessel and crew was averted by the fact that gas-freeing did not proceed until new Tankscopes and the accompanying reference gas were brought on board the *Griffin Venture* on 30 May 1994. I am of the view that, in all probability, it was the actions of Tim Visscher that led to tank preparations not proceeding to the gas-freeing phase on the night of 29 May 1994.
>
> However, I am also of the view that the extent of the threat to the vessel and crew, had gas-freeing occurred with an actual 9% level of hydrocarbon in the tank, cannot be determined with confidence. It is by no means certain that a source of ignition would have been present and even if there had been a spark - followed by an explosion, it is not likely to have been of quite the catastrophic proportions claimed by Mr Visscher . . .

It would be a purely hypothetical and rather futile exercise to now argue about the extent of the threat on that day over three years ago. What should be remembered, however, is that the incident was a catalyst for significant improvements in safety arrangements which have been achieved to date in an environment of continuous improvement in safety management. Both WADME and BHPP are to be commended for their progress in this regard.

Last April Hon Jim Scott said that he was waiting for my response to his earlier statements concerning this matter. I have, in essence, allowed Dr Tony Barrell to respond on the basis of his expert findings after his two major reviews into the gas-freeing incident. I am confident that any concerned and reasonable person will be satisfied that, while there were indeed deficiencies in WADME's investigative procedures and BHPP's safety procedures in 1994, major and ongoing improvements in these areas have been welcomed by both industry and regulators. I am therefore strongly of the view that, as more than three years have passed since the incident in question, it is appropriate to put these matters to rest and look to the future. I conclude by citing one final excerpt from Dr Barrell's report which echoes these sentiments -

> The inadequacies in procedures and training probably constituted a breach of safety law but I believe that there is nothing to be gained in considering a prosecution for possible offences which occurred three years ago, particularly as the deficiencies have been rectified and the management of the company and the crews of the facilities are fully engaged in continuing to improve safety for the future.

WATER LEGISLATION AMENDMENT BILL

Report

Report of Committee adopted.

CEMENT WORKS (COCKBURN CEMENT LIMITED) AGREEMENT AMENDMENT BILL

Second Reading

Resumed from 9 September.

HON NORM KELLY (East Metropolitan) [5.52 pm]: I put the Government on notice that the Australian Democrats object to the introduction of this sort of Bill in this format. We are being presented with amendments to state agreement Acts which are largely unamendable. This Bill is a schedule, which is an agreement and which has been agreed to by the Government. The use of this device effectively makes Parliament, particularly this House, a rubber stamp on government deals which previously have been undertaken in secret. That is not the function of the Parliament. More importantly, it denies the purpose of the Legislative Council as a House of Review.

The way in which this Bill has been presented means that we cannot agree to what we believe are the positive aspects of the Bill, primarily the introduction of royalties for the mining of shell sand in Cockburn Sound, and disagree with other aspects arising from our concerns about the environmental protections that are absent from the Bill. We are being forced to take the legislation en masse, with insufficient opportunity to negotiate a better arrangement than what is before us.

The Australian Democrats welcome the inclusion of royalties into this agreement. Historically, Cockburn Cement Limited has not paid royalties for the shell sand dredged at Cockburn Sound. I believe that prior to this agreement, as the State does not receive royalties, one of the benefits to the State was the creation of a second shipping channel as a result of the dredging. Although this is not immediately beneficial to the State, it is a long term benefit. In a sense, the second shipping channel has been created at no charge. However, that is traded-off against non-payment of royalties. Whether that is an equitable arrangement is open to debate.

That this agreement is now before this House is reassuring. Obviously the Government has realised the value of assets such as shell sand to the State by finally seeking a monetary reward for its use. It is also pleasing to see that the company has in a sense accepted civic responsibility for paying royalties. Agreement for royalties to be paid must be reached between the State and the company. Without that combined agreement this amendment Bill would not be possible. I therefore appreciate the fact that the agreement has eventuated. The rate of the royalties is in line with the standard royalty of 50¢ a tonne under, I think, the Mining Act. With the staged introduction of royalties approximately $250 000 will be earned in the first financial year to mid-1998 increasing to approximately $800 000 in the financial year 1999-2000.

The main problem the Australian Democrats have with this Bill is the environmental consequences flowing from the operations of Cockburn Cement in Cockburn Sound. These have long been evident and were well expressed in a briefing paper to the Premier by the Environmental Protection Authority on 26 November 1993. The advice from the EPA was that the long term environmental impacts were unacceptable. It stated that environmental unacceptability centres on the irreversible loss of seagrasses during the next 30 years. Despite Cockburn Cement's undertaking to grow seagrasses, according to independent evidence and from the EPA's briefing to the Premier, seagrasses cannot be viably grown to rehabilitate the damaged area.

Hon Bob Thomas: It takes 1 900 years to regenerate seagrasses.

Hon NORM KELLY: At this stage regeneration is unsustainable. I believe the company is examining more new areas to dredge and as a result the damage will become more profound. In a sense the composition of the seagrasses in the marine environment is comparable to a forest area of the south west; it is a very fertile region. However, it is not so obvious because it is submerged. The mixture of grasses and plants in the area are interdependent on each other for survival.

Hon Bob Thomas: How many acres?

Hon NORM KELLY: I am not sure of the acreage. Members are aware of the difficulty of restoring a clear-felled forest to its original environment. Restoration of seagrasses in the marine environment is complicated by the fact that they can grow up to 12 metres or so. When an area is dredged rehabilitation by replanting is not protected by the height of canopy. It means that the grasses grow from a depth of an extra 10 metres or 12 metres further away from the sunlight, which provides the energy and nutrition to grow. They are even further removed from the source of energy in that sense. This makes rehabilitation even more difficult. This invariably impacts on the wider biodiversity of the environment such as fishing stocks. The flow-on effects from dredging damage are compounded.

Hon Bob Thomas interjected.

Hon NORM KELLY: The impact on commercial fishing stocks are extended into other areas. According to the EPA briefing, the rehabilitation of the minesite with *Posidonia* seagrasses, the only species capable of stabilising the area

in the long term, is not technically feasible. Once again, the advice given in 1993 by the EPA has been ignored by the Government; yet, judging by the proposed amendments in this Bill, we are being asked to accept that adequate protection will be afforded under the Environmental Protection Act.

Sitting suspended from 6.00 to 7.30 pm

Hon NORM KELLY: The Australian Democrats have serious concerns about the degree of protection afforded the environment through the Environmental Protection Act. A simple solution to the problem was proposed by the member for Peel in the other place. He suggested that Cockburn Cement Limited should not be permitted to continue dredging in a straight line, but its mining operations should revolve around where the actual seagrass beds are growing. His proposal would make the mining operations more costly and the company would have to relocate its dredge more often, but it would afford protection to the seagrass beds.

If Cockburn Cement is to justify its claim as being a responsible corporate citizen it must respond to the community's concern about the damage its operation is causing. I am aware that these mining practices will inevitably result in some degree of environmental damage. It comes down to what is permissible and to what degree the damage can be avoided. Unfortunately, even with this Bill, we are still faced with the outdated mining practises of the 1960s and 1970s. Adequate changes to bring these practises into line with the 1990s have not been made.

The briefing by officers of the Environmental Protection Authority made it clear that there is nothing in the Bill which reflects the EPA and the community's concern about the damage that is being done. The Government is being irresponsible in what it proposes in this Bill. It is denying the wishes of the Western Australian public who have entrusted the economic, social and environmental future of this State in the Parliament and the Government. The economic, environmental and social impacts should be treated as neither mutually exclusive nor unconnected to each other. They are joint aims and the agreement should reflect a combination of these objectives.

This Bill is basically saying that we should trust the scientists to come to the rescue. To date they have not come up with a suitable method of restoring the seagrass beds and members are being asked to trust them to do that before too much damage is done. It is hard to accept that they will do that, given their history. Until there is a better way of protecting the seagrass beds it would be irresponsible to allow their destruction to continue in the way this agreement Bill provides.

I previously stated that the introduction of royalties for this mining operation is very much appreciated and is long overdue. The argument about the level of royalties paid for natural resources in this State includes not only dredging of limestone, but also mineral and forestry properties in this State. One of my concerns about the proposed amendment to the agreement Act lies in clause 10C of the agreement which relates to the ability of government bodies to afford protection to the environment. To highlight the change proposed in the Bill I advise members that clause 10C reads -

> Nothing in this Agreement shall be construed to exempt the Company from compliance with any requirement in connection with the protection of the environment arising out of or incidental to its activities -

Those words are identical to the amendment proposed in the Bill, but the following words will be changed -

> - hereunder that may be made by the State or by any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to any Act from time to time in force.

That is all encompassing because it gives powers to all state bodies and authorities. It is wide ranging and is a catch-all to provide protections. Those words will be replaced by the proposed amendment which states -

> . . . under this Agreement that may be made pursuant to the EP Act.

The existing agreement covering all government bodies and Acts has been reduced to the provisions of the EP Act. I appreciate the Minister's comments on how this amendment to the Act will improve the protection afforded to the environment. It decreases the level of responsibility and reduces the number of avenues open to the protection of the environment.

This Bill, which ratifies an agreement reached on 14 May this year, was introduced into the Parliament on 18 June. We are now, a number of months later, being asked to ratify the agreement. As I argued in the debate on the Iron and Steel (Mid West) Agreement Bill the timing of the introduction of agreement Bills into the Parliament is highly questionable. Members should have the opportunity to debate these issues, with full regard to their commercial confidentiality, instead of them being a fait accompli. The Government may argue it would be irresponsible not to support the Bill, but I argue it would be more irresponsible to rubber-stamp it, given the important environmental questions that hang over the dredging works.

It is unfortunate that we are in the position where we have to vote on the issue of royalties to the State as well as on issues dealing with environmental protection. It is most unfortunate that we cannot vote on these issues separately.

I am sure all members who have a true commitment to the environment and the environmental concerns which have been outlined in this debate would not support this Bill.

HON J.A. SCOTT (South Metropolitan) [7.40 pm]: I was just saying to my colleague Hon Christine Sharp that this Bill is rather like, not the ordinary curate's egg, but a very old curate's egg. In reality, it contains some good parts: At last, a royalty will be paid by Cockburn Cement Limited for the significant advantages it receives from dredging lime sands in Cockburn Sound. I can only wonder why the original Act was drafted without ensuring that it contained something for the State. I seem to recall something about it requiring a jetty to be built, although I do not know whether that was ever built. My understanding of agreement Acts is that they contain some advantage to the State. In the principal agreement Act, all the advantages are with the company.

Hon Norm Kelly mentioned how some advantage had accrued to the State as a shipping channel was cut by Cockburn Cement. My understanding is that two channels were supposed to be cut, but only one eventuated. That provided some advantage for shipping. However, according to a former Fremantle harbourmaster, all the material which Cockburn Cement took out from that channel which was not used by the company was paid for by the Fremantle Port Authority. Therefore, Cockburn Cement was paid for any material which was not used in cement production at some stage. It was an extraordinary piece of legislation. In fact, I understand that the original legislation did not contain any clauses to ensure the protection of the environment as it was written prior to the inclusion of such clauses in agreement Acts. Therefore, the company was able to extract resources and give nothing back to the community for those resources. That was a stupid situation.

I am very pleased that at last we will see some recompense for the resources to be taken by the company. However, the problem with this amendment Bill is found in clause 6. In Committee I will not agree to the changes in clause 6(5) in particular. The amendment clearly reduces environmental protection. In fact, the new provision will allow the company some further leeway in causing degradation of Cockburn Sound.

Hon N.F. Moore: Are you talking about the whole agreement?

Hon J.A. SCOTT: I refer to clause 6(5). The provision of the original schedule of the agreement Act is better than the proposed measure.

Hon N.F. Moore: Is that clause 6 of the agreement, not the Bill?

Hon J.A. SCOTT: I refer to clause 6 of the Bill before us.

Hon N.F. Moore: Clause 6 of the Bill is "Fourth Schedule Added"; it is on page 3. If you want to vote against clause 6, you will vote against the Bill, which is primarily clause 6.

Hon J.A. SCOTT: I refer to page 6, line 8.

Hon N.F. Moore: So it is clause 5 of the schedule to the agreement. I need to know what you are talking about when seeking advice.

Hon J.A. SCOTT: It says clause 6 at the top. It is a little confusing in the way it is presented.

Hon N.F. Moore: Not at all.

Hon J.A. SCOTT: The amendment to the schedule is to delete clause 10C and to substitute the following -

> 10C. Nothing in the Agreement shall be construed to exempt the Company from compliance with any requirement in connection with the protection of the environment arising out of or incidental to its activities under this Agreement that may be made pursuant to the EP Act.

Previously, it had further responsibility than this part of the amended agreement. This whole project has been dogged by controversy over the last few years and many claims have been made about the rehabilitation processes. I have been concerned for some time about what I see as rather unscientific and misleading information released by the company in this regard. In fact, the latest document put out, and kindly supplied to members of this place, showed that it had increased the area of seagrass growth in the area.

This claim included an area of *Posidonia*, which is important seagrass in the area. Many species of seagrass can come and go to take advantage of different conditions, but *Posidonia* is the stable one which provides the possibility for the food chain to work properly in Cockburn Sound. The type of experiments conducted so far indicate that although rhizomes have been planted, two problems have arisen: Firstly, the grasses are not spreading. They have been planted and some of them are surviving, but they are not spreading and growing. Secondly, and most

importantly, the tests have all been conducted at depths shallower than 10 metres. Nevertheless, when the dredging concludes, the ocean bed will be at a depth of approximately 20 or 22 metres. At that level, and with the turbidity of the water, no seagrass will grow at all, never mind spread.

The reality is that all the scientific information shows that it cannot be done. There have been quite a number of problems, not just with this work, but also with the information put out about it. Quite clearly seagrass will not grow at that depth in Cockburn Sound. It may be possible to do it at Albany where the water is clear, but not at Cockburn Sound. With that understanding of that bodgie scientific information I am really concerned about any lessening of environmental safeguards.

I also know that Cockburn Shire Council had a number of problems with the amount of shell grit in various places which was causing salinity problems and problems on beaches used for school camps, where people had cut their feet on broken shell grit. This change in legislation means that any powers local government might have had are to be taken away. I really cannot support the Bill in its entirety as it currently exits.

HON N.F. MOORE (Mining and Pastoral -Leader of the House) [7.51 pm]: I thank members for their contributions to this debate. Large quantities of the contributions had nothing to do with the Bill but with things that are not in the Bill. I guess that is understandable when we are talking about an issue that is of some concern to members, which is the effect on the seagrass in Cockburn Sound of this mining operation. The Bill does not refer to that. The Bill is all about for the first time charging a royalty for the products used by the company involved. Members should be very enthusiastically supporting the Bill, as most are. This agreement was first put in place in 1971. I am trying to remember which Government was in power in 1971, so that I can take credit for it or not.

Hon Simon O'Brien: The first part of the year was good.

Hon N.F. MOORE: Yes. In any case, in that year the decision was made to allow this company to commence this operation and no royalty was charged. That decision may have been made because of a desire to see job creation, because there was a market for this product and in order to attract the company no royalty was charged. From time to time even in this more enlightened era the question of royalty holidays and variations in royalty charges are still the subject of much debate. In this House 12 out of 34 members are actively opposing the imposition of a gold royalty proposed by this Government. The argument about whether royalties should be charged as a matter of course or whether they should be charged under certain circumstances depends to a large extent on one's point of view at the time. In 1971 there may have been very good reason for not charging a royalty. The Government has agreed now to have a royalty on this product. The members of the Opposition have said that they do not support a gold royalty but have not said that they will get rid of it should they be elected to office. The proof of the pudding is in the eating. If Hon Kim Chance were serious about this, he would give an absolute undertaking that there would be no such thing as a gold royalty under a Labor Government.

Hon Kim Chance: No Government ever has. Fair go! Why not get rid of income tax? That was a temporary measure.

Hon N.F. MOORE: I would go along with that. If the member can work out how to do it, I will be happy to hear what he has to say on that.

The decision was made not to charge a royalty, and I do not know why. The time has now come when the company has agreed to pay a royalty. The condition of the agreement is that the company must agree to a royalty. Basically, this amending Bill will allow that royalty to be charged.

I want to spend a few minutes talking about agreement Bills. I take some exception to the comments of Hon Norm Kelly about these sorts of Bills. In my opinion it is not competent for Parliaments to negotiate contracts. Parliaments make judgments about contracts. Members can accept or reject a contract that has been properly negotiated by a government agency which is responsible for that contract. All state agreement Acts that relate to resources development are negotiated by the Department of Resources Development with the companies involved. The contract then becomes part of a state agreement, which Parliament is asked to ratify or not. It would be ludicrous for Parliament to be involved in the negotiating and then to have the capacity to amend the details of the negotiated contract. How would we know, if Parliament decided to change a contract, whether the other side would want that? A contract could go backwards and forwards every 10 minutes before agreement was reached. The negotiation should take place between a properly set up government department and the company with which business is being done. It is quite proper for Parliament to be asked to ratify agreements, but not to be involved in the negotiations of the details of the contract.

I remind the member that this Parliament is not the Government. Two distinct organisations exist in our political system: One is called the Government and the other is called the Parliament. When the Parliament wants to be the Government - and I gather from time to time that Hon Kim Chance wants to be the Minister for Fisheries - we will

effectively have a process that will not work. Governments are given the role of governing and Parliaments are given the role of scrutinising and agreeing or not agreeing to legislation. That is effectively the dichotomy between the two. Long may it remain that way. If the Opposition and members of minor parties want to be the Government, the best way for them to do that is to get more than half the votes at election time. They can then become the Government and make decisions, subject to Parliament approving or disapproving those things in which it has a role. Obviously if minority parties with their tiny vote want to be the Government, I suggest they get a few more than the tiny number of votes they have at this time.

Hon Kim Chance: When you were in opposition did you never disallow a regulation?

Hon N.F. MOORE: I am not saying that we never disallowed regulations. I have no doubt that the dividing line between the roles of Parliament and Government is very murky. It may be argued that disallowing a regulation is preventing a Government from governing. I suggest that the member look closely at the regulation. I argue that through his fisheries regulations disallowance motions the member is seeking to take control of a fishery out of the hands of the Government. He made a mistake in that respect. He may be heading towards another one if another disallowance motion succeeds. On the other hand, if this Parliament decided to knock this Bill out tonight, that would not be taking the business of the Government out of the hands of the Government but Parliament properly deciding, as it is entitled to, to reject legislation. If the House were able to amend the contract, I would suggest that Parliament would be getting involved in government and it would be an improper way for the Parliament to operate.

I have been a strong supporter of state agreement Acts. They give the Parliament an opportunity to have a say in the major deals between the Government and private companies. We have argued about this for a long time. Hon Mark Nevill does not support them, but I do because they give us inside information and the chance to have a say on major projects, which we would not otherwise have. As I have said on a few occasions, we do not need state agreement Acts at all. It is not necessary for the Government to bring them to the Parliament for any new project. The Government did not have to do it for Kingstream and we do not have to do it for any future projects.

The previous Court Government, which was actively involved in state agreement Acts, pioneered that legislative course of action, which I believe is a good thing. However, we need to acknowledge if we do have that benefit that we do not have the opportunity to amend it. This amendment to the agreement will allow the Government to collect a royalty. I acknowledge that the Labor Party is supportive of this Bill, and I appreciate that support.

Hon Giz Watson raised a number of issues. She referred to alternative materials which the company might wish to exploit and sought a definition of those materials. I understand from the advice I have been provided with that at this stage the company uses only shell sand and limestone as its source of calcium carbonate for cement and lime manufacture. The Minister for Resources Development is not aware that the company wishes to use any other sources of calcium carbonate in its manufacturing process, but if in the future it wanted to use alternative materials such as lime sand it would be required to pay a royalty on that source of material also. If the member's concern is that a change in the company's mining operations may have a different effect on the environment, I suggest, without being able to be absolutely adamant, that such a change to its mining operation will require environmental approval.

Hon Giz Watson referred also to new clause 10C, as did Hon Norm Kelly and Hon Jim Scott. New clause 10C does not remove the obligation of the company to comply with environmental requirements. No special privileges have been given to this company in respect of the environment. Since 1986, which is the last time that this state agreement was amended, the Environmental Protection Act has been proclaimed. That Act is a primary Act and takes precedence over any other Act. I am advised that new clause 10C is a modern clause that has been put into all state agreement Acts to ensure that the EP Act takes precedence over any other Act and that the conditions attached to any activity are subject to the Environmental Protection Act. It is believed that new clause 10C will ensure the maximum environmental protection for this project.

Hon Giz Watson referred also to the difference between mining on crown land and mining on private land. Under the Mining Act, limestone is considered to be a mineral only when it is mined on crown land; therefore, it attracts a royalty. Through the definitions in this agreement, limestone includes shell sand and alternative materials. Limestone that is mined on private land is considered to be a basic raw material and its mining its covered by the extractive industry provisions of the Local Government Act; therefore, it does not attract a royalty. The different interpretations depend upon where the limestone is found. That may be an anomaly that has occurred over time. I hope that will clarify some of the questions that have been raised.

I understood Hon Norm Kelly to say that he will oppose the Bill; I may be wrong. I understood Hon Jim Scott to say that he does not support the Bill either. If that is the case, I suggest that they will be depriving this State of nearly $1m in royalties, because if this Bill were defeated, the amendment to the agreement would also be defeated. The only effect of defeating this Bill would be to ensure that we did not collect a royalty. That would be the simple unadulterated result of that course of action. I was encouraged to hear that the Labor Party does support the Bill,

because it recognises the importance of royalties to the State of Western Australia and that by convincing this company that it should pay a royalty, we are going down the right path.

As I explained earlier, it is not for the Parliament to make judgments about the clauses of the agreement. If some members do not like some of the clauses in this state agreement, I suggest that rather than vote against this Bill, they go to the Minister for Resources Development and explain to him that they believe other amendments should be made to the agreement and try to convince him to negotiate those amendments with the company. All of the arguments that we have heard tonight about the effect of this company's operations on the environment are largely irrelevant to this Bill. If members do not like what the company is doing, they should seek to stop its operations by means other than stopping this Bill, because stopping this Bill will only prevent the company from paying a royalty. It will not prevent the company from continuing with its operations. If that is the purpose of some members opposite, they will achieve that purpose in due course only if they ever come into government and decide to negotiate their way out of the agreement.

A member interjected.

Hon N.F. MOORE: If we do not charge royalties it will be an interesting exercise when we assess down the track how policies can be implemented. We cannot say that we should spend trillions of dollars on education, health and roads and also say we should not charge people money to do anything and we should not have mining or timber operations or other activities that affect the environment. We need to find some balance in this. We can spend only what we earn. One of the problems that is confronting Australia is that we were spending much more than we have earned for a long time.

In the view of the Minister, new clause 10C of the Bill is the tightest and most effective way of ensuring that the environment is protected under the conditions of the agreement. If members opposite want to argue about that at some other time, I suggest they see whether they can convince the Minister for the Environment or the Minister for Resources Development to do something different.

This Bill needs to be passed so that we can collect the royalties, which may go some way towards ensuring that we have more money to spend on the EPA, on health or on schools, or on whatever the $800 000 will be used for. I ask the House to support the Bill and I look forward to being in a position to help make a decision about how that money will be spent in due course.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Clause 1: Short title -

Hon J.A. SCOTT: The problem confronting members with this type of legislation is that when such agreements are made we have no opportunity to amend them. This agreement makes a trade off. In effect, in return for a decrease in the heat that the company might experience from local government - particularly because of the problems it has had with local government - it will be required to pay a royalty. The company's bottom line might not be affected when one adds up the total cost of these changes. I pointed out during the second reading debate that significant problems have been experienced in the Cockburn Shire. Under the changes proposed, the shire can no longer put any pressure on the company to comply with its requests. Nothing we can do can change that because the agreement has been struck and signed by all the signatories as outlined in the Bill. In fact, the changes members planned to move would have restored the original section 10C of the agreement. This Bill constitutes reduced responsibility. I foreshadow an amendment to clause 2 to enable further discussion on clause 10 with the relevant parties, hopefully in the very near future.

Hon N.F. MOORE: I confess to some confusion about the member's strategy. We are talking about the short title and he is talking about clause 2.

Hon J.A. Scott: I foreshadowed an amendment. We cannot change clause 10 in this place.

Hon N.F. MOORE: That is right; I have spent the past 10 minutes telling members why. If the member cannot understand that, I have no hope of explaining how it works. Members normally use clause 1 to discuss a wide range of issues. However, the member is referring to clause 2. I do not know whether I should be addressing what he has said about clause 2 or confining my remarks to clause 1. Foreshadowing an amendment to clause 2 when we are

dealing with clause 1 is a little confusing. I suggest that the Chairman request the member to speak to clause 1 and that we deal with clause 2 at the appropriate time or advise me that I can speak to clause 2.

Hon E.R.J. DERMER: The Opposition understands the need for this agreement Bill and supports it. However, it is not in a position to confirm that it will not seek amendments.

Hon N.F. Moore: This is another case of the tail wagging the dog.

Hon E.R.J. DERMER: Certainly not; we are exercising our usual level of responsibility for scrutiny.

Hon N.F. Moore: You did not make a contribution to the debate in the first place. Let us not get confused about where we stand. If you do not support the Bill, tell the world and we will decide whether you want the $1m. However, do not ask us to spend any money when we try to raise some and you try to stop us.

Hon E.R.J. DERMER: The Opposition is pleased to support the Bill, but will undertake the most rigorous scrutiny of it. That might take some time.

Hon Simon O'Brien interjected.

Hon E.R.J. DERMER: The short title is fine. Consistent with the standing orders, the Opposition is using clause 1 to review the content of the Bill. As I said, the Opposition agrees with the principle and is now looking forward to discussing the clauses in detail.

Hon TOM STEPHENS: I appreciate the concerns raised with me a few moments ago and now in the Chamber by Hon Jim Scott. The Opposition was requested to consider supporting an amendment to the commencement clause to provide the opportunity to obtain from the Government some assurance that the environmental standards that have until this time governed the arrangements under which Cockburn Cement has operated are in no way being weakened.

I will put on the record something I did not say during the second reading debate; that is, that the Labor Party is particularly keen to ensure that this operation proceeds with the best environmental standards that can be put in place to ensure that this ongoing harvesting is done without causing problems in the local area. Members on this side appreciate the nature of agreement Bills that come before this place. We also have a complete understanding of the cogency of the argument put by the Minister at the conclusion of his remarks in support of the Government's legislation. Regrettably, we are not in a position to assist Hon Jim Scott at this stage. In those circumstances we are faced with continuing our support for the passage of the Bill as it stands.

Clause put and passed.

Clause 2: Commencement -

Hon J.A. SCOTT: I move -

> Page 2, lines 2 to 3 - To delete all the words after "on" and substitute "a day to be fixed by resolution of each House of Parliament being a date that is not less than 1 year from the day on which it receives the Royal Assent".

Hon N.F. MOORE: This Bill was debated in the Legislative Assembly on 19 June. That is a few months ago, and it has been in the Legislative Council for a couple of weeks. Members have had a chance in that period to decide whether they support the Bill. An attempt is now made by the Greens (WA) to delay the operation of the Bill. I have no idea of the purpose, other than perhaps to score political points from the company. The effect is that receipt of any royalties will be delayed. It will have no effect on the agreement, and Hon Jim Scott will be responsible for the State earning less money. That is the net result of this amendment. If the member wants a resolution of each House of Parliament within the next 12 months, I hope he will be prepared to pay from his superannuation the $800 000 the State will not receive if it takes one year for the process to be agreed to.

What does the member hope to achieve by this delaying tactic? It is extraordinary that some members want to delay this matter. The Government has brought to the Parliament an agreement that has been in place since 1971 and has been amended to require the company to pay a royalty. I understand that Hon Jim Scott may not like this operation at all, and I suspect that if he had his druthers, he would close it tomorrow. However, the Parliament is not being asked to do that. This Bill will merely ensure that a royalty is paid. The member must prosecute his case in the broader community so the community will demand that the Government gives an undertaking to close down that operation. That will be fought out in the political arena and a decision will be properly made. However, it is not appropriate for Hon Jim Scott to try to use this Bill, by which the Government will gain some extra money for the State, as a vehicle to promote his environmental argument.

I am vigorously opposed to this proposal. The quicker this Bill is passed and the sooner the royalty is paid, the better

off will be the people of Western Australia. For the first time, this company will make a financial contribution to Western Australia, in addition to salaries and taxes, and that is long overdue. I urge the Committee to oppose the amendment and to get on with the Bill so that we can start raising the revenue.

Hon J.A. SCOTT: The Minister is half right. It is desirable that finally the company will be required to pay a royalty. However, the Minister did not say that it was such a poor agreement in the first place that it allowed this situation to exist.

Hon N.F. Moore: We did not make that agreement.

Hon J.A. SCOTT: That is beside the point. The Government, for a better arrangement whereby royalties will be paid, has traded off the environmental conditions.

Hon N.F. Moore: I have explained that is not the case, but you do not take any notice.

Hon J.A. SCOTT: I know that significant problems have occurred in the Cockburn shire.

Hon N.F. Moore: The Local Government Act still applies.

Hon J.A. SCOTT: If the Minister reads the original -

Hon N.F. Moore: I have read that but other Acts apply as well, and the primacy in respect of environmental matters is the Environmental Protection Act.

Hon J.A. SCOTT: Yes, but the EPA does not make a determination on shell grit dumped on a popular beach after it is crushed, even though it cuts people's feet, drives people away and thus results in money being lost from tourism in this State. The EPA does not regard shell grit on a beach as pollution. It does not have that control.

Hon N.F. Moore: You should take up that argument with the EPA, and not through this Bill.

Hon J.A. SCOTT: The original clause is better than the current proposal. Why has this clause been changed? The Bill will delete a few parts of clause 10C of the agreement. I ask the Minister to explain why those parts of this agreement have been deleted. If he can provide a good explanation, I may not pursue this amendment further. The reality is that certain controls have been removed. The role of members in this Chamber is to ensure the responsibility of the Government, and I want to know why that change has been made.

Hon Tom Stephens: Can you tell me what part of clause 10C has been deleted?

Hon J.A. SCOTT: Previously the agreement stated that -

> Nothing in this Agreement shall be construed to exempt the Company from compliance with any requirement in connection with the protection of the environment arising out of or incidental to its activities hereunder that may be made by the State or by any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to any Act from time to time in force.

The end of that will be deleted and the amended agreement will read -

> Nothing in this Agreement shall be construed to exempt the Company from compliance with any requirement in connection with the protection of the environment arising out of or incidental to its activities under this Agreement that may be made pursuant to the EP Act.

I would like to know why it is proposed to remove the words "that may be made by the State or by any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to any Act from time to time in force". Removing that reduces the ability of the other bodies to have any impact on matters that may not be construed as environmental but may be detrimental to people at a local level. If the Minister can give a good reason for that, I will listen to it.

Hon N.F. MOORE: I suspect I will never be able to satisfy the member because I have already done that and the member was not convinced, did not listen or did not understand what I said. The original clause 10C in the agreement was a cover-all clause. That has been removed and words have been inserted to the effect that nothing in the agreement shall be construed to exempt the company from compliance with any requirement in connection with the protection of the environment arising out of or incidental to its activities under this agreement that may be made pursuant to the EP Act.

My understanding is that when the original clause 10C was put in this agreement the Environmental Protection Act did not exist. That was in 1986. That clause covered a range of matters related to environmental protection, as it was known at that time. The member acknowledged earlier, and I agree with him, that when the agreement was first

put in place in 1971, nobody knew that the environment existed. It was a word that no-one used. Times have changed since then. The Department of Resources Development has been inserting in all new state agreement Acts the clause which is clause 10C in this Bill because it gives primacy to the Environmental Protection Act over any environmental question. Crown Law advice on the drafting of this clause is that it will ensure the Environmental Protection Act is the primary Act in respect of the environmental questions that are involved in this agreement. That is the only explanation I can give. It has been decided by Crown Law that this new wording is much more appropriate in the context of the Environmental Protection Act, which has come into existence since this agreement first was put in place.

The member raised the question of the Local Government Act. That Act still applies, as do all other Acts of Parliament. One cannot have an agreement like this and go and murder someone and then say there is nothing in the agreement that says one cannot murder a person. The laws of the land still apply, and the Environmental Protection Act is the primary Act in respect of environmental matters in this agreement.

The member should raise with the local authority the question of dumping shell grit on the beach and it not being regarded as pollution; he should not argue it in connection with this Bill. If the local authority says the company is doing something contrary to its Act, it can prosecute.

Hon J.A. Scott: Can you give an assurance that nothing has changed in the way local government can control it?

Hon N.F. MOORE: On the basis of the advice that I have been provided, I can give that assurance. I am not a lawyer, but the information provided to me is that this clause has been drafted by Crown Law to cover the requirements of the Environmental Protection Act and to ensure that is the primary Act in respect of environmental matters. All other Acts are subsidiary to that on environmental matters. I can think of no reason - maybe some of the lawyers here will tell me I am wrong - why all other Acts of Parliament which relate to the conduct of individuals would not apply. I suspect the Local Government Act applies to this operation as the Criminal Code applies to the people who work on the project. I can double check that and give an assurance after doing so if that is what Hon Jim Scott needs. However, I cannot think of any reason why we should delay this Bill on that basis. It is up to members opposite whether they accept or reject it.

Hon NORM KELLY: On a point of clarification, if the Local Government Act provides environmental protection that is beyond that provided in the Environmental Protection Act, can it be enforced if there is something in this agreement Act that permits the company to carry out operations which are contrary to the Local Government Act? Is that protection guaranteed in this Bill?

Hon N.F. MOORE: I am not aware of any circumstances in which the Local Government Act prescribes environmental provisions which are more onerous than those in the Environmental Protection Act. Perhaps the member can give an example. My advice is that this clause ensures that the EP Act is the primary Act and takes precedence over all others in respect of environmental matters. If the member can tell me where the Local Government Act is better from an environmental point of view, I will be interested to hear it.

Hon NORM KELLY: Is it possible the Local Government Act can empower a council to take action on environmental matters that may be considered to fall outside the scope of the EP Act? Might there be some discrepancy as to what is an environmental problem?

Hon N.F. MOORE: This is becoming an absurd situation. The member is asking me to have knowledge of the Local Government Act and compare it with the EP Act.

Hon Norm Kelly: I just want an assurance that this is a better clause.

Hon N.F. MOORE: All I can tell the member is that the Department of Resources Development, which negotiated the contract, the Crown Law Department, which drafted the clause, the Environmental Protection Authority and the Department of Environmental Protection, which have been consulted, and the respective Ministers who have been privy to the decision, have come to the conclusion that this new clause 10C is better than the old one from the point of view of protecting the environment. If members opposite want to defer this clause, they can move to do so. This clause is now standard in state agreement Acts because it is considered to be better than the wording of the previously used clause. That is why I am seeking the agreement of the Chamber to proceed with it. I will raise the matter referred to by Hon Norm Kelly and let him know whether there is any serious discrepancy in what I am saying.

Hon GIZ WATSON: I understand the EP Act has primacy, given that it does not need to be prescribed, and that is the basis of our concern about this change to clause 10C. I understand state agreement Acts have a provision which allows excision of areas of the State from local government jurisdiction. That is why we are arguing local government should have some say. I need clarification of that before we can be clear about the implications of this changed clause.

Hon N.F. MOORE: I think I should report progress on this and we will take the questions to the appropriate people and delay the passage of the Bill. I do not know whether this agreement Act has excised part of Western Australia, but members opposite should be saying loud and clear to the public that they do not want this new legislation; that they are opposed to this operation and think the workers should not have a job; and effectively that they think the Government should not receive any royalty because this sort of operation should not exist at all.

I can understand members opposite wanting to ask pedantic questions about what might or might not be and expect me to know the answers. Bearing in mind this Bill has been around since June, they should have asked those questions in advance or given some notice of them so that I could give an answer. I will take on board the member's question and we will put this Bill aside for as long as it takes to get the information. I indicate with no great enthusiasm that this place is beginning to develop a capacity to delay and frustrate. The attitude of members opposite and their inability in the several months since 19 June to ask the questions they are asking now will ensure that the royalties this Bill will bring to the State will be delayed.

Progress reported and leave given to sit again.

WESTERN AUSTRALIAN LAND AUTHORITY AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [8.40 pm]: I move -

That the Bill be now read a second time.

Section 52 of the Western Australian Land Authority Act 1992 is what is known as a sunset clause and states that "This Act shall . . . continue in operation until 31 December 1997 and no longer." Section 48 of the Act requires the Minister for Lands to conduct a review of the operation and effectiveness of the Act and to table a report on the review before each House of Parliament. An anomaly of this Act, though, is that the sunset clause comes into effect in the middle of the period set down for the review. The Minister for Lands took immediate action to establish this review as soon as he received his appointment as Minister. Mr Gerry Gauntlett, a well respected and senior member of the Western Australian land development industry, has been commissioned to undertake the review on an independent basis and public and industry submissions have been sought and welcomed. The Minister for Lands expects Mr Gauntlett's final report within a few weeks.

Even with the Minister's early establishment of the review, it is obvious that, as a consequence of the existing anomaly within the Act, there will be insufficient time between the receipt of Mr Gauntlett's report and the sunset clause coming into effect to consider the recommendations of the report, to seek and consider industry and community views in respect of those recommendations and to develop, introduce and seek passage through Parliament of any proposed legislative changes to the Western Australian Land Authority Act. The intent of this Bill, therefore, is to extend the sunset clause by just one year to enable that subsequent consideration, consultation and action to occur. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

GRAIN MARKETING 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) [8.42 pm]: I move -

That the Bill be now read a second time.

The Bill amends the Grain Marketing Act, which provides the legislative backing for the Grain Pool of Western Australia. Under this Act the Grain Pool of WA has statutory marketing powers over the domestic and export markets for prescribed grains; that is, barley, angustifolius lupins, rapeseed - which is more commonly known as canola - and linseed grown in the State.

The amendments arise largely from a comprehensive review of grain marketing arrangements which presented the Minister with its strategic blueprint for the Western Australian grains industry in 1996. The legislative changes

proposed are designed to equip the Grain Pool to face the challenges it will need to meet in the rapidly changing world and domestic grain markets, allowing it to achieve higher profitability, productivity and professionalism and deliver grain products that meet customers' requirements and specifications. These changes are supported by the Grain Pool of WA, farmer organisations and the majority of grain growers and are in line with coalition primary industry policy commitments.

The changes are designed to retain the benefits of the export "single desk" provided by the Grain Pool for prescribed grains which has served the industry well for a long time, while allowing new players to enter the domestic market and engage in value adding for prescribed grains.

The major change arising from the amendments is the deregulation of the domestic market for prescribed grains. This will allow for unfettered trade of prescribed grain within the Commonwealth, and brings prescribed grains into line with wheat marketing arrangements that have existed since late in 1989.

In addition, exports of value added prescribed grains will also be deregulated. This has been achieved in the Bill by defining value adding as any process that changes the physical characteristics of the grain. This is to prevent activities such as grading grain to be construed as value adding, which could effectively bypass the Grain Pool as the sole exporter of prescribed grain. The benefits of deregulation of the domestic market and value adding are likely to be significant. It is a recognition that the establishment of value adding facilities in the State is an important development for the industry as it provides alternative outlets for producers to sell their prescribed grains, and exposes producers more directly to market requirements.

There are benefits to the State through greater employment and investment in processing industries such as malt houses and lupin dehulling facilities - indeed investment has already begun in several areas since the announcement last year that the changes before the House were to be introduced. There is also to be a relaxing of the restrictions of the export of prescribed grains in containers and bags, which will be allowed under the permit system administered by the Grain Pool. There will be restrictions on the export of barley to Japan and Thailand due to contractual arrangements currently in place.

The Bill removes linseed from the list of prescribed grains. The ministerial steering group considered that linseed should cease to be a prescribed grain, so that the export as well as the domestic trade in linseed would be deregulated. Linseed is not a significant component of the Western Australian grains industry.

A number of the changes in the Bill relate to the operations of the Grain Pool. One of these is an additional ministerially appointed board member. The Grain Pool board currently comprises two members with commercial experience appointed by the Minister and seven members elected by grain growers. The chairman is elected by the board. Other provisions relate to improving accountability to growers and government.

The ministerial steering group recommended the Grain Marketing Act should be amended as soon as possible to provide for improved market focus and accountability to the Government and industry requiring the Grain Pool to -

> prepare each year a rolling forward corporate plan - three to five years - defining objectives, giving outlines of strategies, setting out assessments of strategic market directions and giving particulars of performance indicators relevant to objectives;
>
> prepare each year an annual operational plan, for the information of the Minister, setting out the particulars of actions it intends to take during that year to give effect to its corporate strategies;
>
> ensure that its actions give effect to its corporate and operational plans with provision for variations to be made in the light of changed circumstances; and
>
> present in its annual report improved performance measures which assess performance against the strategies and objectives in the annual operational plan and the corporate plan.

In addition, for the first time the objects and functions of the Grain Pool have been put into the Act, putting on record what was previously readily accepted within the Grain Pool. The manner in which the board of the Grain Pool uses industry funds will be more accountable and measurable against these objects, which will give the Grain Pool a clear set of objects to build its operations around. By setting out the functions of the Grain Pool in the Act, the amendments reflect the changing environment in which the Grain Pool is operating. The Act also formally provides for improved accountability to the grain industry by requiring the Grain Pool to present its annual report to an annual general meeting of grower stakeholders. This formalises the annual meeting that the Grain Pool already conducts each year.

One of the recommendations of the steering group was for the change of the producers' council. This is an elected group of 21 growers who act as an independent body to advise the Grain Pool board on industry matters and

disseminate marketing and policy information to individual farmers and industry groups. While the Bill before the House removes the legislative requirement for the producers' council, it will continue its advisory role. However, its structure and functions may change over time as needs require, and there is now the flexibility for this to occur without changes to legislation.

Although there is no formal provision in the Act, it is expected that the Grain Pool will maintain close contact with the major grower organisations operating in the State. Specifically the Minister would expect grower organisations to be consulted during the development of the Grain Pool's corporate and annual plans. In the next five years there are likely to be many significant changes in the way the Grain Pool operates, and it is important for the Grain Pool to involve growers and grower organisations at an early stage in the evolution of plans for the future.

The Bill contains a number of standard clauses which have been introduced to all legislation relating to statutory authorities following the recommendations of the Burt Commission on Accountability. The first of these relates to the Minister having the ability to issue instructions to the Grain Pool in "exceptional circumstances".

It is considered some examples of exceptional circumstances to be if the Minister considered the operations of the Grain Pool were placing the finances of the State at risk, or if the Grain Pool were exporting grain to a country against which Australia had a trade embargo, or if the State had a drought that was so severe that the Minister felt it was prudent to limit exports. This is a provision the Minister reluctantly put in the Bill, and it is hoped it will never be exercised. Some comfort can be taken in the provisions that require that before giving an instruction the Minister must inform the Grain Pool in writing that he or she is considering giving the instruction, and must give the chairman adequate opportunity to discuss with the Minister the need for the instruction. In addition, the text of the instruction must be laid before each House of Parliament and reported in the annual report. The other accountability clause requires the Grain Pool to allow the Minister access to all information in its possession.

An important provision of the Bill relates explicitly to allowing the Grain Pool to set up or hold shares in companies, both within Australia and overseas, but it may do so only on the recommendation of the Minister and the approval in writing of the Treasurer. Although the formation of subsidiary companies may be seen as desirable in terms of the Grain Pool developing a more commercial manner of operation, this must be balanced against the responsibility of the Government to industry and the community as a whole. The amendment explicitly gives the Grain Pool the power to take out grain and financial futures, but only if the board considers the contract to be for the purpose of managing, limiting or reducing perceived risks associated with the Grain Pool carrying out its functions. For an organisation trading in grain it is necessary to have the ability to hedge grain prices and currency to protect pool returns from rapid price declines. The commonwealth Wheat Marketing Act confers similar powers for utilising futures on the Wheat Board.

The Bill will remove the requirement for the Grain Pool to seek ministerial approval to set the remuneration for licensed receivers. This should be a commercial arrangement between the Grain Pool and the licensed receiver - usually Co-operative Bulk Handling Ltd. Under the objects of the Grain Pool set out in these amendments the Grain Pool is required to maximise net returns to producers by minimising costs as far as practicable. This would be taken into account in the negotiation of grain handling contracts. Under the Act as it stands the Minister must approve all payments made to growers for prescribed grain pools. This is an unnecessary administrative requirement, as the Grain Pool is returning the proceeds of sales from prescribed grain pools to growers, and no public or government funds are involved. The amendments will remove the requirement for such approval.

The Bill will allow the Grain Pool Board to have a deputy chairman. The board has been operating with a deputy chairman and this change will formalise this practice. Currently the Governor must approve the remuneration of directors. Under the amendments directors' remuneration will be approved by the Minister after consultation with producers at the annual meeting of producers. This is a far more streamlined procedure which will allow grower "shareholders" to have an influence over the remuneration of directors while maintaining the safeguard of requiring ministerial approval.

The Act is scheduled for a national competition principles review in the 1998-99 financial year. This will include a public interest test for the "single desk" selling of prescribed grains. As the proposed amendments to the regulation effectively reduce the level of restriction to competition, they represent positive reforms to statutory marketing arrangements in terms of national competition policy.

Finally, the Bill contains a clause requiring a further review of the Act to be completed and laid before each House of Parliament within five years of this Bill being proclaimed. This will allow the Western Australian Government to meet its obligations under the terms of the competition principles agreement to review by 2000 all existing legislation that restricts competition and give it time to assess the impact of the changes resulting from these amendments.

In conclusion, the Bill seeks to make changes to the Grain Marketing Act 1975 that are designed to equip the Grain Pool to face the challenges it will need to meet in the rapidly changing world and domestic grain markets, while putting in place measures that ensure the Grain Pool continues to be accountable to both growers and the Government. The Bill will reinforce the Grain Pool's position as the sole exporter of prescribed grains produced in the State - a position that is supported by the majority of producers. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

HUMAN TISSUE AND TRANSPLANT AMENDMENT BILL

Second Reading

Resumed from 21 August.

HON KIM CHANCE (Agricultural) [8.54 pm]: The Opposition is pleased to support this Bill. I note the cooperation and assistance we have received from the Minister for Health, particularly in the provision of briefings, even as recently as tonight when I needed to ask a question of the Minister's adviser and he was able to satisfy my query. I also appreciate the extensive clause notes that were provided with this Bill, even though on this occasion I have not used them extensively. Clause notes are a bit of a hobbyhorse of mine. I note the huge effort that goes into the compilation of clause notes. Particularly in view of the Attorney General's comments earlier today, it seems that the quality of debate in this place would be far improved if on every occasion the Opposition were to have access to clause notes, even if on some occasions it was necessary to censor the clause notes somewhat for the Opposition's consumption if it were a particularly political Bill.

Hon Max Evans: For most of this year we have given explanatory notes. That has been my direction for some time. We are trying to get all Ministers to have the same approach. It makes it easier.

Hon KIM CHANCE: Yes. The reason I have not used them this time is more to do with the amount of time I had to prepare for this debate than anything else, because we are a day or so ahead of time in dealing with this Bill. I appreciate the Committee notes. I acknowledge that the Minister for Finance and other Ministers have shared my enthusiasm; sadly not every Minister does.

Hon Max Evans: I am trying.

Hon KIM CHANCE: It is rather strange. It is obvious I am talking about the Minister for Primary Industry, who is one of the best Ministers for offering and providing briefings and answering questions about legislation. He is a very cooperative Minister in that regard. However, my pleas over the years for clause notes have not been answered in the affirmative.

Hon Max Evans: When we dealt with the Land Administration Bill the clause notes were a great help to Hon Mark Nevill.

Hon KIM CHANCE: Yes. There is a need for this legislation. That is why the Opposition is keen to support it. Although the legislation contains a number of important issues, it concentrates mostly on amendments to section 22 of the principal Act, the Human Tissue and Transplant Act 1982. That is the only issue on which I will make any comment, notwithstanding that other amendments are important. I could summarise them by saying they are useful and non-contentious amendments that the Opposition supports.

The need for this legislation is summarised by the effect it will have on section 22; that is, it will clarify an area of law that many of us in reading the amended section would suggest barely requires clarification. However, such is the emotional nature of this issue that a need exists to ensure the legal questions, if not the emotional questions, that arise from new section 22(3) are as clear as they can possibly be. Setting aside the emotional issues, there is an urgent medical need to have the best legislation possible in this area. I will run through some of the deficiencies in this area.

I do not suggest for one moment that this amendment Bill will improve the rate of organ donation in Western Australia. Nonetheless, the fact the legislation has been available to the public for a while and that people are thinking and talking about it helps.

It will also help if the general public feel more comfortable with the legislation than they do now. Obviously any legislation which is clear and readily understandable is legislation that the public can feel more comfortable with. As the result of what is an appallingly low level of organ donation within Western Australia people are dying every week who need not die. People are carting off with them to cemeteries and crematoriums many organs which are in great shape and could save lives. That is the bottom line. It is a tragic outcome. During the second reading debate my colleague in the other place, the member for Fremantle, related the story of a friend of his from his university days

- obviously the same age as Jim McGinty - who died because his heart collapsed. He was a youngish man whose life may have been saved by an organ donation. That is a tragedy. People die, people go through life blind for the sake of a corneal transplant, and suffer expensive and painful disabilities such as being on almost permanent dialysis as a result of the lack of organs which are there but not available.

The low rate of organ donation was addressed by the Minister for Health in the other place. On page 5342 of *Hansard* the Minister for Health stated -

> I understand that this State has, if not the lowest, one of the lowest organ donation rates in Australia. Based on 1996 figures the Western Australian organ donation rate is seven donors per one million of population.

That figure stunned me. The Minister continued -

> That compares poorly with national and international benchmarks. In 1996 Queensland had 10, New South Wales and Tasmania had 11, Victoria had 11, South Australia had 17 and the Northern Territory had 17. I think the reason for the Northern Territory being, relatively speaking, so high is that it has the same system for organ donations as South Australia. Much of the work in the Northern Territory involving major trauma tends to wind up in South Australian hospitals.

The Minister also made comparisons with other countries. He stated -

> In 1995 the rate of organ donation in Spain was 26 per one million of population; in the USA, 20; in Great Britain, 15.8; and in Greece 5.6. Western Australia is the lowest by far at seven.

All those figures seem terribly low to me. The Minister referred quite frequently in that debate to Spain, which has the highest donation rate. Spain has as system which the Minister regards to be among the best if not the best in the world. Even the Spanish rate of 26 per one million seems to be an extraordinarily low figure. That figure relates to cases in which actual organ donations had been made and not the number of people who have indicated a willingness to donate. At some other part of the debate the Minister stated that 100 000 people in Western Australia had indicated on their drivers' licences a willingness to donate. Clearly there is a difference between availability and actual donors. Even so with seven or even 26 donations in every one million of population, when we consider the number of young and otherwise healthy people who are represented in every one million deaths it is clear that we have a huge and tragic waste of organs and human tissue. We cannot set aside the importance of tissue with skin grafts, for instance, being so critical.

The Minister also said that one in three persons waiting for organ donations in Western Australia ultimately will die from the lack of a donation. Even though 100 000 people in Western Australia have indicated on their drivers' licences that they are consenting donors, unfortunately that is not the end of it. Ultimately many of those people who die in road accidents or in other circumstances do not end up being donors because the next of kin have a say in the matter. The system works only when the matter has been properly discussed with the family. Where that does occur the rate of donation rises to 70 per cent of those who have indicated on their drivers' licences that they are potential donors.

I have mentioned those statistics to illustrate the need for us to get this right. I do not think anything in this Bill will improve that situation. However, it is a move towards making the legislation more understandable and user friendly in this highly emotive area.

The part of Bill I want to address tonight is simple. It sets out to improve section 22 of the Human Tissue and Transplant Act 1982 by clarifying the right of a person to choose whether that person's body may be the subject of organ removal for the purposes of organ and tissue transplants. I have mentioned already that this is an emotive area. Just before I came in here tonight I received a telephone call from a lady who was deeply and genuinely distressed that we were even talking about this amendment Bill. I do not know why she did not know the amendment Bill was coming forward. She had an unfortunate experience in relation to her son's death. It seemed that the circumstances she described would have emanated from the Coroners Act rather than this Act. However, it illustrated that people do feel deeply about removal of organs from a body of a loved one. The impact is sharpened in those cases where the body concerned is targeted for organ or tissue transplant on the basis of its value. A younger person's body is much more valuable because of the quality of the organs that are available. We tend to be dealing with the bodies of young people who have died, frequently in traumatic and unexpected circumstances. It makes the whole issue much more emotive.

I tried to tell this lady that the Bill does not in any way alter the function of the principal Act. I hasten to add that she was aware of that, and is a keen supporter of the Act. The Bill clarifies the legal position in section 22(3) which was capable of misinterpretation. The second reading speech sets out the principal change and reads -

> Part III of the Human Tissue and Transplant Act 1982 deals with donations of tissue after death, either by the deceased or by the senior next of kin as defined by the Act. For a donation of tissue to be made under part III, the designated officer has to be satisfied that there is a consent or an expressed wish by the deceased for that donation or that there is no reason to believe the deceased had expressed an objection to the use of the tissue. Where the views of the deceased are unknown, the consent of the senior next of kin is required.

As I have suggested, that does not seem to be capable of misunderstanding, but I am reading from the second reading speech. The principle which is involved in the amendment Bill is more clearly set out further on where the Minister explains how the misinterpretation occurs, as follows -

> One interpretation of section 22 is that the intentions of the deceased could be limited by the senior next of kin.

That is a crucial area. It continues -

> The correct interpretation is that if the consent of the deceased is obtained, the limitations to be observed are those imposed by the deceased.

Hon Max Evans: I reckon the words "before he became deceased" have been left out.

Hon KIM CHANCE: I think that follows. The second reading speech continues -

> If the consent of the senior next of kin is obtained, the limitations to be observed are the limitations imposed by the senior next of kin. Section 22(3) has been redrafted to remove those doubts.

Returning to the wording of section 22(3) in the Act, again I cannot see why it was misunderstood except that it simply used the word "or" to separate the two functions - the expression of will by the deceased and the expression of will by the next of kin. There is always the possibility that the words after "or" are binding on the first set of words. I will not read those. Suffice it to say there was sufficient reason arising from the misinterpretation of that subsection to cause some difficulty.

Effectively the new legislation has two clearly separate instances - that is, where consent is obtained via an expression of will by the deceased as in section 22(2)(a) of the principal legislation, and in the alternative case where consent is obtained in the absence of an expression of will by the donor, and where no clear indication of an objection to being a donor exists, the next of kin shall be capable of making that decision. That part is set out in section 22(2)(b) of the principal legislation. In new section 22(3) the reference to those two subsections is separated. They are in different subsections, therefore they do not run on the conjunctive "or". They are separate and they remove the possibility that people will imply that the rights of the next of kin may override the rights of the donor. That issue has caused some difficulty.

We are removing the legal uncertainty about whose will shall prevail where a clear expression has been made by the donor, but I have another concern. The Minister may choose to respond when he replies to this debate but I would be happy if he wanted to leave it to the Committee stage and go through it with his adviser. I seek clarification of the situation where there is a clear expression of will by a donor that the donor would want to donate - such as by a note on the driver's licence - but the donor's next of kin is vehemently opposed to the body being used for those purposes. How would that question be resolved? The change to the Act removes any legal ambiguity; the situation is clear legally that the prevailing authority is that indicated by the donor. The next of kin has no say in it unless the next of kin can demonstrate that the donor had since changed his or her mind. Without doubt the Bill clarifies the legal question but it does not solve the immensely difficult emotional question.

It is my understanding that section 22(2)(a) provides at least a de facto or practical necessity for the designated officer to confer with the next of kin. It is not stated directly, but section (22)(a) contains words such as "where, after making inquiries, the designated officer is satisfied that the deceased person during his lifetime expressed the wish for, or consented to the removal" and so on, and further on the words "and had not withdrawn the wish or revoked the consent". While it is not stated specifically that the designated officer must make inquiries of the next of kin, it follows automatically that the only person to whom those inquiries may reasonably be directed by the designated officer is the next of kin. I think that satisfies the fact that the parent Act contains a requirement for the designated officer to consult, and that is my point. It then goes to the question I have asked: What happens if there is a clear expression of will by the donor to be a donor but the act of donation is violently opposed by the next of kin? In law, it is clear that the donor's will prevails but my question is what happens in practice. That is a question I am just as happy to raise in Committee.

Hon Max Evans: We will work in with what the family wants rather than override the family.

Hon KIM CHANCE: That needs to be stated.

Hon Max Evans: I have stated it and I will say it again later.

Hon KIM CHANCE: In the last paragraph of the Minister's second reading speech reference is made to a code of practice which will be given the status of subsidiary legislation with the requirement that it be published in the *Government Gazette*. It seems to me that it is possible at least that the question of whether the next of kin violently opposes the removal and donation of organs, even in cases where the donor has previously indicated the will to donate, might be addressed in the code of practice. I am not asking for the Minister to indicate whether the Government will do that because that is a question I probably do not have the right to ask.

Hon B.M. Scott interjected.

Hon KIM CHANCE: It is unfair to ask for that commitment because it is almost asking the Government whether in retrospect it will not only go against the donor's will but also go against the spirit of the Act. The spirit of the Act is designed to clarify that legal question, and the will of the donor will prevail. Both the Government and the Opposition share the desire to clarify that.

Hon B.M. Scott: Who is the senior next of kin?

Hon KIM CHANCE: It is a difficult issue. All I would like confirmed is whether the code of practice could address that difficult emotional question without asking the Government to tell me that it can, or worse, that it will. I know what a difficult question it is. It seems to me that a code of practice might be able to address that issue.

I will ask in Committee, if the Minister does not respond during the second reading debate, what is likely to happen in practice in that very difficult circumstance. I can see some horrendous situations involving the mother and father of a 17 year old girl or boy killed in a road accident who has indicated on their driver's licence, as do many young people, that they will be an organ donor. It would no doubt be tragic for their parents to imagine further mutilation of the body. Our culture, probably of all cultures, values the physical form of a dead body less than any other culture.

Hon Christine Sharp: Except the Buddhist culture.

Hon KIM CHANCE: Yes, there are exceptions. The Anglo-Celtic-Judaeo-Christian culture does not place a sacred value on a dead human body. It is important for some cultures, even within Australia, that a body be buried whole. Islamic and even Aboriginal culture require that. It is an issue to which we must be very sensitive. It is possible that a 17 or 18 year old Islamic teenager will have signed an organ donation form when that act would be sacrilege to his mother and father. That poses some very awkward questions because the 17 or 18 year old teenager might not have been a committed Muslim but his parents might be.

Hon Max Evans: We became aware last week that Muslims are buried within 24 hours after death.

Hon KIM CHANCE: That requirement is as old as Islam.

Hon B.M. Scott: It has something to do with living in a hot country.

Hon KIM CHANCE: That is the nature of Islam. I have read bits of the English version of the Koran, which is in fact a manual for survival in the desert from which the ban on eating pig meat and the halal kill derives. In simplified English it means "You must speak to the man who killed the animal". If an animal had been dead for four or five days and a person ate it, he would be sick. We are not here to talk about Islam, but we must respect that and other cultures which place a different, if not higher, value than does our culture on the integrity of the human body. I refer again to the woman who called me just before I came in here.

Hon Max Evans: Did they take away some body parts or was it a coroner's inquest?

Hon KIM CHANCE: Body parts were removed. If I needed any confirmation of the highly emotional and very sensitive nature of this issue, that phone call provided it. As I said, I do not think those problems arose from this Act; I think they may have arisen from the Coroners Act. She clearly tried hard to work in with both the Government and the Opposition in reforming the situation. She was a bit taken aback that neither the Government nor the Opposition had advised her of this change. It was my task within minutes of walking in here to assure her that this legislation is not fundamental change but only clarification. However, in doing that I also undertook to put to the Minister that we do not proceed to the third reading stage of this Bill today, although I have no objection to going through the second reading and Committee stage. The Minister indicated that he has no objection to that, and I thank him for his understanding.

HON NORM KELLY (East Metropolitan) [9.27 pm]: The Australian Democrats support this Bill. As Hon Kim Chance said, it is very much an emotive subject surrounding, in this instance, amendments to the Act which relate to donation of tissue after death. It is a very important subject where we must fully consider the wishes people expressed before death and ensure, to the best of our ability, that they are honoured after their death.

The essence of this Bill lies in clause 6, which seeks to amend section 22 of the Act. Primarily it was introduced to clarify the situation involving taking of tissue after death. Hon Kim Chance discussed in some detail the ambiguity in the Act regarding whose rights take precedence and whose wishes should be honoured.

A further amendment relates to section 22(3) of the Act to make the intent clearer. The deletion of a few words is crucial to the operation of the Act. The Act refers to the expressed wishes or consent of the deceased person or senior available next of kin as the case may be. It has led to some ambiguity in whether the senior next of kin is able to override the expressed wishes of the deceased. This Bill deletes the words "as the case may be" and with the amendments referred to by Hon Kim Chance clarifies the legislation.

The three circumstances we are dealing are, first, where the person's wishes are known, and it is clear that those wishes must take precedence. The second situation is where the deceased person's wishes are not known and a senior next of kin is available to make a decision about the taking of tissue or organs, and this is even more clearly expressed by the Bill. The third circumstance is where the wishes of the deceased are not known and there is no senior next of kin available to make a decision. The Act and the proposed amendments make it clear that the intention is not to take tissue or organs in these circumstances. People's misconception of Bills of this kind can be brought about through ignorance. It could be perceived that the legislation provides the ability to take tissue against people's wishes. The Bill clearly shows that is not the case.

I refer now to the subject of organ donation and the current donation rates. The debate on how we can increase the organ donation rate is not directly related to the Bill. It is interlinked with how we deal with sudden death and post mortem cases. The organ donation rates in Australia and other countries differ greatly. In 1995 the rate in Spain was 26 per million. Spain has one of the best organ donation rates in the world. The system which operates in that country is quite different from the system which currently operates in Australia. In Western Australia the rate is only seven per million, which is one of the lowest rates, if not the lowest, in Australia. South Australia has the best organ donation rate, with 23 per million. South Australia intends to model its system on the Spanish system, which utilises specialist teams in intensive care wards who come into contact with the relatives of fatally injured accident victims. They are able to speak to the relatives about organ donation. Invariably most of the useable organ donations come from traumatic accident victims because of the state of the body prior to death. Relatives are confronted with the unexpected death of a loved one and it is extremely traumatic for them to make a decision about organ donation. One way to increase the organ donation rate is for qualified people to speak to relatives in those situations. Dealing with relatives of deceased accident victims is not necessarily a medical situation, but a psychological situation.

Hon Kim Chance: It is a crisis counselling situation.

Hon NORM KELLY: That is right and these people have to be able to deal with all aspects of the trauma associated with the deceased person.

One of the reasons for the low donation rate in Western Australia is the vastness of this State, which makes it impossible in many cases to arrange for the body of an accident victim to be taken to a suitable place to remove the organs correctly. I am happy that the Minister for Health is supportive of the proposition to follow either the Spanish or South Australian models. A conference on this subject will be held in South Australia next month to which the Minister will be sending some Health Department officers. They will consider methods to increase the organ donation rate in this State.

Another aspect of organ donation is being able to record on one's driver's licence one's willingness to donate organs after death. It is an excellent method and allows hospital staff to act according to that person's wishes. Often people who tick the box on their driver's licence to indicate their willingness to donate their organs do not pass on their intention to their family. We must educate people, when they indicate their willingness to donate their organs, to inform their family so they will be better prepared to act on that decision in the case of the sudden death of that person.

A further extension of organ donations is to look at the Singaporean model, which is also based on marking a box on one's driver's licence to indicate one's intention. The difference between that model and the Western Australian model is that in Singapore people must tick the box only if they do not wish to donate their organs. Therefore, if they do not express their intention, the authorities believe it is tacit approval to take their organs after death. That is a big leap from the existing way we treat organ donations in this State and this country, and any such changes require very wide community debate. The issues tied up in the Bill are worthy of further debate in the community.

Hon Max Evans: We would need a fairly long term debate in the community to put through such a change.

Hon NORM KELLY: It is important that such matters be fully debated in the community, as with all issues surrounding people's rights over their bodies and being able to determine what is to be done to their body in death, or even near death.

It is crucial that these issues be made as clear as possible for those affected, and a clear understanding must be gained of not only the rights of the deceased but also the procedures for people acting on those rights. I hope that the code of practice to be provided will give people in hospitals clearer direction and a greater surety about what they can and cannot do in these circumstances. The code may integrate what can be learnt from other models, such as the South Australian example. The Australian Democrats totally support the Bill.

HON J.A. COWDELL (South West) [9.42 pm]: This House, in considering this legislation, should be aware of the crisis which is upon us in respect of tissue transplants. Members would be aware through reading the Press in recent times of the magnitude of the crisis. In Western Australia, 125 people are awaiting a kidney transplant, with 1 454 waiting nationally. This data is only a few months old.

Hon Peter Foss: We are not very good donors, are we?

Hon J.A. COWDELL: No. Three people are awaiting heart transplants in Western Australia, with 96 waiting nationally. For heart and lung transplants, five are awaiting transplant in Western Australia, and 86 nationally.

Hon Peter Foss: Are you a donor?

Hon J.A. COWDELL: Yes. For liver transplants, four people are waiting in WA, with 39 nationally.

Hon Peter Foss: You are a potential donor.

Hon J.A. COWDELL: Indeed. Perhaps there is a hidden clause in this legislation which needs further scrutiny by Hon Kim Chance of the order of the milk vender issue.

Hon Peter Foss: You could do your bit now. They say that the way to hell is paved with good intentions!

Hon J.A. COWDELL: We will get to the Attorney's destination shortly. I will continue to outline the magnitude of this problem. In Western Australia, 86 people await cornea transplants, with 551 waiting nationally. In Western Australia, 26 people are waiting for bone marrow transplants, with 282 nationally.

Hon Max Evans: The difference between the state and the national positions is interesting - percentage wise it is incredible.

Hon J.A. COWDELL: What is of particular concern is the waiting time. For kidney transplants, the waiting period is one to three years no matter where one is in Australia. This is because of availability of organs. For a heart transplant the waiting period is three months to a year; for a heart and lung transplant, it is nine to 12 months; for a liver, two to six months; for a pancreas, 12 to 18 months; for a cornea, three to 24 months; and for bone marrow, the wait is seven to eight months. This sort of delay is fatal for many of those in the queue.

Hon J.A. Scott: Is it purely because of lack of organs?

Hon J.A. COWDELL: Those are just the waiting lists. Not all of those people die. Certainly, some people on the waiting list die before they receive a transplant. They are waiting for an organ.

Hon Max Evans interjected.

Hon J.A. COWDELL: They are the official figures from the Australia Coordinating Committee on Organ Registries and Donation, and they give some indication of the problem we face. The media highlighted this problem recently, and *The West Australian* of 12 August put the situation succinctly, as follows -

> One in three Australians waiting for transplants die and the number of donors has fallen nationwide from 231 in 1991 to 194 in 1996, giving Australia one of the worst donor records in the developed world.
>
> Western Australia has the lowest rate of all States, with 24 donors in 1991, 12 last year and six so far this year.

That is the magnitude of the crisis we face. I commend this Bill, which does a little to improve that situation by clarifying and giving effect to the intent of a donor or would be donor. The Minister said in the second reading speech -

> However, the drafting of some of the sections of parts III and IV of the principal Act has led to concerns about the limitation that may be placed on the use of tissue. One interpretation of section 22 is that the intention of the deceased could be limited by the senior next of kin.

I am aware of that confusion, particularly with respect to people in our major hospitals. Even this afternoon the Minister's response to a question gave rise to some further confusion.

Hon Max Evans: I thought it was a good answer.

Hon J.A. COWDELL: The question was -

(1) With respect to section 22(2) of the Human Tissue and Transplant Act 1982, is the consent of the deceased's next of kin required in order to utilise organs if the deceased is a registered organ donor?

(2) Are next of kin consulted in any way, prior to the use of organs of a deceased registered organ donor?

The answer I received was -

(1) If the deceased is registered as an organ donor or has expressed a wish to become an organ donor, then under the law no consent is required. In practice, the next of kin is always consulted. If the deceased has previously discussed with his family his wish to become an organ donor, the chances of the family refusing are reduced.

(2) The next of kin of registered organ donors is always consulted before organs are removed and used.

The situation is clear in the first line, but it then becomes increasingly blurred as one does not know what "consultation" means. Fortunately this Bill will make matters much plainer. The Minister said of this confusion -

> The correct interpretation is that if the consent of the deceased is obtained, the limitations to be observed are those imposed by the deceased. If the consent of the senior next of kin is obtained, the limitations to be observed are the limitations imposed by the senior next of kin. Section 22(3) has been redrafted to remove those doubts.

It is for those reasons that I support this legislation. It makes it plain, particularly to those in our major hospitals, that the wishes of the donor are to be given effect, and that the opinion of the next of kin, when the donor has expressed an opinion, are to be completely ignored.

We obviously have a different situation where the donor has expressed no particular point of view, in which case the senior next of kin is the sole determiner. That is very plain. It needs to be made very clear that the next of kin cannot veto the intent of a donor when that intent is very clearly expressed. I hope that the Government does not believe that this small step is an adequate contribution to the problem. It is a welcome step but I look for further initiatives.

I note that in the Minister's second reading speech he mentioned a code to ensure that the persons obtaining consent act properly in so doing and to assure the public that the Government takes a serious view of the practices relating to obtaining human tissue. The Bill enables the executive director of the Health Department to prepare codes of practice that will set standards to be observed in obtaining those consents. That is a good move. We have had many instances of concern where organs have been removed and all sorts of problems have occurred with burial, exhumation and so on. There must be proper safeguards, but I would not like this code to be used as a device to positively discourage organ donation, which it may do. I would look in this code for positive features so that the correct signals are given to doctors and ancillary staff in our major hospitals that it is a positive device to encourage organ donation. I would not like the code to act as a restrictive device to reduce an already low donor rate. Obviously radical solutions occur in different parts of the world. Earlier this year we had a headline in *The West Australian* of "Cash offer plan to lure organ donors". We had the suggestion of a futures market in organs. People would give $10 000 to the estate so that the relatives had a good inducement to get a potential donor to sign on the dotted line. That might even encourage the process.

Hon Max Evans: Is it tax free or personal exertion income?

Hon J.A. COWDELL: I imagine that once the industry gets going it will be knocking on the Minister's door for all sorts of incentives.

Hon B.K. Donaldson: Are there any capital gains?

Hon J.A. COWDELL: I am not advocating that radical solution, but the fact that this solution is being touted is an indication of the desperate plight of many people in Western Australia and in Australia. We see the problem elsewhere, particularly in third world countries where people donate not only blood but organs for cash payments in order to survive. We have heard stories of people being murdered for the transplant trade. The Singapore solution is by far the preferable radical solution. It is, as it were, the nationalisation or socialisation of the body.

Hon Max Evans: You would be the first to object if we brought that in.

Hon J.A. COWDELL: Its socialist objective is an opting out rather than an opting in. We need to look at that option. We certainly need to consider our polls, which at the moment show that 90 per cent of Australians would be more than happy to have tissue donated after their death. The trouble is that only one-third actually get around to filling out a form. I look forward to the Government coming up with further measures whereby we translate the popular will of the 90 per cent willing to donate tissue after death into more than the present conversion rate. There are 90 per cent willing but a very small donor base.

Hon Max Evans: Do you want an accelerated death rate of donors?

Hon J.A. COWDELL: That is one solution which the Minister may advocate but I do not.

As the Minister would know, the major problem occurs when a deceased person has not positively signed up to donate and the relatives say no. It is a terrible position for relatives to be put in. If we asked most relatives, "Do you want to hack up the deceased" most would say no. We should not put relatives in that position. We must make sure that far and away the majority of people who want to make a donation indicate so themselves and the relatives and next of kin have no say whatsoever. Invariably, if they have a say, human nature is to say no. We must remove that terrible decision from the next of kin.

I welcome this as a small step towards solving the problem. We must be careful with the code of practice to make sure it does not discourage donations, but we need to look at other measures, particularly at solutions. I am almost inclined to the radical solution of opting out rather than opting in, but certainly there are a range of proposals between the Government's clarification of the Act and that device.

Hon Max Evans: You said that the next of kin could not override the donor's wishes. Could the next of kin override the donor's opting out?

Hon J.A. COWDELL: No. If the donor did not opt out the next of kin could not opt out for that person. It removes the decision making from the next of kin. Singapore works that system. We may not need to get there but we certainly need more than this clarification to improve the donor rate.

Hon Max Evans: What is Singapore's success rate per million?

Hon J.A. COWDELL: I do not know that.

Hon Max Evans: No-one has given us that figure. Does that other way of doing it get them any more donors? I do not know.

Hon J.A. COWDELL: I would expect so but there are a range of other factors, given the compact nature of the city state of Singapore and so on. I would welcome a detailed paper from the Government and the Health Department on further solutions. I hope that the Minister can indicate to this House that the Health Department is looking into possible solutions and that this is not the beginning and end of the Government's response to the problem. As I say, I support this Bill and the contribution towards solving the problem. However, I would like to see a paper from the Health Department and the government response to other possible solutions along the way. I hope to see more details of administrative action in this regard. It would be criminal to leave it at this measure alone.

HON J.A. SCOTT (South Metropolitan) [9.59 pm]: The Greens (WA) also support the Bill. If there is any part of the concept of tissue transplant about which I have some concern it is that in many instances we are talking about medical operations which are sometimes very high tech and very expensive. They may possibly be taking funding away from areas of health improvement which may have prevented that sort of operation ever occurring in the first place.

That concept should remain firm in the Government's mind, even though it has no real bearing on this Bill. We should look at improving people's health rather than restoring people's health after the event. Nevertheless, many people through no fault of their own - they may not smoke and may have good diets and so on - have problems where, for instance, they have been burnt and require skin transplants, so we certainly do need such legislation. It is pleasing that steps have been taken to clarify the process. I had a few discussions with people when the Coroners Bill was going through this place, and a number of concerns were expressed that I cannot see have been taken up in this Bill, and I ask for some further clarification. I admit that I have not really looked at this Bill in great depth and I may have missed something.

Debate adjourned, pursuant to Standing Orders.

House adjourned at 10.01 pm

QUESTIONS ON NOTICE

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

FUEL AND ENERGY - GAS

Pipeline - PGT Australia

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

I refer to the PGT Australia gas pipeline proposal -

(1) Does the Minister for Energy dispute or doubt projections by the Department of Regional Development for a demand for 1 400 terajoules per day by the year 2005-06?

(2) If not, how will this demand be serviced other than by a separate pipeline?

(3) If yes, what estimate does the Minister accept as projected gas demand by the year 2005-06?

Hon N.F. MOORE replied:

(1) I am not aware of any such projection by a Department of Regional Development.

(2)-(3) Not applicable.

SCHOOLS - ASBESTOS

Removal

514. Hon KEN TRAVERS to the Leader of the House representing the Minister for Education:

I remind the Minister for Education of the Government's commitment ". . . If elected to Government, (we will) speed the program to remove asbestos fibres from Government schools" and ask -

(1) How many schools are waiting to have asbestos removed from their sites?

(2) How many schools has asbestos been removed from since the election of the Government in 1993?

(3) Who currently holds contracts for the removal of asbestos from schools?

(4) What is the nature of those contracts?

(5) When does the Government plan to have all asbestos removed from Western Australian schools?

Hon N.F. MOORE replied:

(1) 222 schools are waiting to have asbestos removed from their sites.

(2) Asbestos products are removed from schools during repairs and maintenance. For example, broken panels are replaced with new fibro cement asbestos free panels. It is not possible to state how many schools had asbestos-cement materials removed as a result of repairs and maintenance since 1993. Since 1993, asbestos-cement roofs have been totally or partly replaced at 60 schools.

(3)-(4) Contracts for the removal of asbestos roofs at the following schools are out to tender and are currently being negotiated. It is expected that all projects will be let within the next two weeks. The work should be completed by the end of the term 3 break. The value of these contracts cannot be disclosed prior to their approval.

Koorda Primary School
Karragullen Primary School
Esperance Primary School
Kalbarri Primary School
Shark Bay Primary School
Ashfield Primary School
Embleton Primary School
Hillcrest Primary School
John Forrest Senior High School
Mount Lawley Senior High School
Nedlands Primary School

West Leederville Primary School
Cottesloe Primary School
Katanning Primary School
Kirup Primary School
Hamilton Hill Senior High School
South Coogee Primary School

(5) Earlier this year, I announced a five year program to replace all asbestos-cement roofs commencing in 1997-98, which is expected to be complete by the end of 2001-02. Funding for this program has been increased from $1m to $4m per year for the next five years. Under the accelerated program, approximately 40 schools will have their asbestos-cement roofs replaced each year, compared with about 15 roofs previously. All roofs will be replaced within five years, compared to the 18 years originally detailed under the Education Department's roof replacement program.

FAIR TRADING - ENERGY EFFICIENCY STANDARDS

Display

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

(1) Are retailers, who sell electrical goods, required to display energy efficiency standards stickers on white goods, such as fridges and washing machines?

(2) If yes, what does the Government do to encourage the display of such stickers, and what action is taken against retailers who do not display them in the required manner?

(3) If no, does the Government take any action to encourage the voluntary display of such stickers?

(4) Will the Government support the introduction of the mandatory display of energy efficiency standards by retailers?

(5) If not, why not?

Hon N.F. MOORE replied:

(1) Yes. The Electricity (Energy Efficiency Labelling) Regulations 1997 require electrical goods such as clothes dryers, dish washers, freezers, refrigerative air conditioners, refrigerators and clothes washing machines, which are primarily intended for domestic use, to display energy efficiency labels.

(2) An advertising campaign was launched on 21 June 1997. Retailers not displaying labels commit an offence subject to a penalty of $5,000 for individuals and $20,000 for body corporate.

(3)-(5) Not applicable.

FUEL AND ENERGY - GAS

Pipeline - PGT Australia

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

I refer to the PGT Australia gas pipeline proposal -

(1) Does the Minister for Energy dispute or doubt projections by the Department of Regional Development for a demand for 1 400 terajoules per day by the year 2005/06?

(2) If not, how will this demand be serviced other than by a separate pipeline?

(3) If yes, what estimate does the Minister accept as projected gas demand by the year 2005-06?

Hon N.F. MOORE replied:

(1)-(3) Please refer to the answer to question 370, which was asked on the 8 April 1997.

SCHOOLS - CLEANING

Decision on Changes to Policy

556. Hon N.D. GRIFFITHS to the Leader of the House representing the Minister for Education:

(1) Has a decision been made with respect to changes to school cleaning?

(2) If so, when was the decision made and what is it?

(3) If no decision has yet been made -

(a) when is it anticipated that such a decision will be made;

(b) what proposals are currently being considered; and

(c) what further consultation with interested parties, if any, is proposed to take place before a decision is made?

Hon N.F. MOORE replied:

(1) Yes.

(2) The Cabinet decision to expand contract cleaning in schools in the metropolitan area and in schools in rural areas where contracting is viable was made on Monday 4 August 1997.

(3) Not applicable.

FIRE SERVICES - SCHOOL BUILDINGS

Fire Hazard Assessment

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

I refer to the Minister for Education's statement as reported in *The West Australian* of May 27, that "many WA schools built in the 1950's and 1960's were prone to fire damage" -

(1) How many Western Australian schools were constructed with straw ceilings?

(2) How many Western Australian schools have been built using the same design and structure as the Churchlands Senior High School?

(3) Has the Minister instituted a comprehensive fire hazard assessment of Western Australian schools?

(4) If not, why not?

(5) Has the Minister initiated a program for the installation of sprinkler systems in those Western Australian schools assessed to be prone to fire damage?

(6) Had the recent fire at Churchlands Senior High School occurred during schools operating hours would the existing evacuation procedures have been sufficient to ensure safety of students and staff?

(7) Has the Minister initiated a review of school fire evacuation procedures following the Churchlands Senior High School fire?

Hon N.F. MOORE replied:

(1) The Education Department estimates that at least 60 schools were constructed with straw ceilings. A disproportionately high level of resources would be required to determine an exact figure.

(2) Most senior high schools constructed during the 1950s and 1960s have similar design characteristics to those at Churchlands Senior High School.

(3)-(4) No. All existing schools were built to comply with fire regulations at the time of construction. There is no statutory requirement to bring these facilities to current standards retrospectively. However, a services and utilities compliance audit is undertaken when the upgrading of older style school buildings is being planned.

It is normal that measures such as roof compartmentalisation and emergency exit signs are installed as part of the upgrade work in these schools. As part of their management processes, schools are required to have evacuation plans in place. Schools are also funded to maintain fire extinguishers in proper working order.

(5) No. It is considered that other measures such as intruder alarm and smoke detection systems are more cost-effective than fire sprinkler systems.

(6) Yes.

(7) No. All schools have an emergency evacuation plan in order to address their duty of care responsibilities.

SCHOOLS - FEES

Credit Reference System - Access

593. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

With reference to *The West Australian* of Wednesday, May 28, that claimed that some schools are listing bad credit references on parents' personal credit files for non-payment of voluntary school fees -

(1) Can the Minister for Education confirm that this is the case?

(2) Are schools accessing the Credit Reference Association of Australia ("CRAA") system to check the credit rating of the parents of children attending that school?

(3) If so, are schools accessing this information -

(a) at the time students enrol;

(b) at the time the account is first issued; and/or

(c) when the account becomes overdue?

(4) How many, and which schools, are members of the CRAA?

(5) Can the Minister guarantee that the schools meet their legal requirements in respect of accessing the credit reference system or in listing bad credit references?

(6) If not, given the very serious consequences that a bad credit rating listing can have for struggling parents, will the department be issuing guidelines to schools that wish to become members of the CRAA?

(7) Given that this is, in effect, a non-enforceable debt, why are schools able to list its non-payment?

Hon N.F. MOORE replied:

(1) No. This process has not been utilised for the non-payment of voluntary school fees, as reported in the article to which you refer. I am aware that some schools have written to parents of secondary school students, advising them that their names will be forwarded to the Credit Reference Association of Australia as a last resort for non-payment of school charges in the secondary school. These charges, unlike the voluntary school fees to which the question refers, are an enforceable debt.

The Education Department has investigated this practice, obtained information from the Crown Solicitor's Office, communicated with the CRAA, and is currently communicating information to schools describing this practice as inappropriate.

(2) There have been no reported instances of schools using the CRAA for the purpose of a credit check of the parents of children attending schools. The Department suggests the use of the CRAA by government schools only for the purpose of a credit check on a company or business, or information as a sole trader, when entering into contracts for general business purposes, not for the non-payment of school charges.

(3) Not applicable.

(4) CRAA and its members are bound by the Privacy Amendment Act 1990 (Commonwealth) and as such, are unable to disclose its membership. However, I am informed that it is less than 10 schools.

(5) Yes. Schools are aware of their obligations in relation to the recovery of school charges through the Education Act and Regulations, and advice to schools on this issue from the Director-General is distributed annually. Further information relating to the collection of outstanding school charges is being prepared for distribution to schools, reinforcing departmental policy, legislation and best practice. Individual schools which have been identified as using CRAA for the purpose of forwarding names for inclusion on a credit information file have been informed that this practice is not acceptable.

(6) A draft policy on school charges is being developed which will include guidelines to schools who wish to be members of the CRAA and will provide clarification on appropriate recovery of outstanding school charges.

(7) School charges, which relate to the provision of materials and services, excluding tuition, are an enforceable debt under the Education Act.

SCHOOLS - STAFF

Local Selection

614. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

(1) Has there been any money allocated to trial implementation of local selection of staff?

(2) Will there be an evaluation of the systemic and school level consequences on implementing local selection of staff?

(3) How much consultation has occurred with parent bodies and the wider communities?

(4) Has there been any consultation on this major policy direction with the broader community?

(5) Is this policy initiative part of the local area education framework?

(6) How many jobs are likely to be lost from the Human Resources section of the Department of Education?

(7) How many would be lost as a direct result of the implementation of local staff selection?

(8) Is there a risk in this process in as much that more affluent areas will be able to attract, through a range of incentives, better teachers than those schools with fewer resources?

Hon N.F. MOORE replied:

(1) As part of its internal and external reorganisation, the Education Department has allocated $150,000 per annum to implement the local selection of staff initiative. The funding will be administered to schools through District Offices.

(2) The Department is committed, through the various industrial agreements providing for this initiative, to a comprehensive and ongoing monitoring and assessment process in collaboration with the State School Teachers' Union and the Principals' Associations. This process will include the commissioning of a report with recommendations from an independent consultant agreed to by the parties. The assessment will consider, amongst other things, the effects upon student learning and student needs, the aspirations of teaching staff, staff mobility and turnover with reference to equity issues and access to desirable locations, and the ability of the school to deliver alternative educational programs.

(3)-(4) The detailed recommendations about local selection of staff made in the Hoffman Report on *Devolution of Decision-making Authority in the Government School System of Western Australia* (1994) followed extensive consultation with a wide range of school and community groups.

(5) No.

(6)-(7) The trial of local selection will not result in any job losses.

(8) See (2).

FUEL AND ENERGY - COORDINATOR OF ENERGY

Reports - Publication

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

(1) What information and reports (ie discussion and research papers) on energy related matters have been published by the Coordinator of Energy, under section 6(g) of the Energy Coordination Act 1994?

(2) On approximately what dates was this material published?

(3) What reports have been completed by the Coordinator of Energy but not published?

Hon N.F. MOORE replied:

(1)-(2) 1 January 1995 - 30 June 1995 (Note: position of Coordinator of Energy established on 1 January 1995). The following publications, as listed in the Office of Energy's 1995 Annual Report, were published during the financial year 1994-1995:

Approval of Electrical Appliances in Western Australia
Checking and Testing Electrical Installation Work
Energy Bulletin (including Electrical Focus and Gas Focus) - Journal (Issue 1)
Energy-Efficient Environment-Friendly Office Equipment

Energy Matters-Journal (Issues 1 and 2)
Licensing of Electrical Contractors
Licensing of Electrical Workers
Office of Energy-Descriptive Pamphlet
Safety Guidelines for Electrical Workers
Underground Power Forum-Summary of Proceedings
WA Energy Efficiency Awards 1995

Also issued by the Electrical Licensing Board:

Apprentice Safety Assessment Guidelines
National Restricted Electrical Licence System
- Information Guide
- Training Record and Logbook

Pamphlets were also published for the Alternative Energy Development Board on:

Funding Guidelines
Objectives and Priorities

1 July 1995 - 30 June 1996: The following publications, as listed in the Office of Energy's 1996 Annual Report, were published during the financial year 1995-1996.

Approval of Electrical Appliances in Western Australia
Auto LP Gas Safety
Care and Safety of Electrical Appliances
DIY Electricity Dangers - pamphlet
Electric Arc Welders
Electric Shock Survival
Electricity Transmission Access - Outline of Principles (Discussion Paper)
Energy Bulletin (including Electrical Focus and Gas Focus) - Journal (Issues 2, 3 and 4)
Energy Matters - Journal (Issues 3 and 4)
Energy Western Australia (1st and 2nd editions)
Future Consumer Installation Inspection Obligations for Natural Gas and LPG Suppliers
Gas Distribution Access - Outline of Principles
Gas Distribution Access Open Forum
Gas Transmission Consultation Committee Forum
Industrial Gas Appliance Approvals
In-House Electrical Installing Work Licensing
LP Gas Safety
Office of Energy, Western Australia - pamphlet
Playing it Safe with Cords and Plugs
Review of the Gas Quality Specification for the Dampier to Bunbury Natural Gas Pipeline
Report on Disruption to North West Shelf Gas Suppliers - between 24 and 26 September 1995
Safety Switches
Using Electricity Safely in Caravans and Tents
Using Gas Safely in Caravans and Tents
Using Gas Safely in Marine Craft
WA Energy Efficiency Awards 1996
Watch Out for Power Lines Above When You're Working Below

1 July 1996 - 26 June 1997: The following publications have been published by the Office of Energy during the financial year 1996-1997.

Client Service Charter
Code of Practice for Personnel; Electrical Safety for Vegetation Control Work Near Live Powerlines
Electricity Distribution Access - Outline of Principles (Discussion Paper)
Electricity Distribution Access - Distribution Network Pricing (Discussion Paper)
Electricity Transmission Access - Transmission Network Pricing (Discussion Paper)
Energy Bulletin (including Electrical Focus and Gas Focus) - Journal (Issues 5, 6 and 7)
Energy Efficient Appliances (Information Kit)
Energy Efficient Housing for Perth
Energy in Western Australia - Conference Proceedings
Energy Matters - Journal (Issues 5 and 6)
Gas Installation Inspections and the Approval of Industrial Gas Appliances
In-House Electrical Installing Work Licensing
Licensing of Electrical Contractors
Licensing of Electrical Workers
Renewable Energy Based Remote Area Power Systems
Review of the Consumer Electrical Installation Inspection Regime in WA
Safety and Technical Regulations Relating to the Supply of Electricity and Gas
Safety of Electrical Appliances in Western Australia
Seminar for Western Australia's Gas Suppliers

Take Care When Using Electricity Near Water
The Hazards of Doing Your Own Electrical Work
WA Energy Efficiency Awards 1997
Worker Safety When Cutting Trees Near Powerlines

(3) None.

FUEL AND ENERGY - COORDINATOR OF ENERGY

Functions and Powers

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

(1) What are the functions of the Coordinator of Energy other than those listed in section 6 of the Energy Coordination Act 1994?

(2) What are the powers of the Coordinator of Energy under the Energy Coordination Act 1994?

Hon N.F. MOORE replied:

(1) The functions are as set out in section 6 of the *Energy Coordination Act 1994* and it is also the function of the Coordinator of Energy to perform the duties set out elsewhere in the Act, ie sections 11(3), 13(1), 19, 25(3) and 25(6).

(2) The powers comprise the power to perform the functions, duties and various tasks contained in sections 9(1), 12(1) and 21(1).

ELECTRICIANS - SUBSTANDARD WORK

Disciplinary Action

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

What fines, suspensions and other disciplinary actions have been taken against electricians for sub-standard electrical work since January 1, 1995?

Hon N.F. MOORE replied:

The term "electrician" is taken to mean licensed electrical fitters and electrical mechanics.

[27] Fines resulting from prosecution range from $200 to $1,500.

Suspensions (cancellations are also included):

[11] Licences cancelled until competence is demonstrated.

[1] Licence suspended until competence demonstrated.

[1] Licence cancelled.

Disciplinary actions taken by Electrical Licensing Board:

[7] Censure letters were issued.

[22] Licensees were interviewed.

[5] Retraining was required.

[16] Competency assessments were conducted.

[3] Proceedings were held.

[82] Warnings issued to electrical workers by Office of Energy Electrical Inspection Branch.

DEPARTMENT OF MINERALS AND ENERGY - ENERGY POLICY SECTION

Staff

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

What is the current number of staff employed in the Energy Policy Section that reports to the Coordinator of Energy?

Hon N.F. MOORE replied:

The Policy and Projects Division of the Office of Energy has nine staff.

SCHOOLS - HIGH

Exmouth District - Effect of New Staffing Formula

645. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:

(1) Will the new staffing formula to be implemented at Exmouth District High School in 1998 lead to them losing up to six teachers?

(2) What percentage of teachers in the -

(a) primary school; and
(b) secondary school,

will be lost?

(3) If this is correct, what effect will this have on class sizes in the -

(a) primary school; and
(b) secondary school?

(4) What are the numbers of students the education department predict will be in each class?

(5) Will extra buildings or renovations take place to make classrooms larger to accommodate the extra students?

(6) Will the school lose its key teacher under the new formula?

(7) Will the school be able to accommodate the education support students currently in year 10 if they wish to continue at upper school in 1998?

Hon N.F. MOORE replied:

(1) Based on current enrolments, Exmouth District High School will lose 0.2 FTE staff from a total school allocation of 32.0 FTE.

(2) The school will receive a total staffing allocation and the principal will allocate resources according to school needs.

(3) Under the new staffing formula, current agreed class sizes, as outlined below, will not be exceeded.

Year	Maximum Size
Upper Secondary (Yr 11-12)	25
Lower Secondary (Yr 8-10)	32
Upper Primary (Yr 3-7)	32
Upper Primary (mixed year)	31
Lower Primary (Yr 1-2)	30
Lower Primary (mixed year)	29
Pre-primary (purpose built)	27
Pre-primary (standard)	25
Kindergarten	20
Kindergarten and Pre-primary (mixed)	20

(4) Configuration of classes is the responsibility of the school principal who allocates resources on the basis of available teachers. The central office of the Education Department is not involved in this process, but adequate resources will be available to ensure agreed class sizes are not exceeded.

(5) No. The school will operate within available facilities.

(6) The school can elect to appoint a key teacher from within the total staffing allocation.

(7) Yes.

SPORT AND RECREATION - MANJIMUP HORSE AND PONY CLUB

Grants

673. Hon BOB THOMAS to the Minister for Sport and Recreation:

(1) What grants has the Ministry of Sport and Recreation made to the Manjimup Horse and Pony Club in the past two years and what programs were the grants made from?

(2) Have those grants been paid to the club yet?

(3) If yes, how much has been paid to the club?

(4) If not, what is the reason for the delay and how much is still to be paid to the club?

(5) What approaches has the Ministry of Sport and Recreation received from the proprietor of Fonty's Hire in Manjimup with regard to these grants?

(6) What assistance have Ministry officers offered this firm to resolve a problem regarding one of the grants?

(7) What action does the Ministry intend to take on this matter?

Hon N.F. MOORE replied:

(1) A grant of $11 000 was approved for the Manjimup Horse and Pony Club for 1996-97 from the Community Sporting and Recreation Facilities Fund.

(2) No.

(3) Not applicable.

(4) The Club has not claimed a payment and the Club has sought a deferral of the grant, to be paid in 1997-98.

(5) An initial phone call at which time Mr Fontinini discussed the issue with Ministry staff. The proprietor of Fonty's Hire has written to the Minister for Sport and Recreation on 6 December 1996 and 23 June 1997, seeking assistance to resolve the issue. The Minister has replied to the correspondence and Ministry staff have continued to try and meet with the Shire and Pony Club.

(6) The ministry has worked as a facilitator to have the Pony Club and Fonty's Hire meet to resolve the issue. In the main, this has been through the Manjimup Shire as the dispute regarding the grant concerns activity on Shire land which the Pony Club uses.

(7) The ministry will continue to liaise with the local Shire and the club to resolve the issue.

ABORIGINES - DENTAL TREATMENT

Access

698. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:

(1) Do Aboriginal and non-Aboriginal people living in remote areas of the State face distance, language, cultural or economic barriers in accessing dental health services?

(2) In the case of those Aboriginal people who do not read or speak English adequately to understand the dental service's eligibility criteria or complete application forms for assistance from the scheme, what assistance is available to enable them to access the scheme?

(3) Are applications for planned (non-emergency) dental work subject to approval by dental services?

(4) If yes, what criteria are used to determine if and when the proposed dental work will be approved by dental services?

(5) Are these approval criteria contained in any internal manuals or procedures documents?

(6) If yes to (5) above, will the Minister for Health provide a copy?

(7) Does dental services take account of transport and other problems facing patients in remote areas of the State in deciding to approve planned dental work and the timing of such work?

Hon MAX EVANS replied:

(1) Yes.

(2) Various persons including dental clinic, Aboriginal Medical Service, and Community Health staff provide assistance where possible.

(3) Yes. Only in the case of the Country Patients' Dental Subsidy Scheme which operates through private dental practitioners.

(4) The type of treatment proposed to be carried out relative to the patient's previous history and general oral and physical health. Funding available to meet the cost of treatment.

(5) Yes.

(6) Yes. Please see tabled document. [See paper No 760.]

(7) Yes.

ALINTAGAS - ALBANY

Distribution Network Maintenance

702. Hon BOB THOMAS to the Leader of the House representing the Minister for Energy:

(1) What maintenance has been carried out on the AlintaGas distribution network in Albany in the past five years?

(2) Does the network have greater than normal problems with leakage?

(3) What action does AlintaGas propose to remedy the problem?

Hon N.F. MOORE replied:

(1) AlintaGas has a maintenance strategy which complies with all the relevant Australian standards for gas distribution systems. The distribution network in Albany is covered by this maintenance strategy, and the local employees have ensured that the necessary maintenance has been carried out.

(2) Frequent leakage surveys of the Albany distribution system indicate that the network does not have greater than normal problems with leakage.

(3) Not applicable.

MINING - DEVALUATION OF LAND

Compensation for Land Owners

773. Hon J.A. SCOTT to the Minister for Mines:

(1) Do individuals have rights to compensation from mining companies for the devaluation of their land due to new nearby mining operations?

(2) Do land owners have any other recourse to address the loss of value of their land due to new nearby mining operations?

(3) Does the State Government have any plans to change or review this current situation?

Hon N.F. MOORE replied:

(1) Section 123(5) of the Mining Act 1978 provides for compensation for injury to or depreciation in value of land from mining activities for landowners adjoining or in the vicinity of land where mining takes place.

(2) There may be recourse under common law or other laws of the State depending on the circumstances of the particular case.

(3) No.

MENTAL HEALTH ACT - PROCLAMATION

Amending Legislation

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

(1) Will amending legislation be introduced into the Parliament prior to the proclamation of the *Mental Health Act 1996*?

(2) If so, when?

(3) If not, why not?

(4) When is it anticipated that the Act will be proclaimed?

Hon MAX EVANS replied:

(1) No.

(2) Not applicable.

(3) The Government undertook to consider amendments to the Mental Health Act 1996 following a period of operation to establish which areas in practical application require fine tuning.

(4) On or before 13 November 1997.

YANCHEP INN - REDEVELOPMENT

Closure of Licensed Premises

831. Hon KEN TRAVERS to the Minister for Finance representing the Minister for the Environment:

(1) During the recent redevelopment of the Yanchep Inn, did Conservation and Land Management ensure that all requirements of the *Liquor Licensing Act* and other relevant legislation were met?

(2) Was permission sought to close the licensed operation?

(3) If so -

(a) on what date; and
(b) for how long?

Hon MAX EVANS replied:

(1)-(2) Yes.

(3) (a) 7 November 1996
(b) Suspension of the liquor licence was lifted on 18 July 1997.

QUESTIONS WITHOUT NOTICE

TOURISM - EVENTSCORP

Interview between the Premier and Elle Macpherson

762. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I again refer to EventsCorp's efforts to arrange a radio interview for the Premier with Elle Macpherson during the election campaign and ask -

(1) Is the Minister aware that the caretaker conventions prevent the involvement of departmental officers in election activities?

(2) As the Minister for Public Sector Management, is he concerned that EventsCorp may have breached caretaker conventions in attempting to arrange the interview and preparing "political" questions and answers for Ms Macpherson?

(3) Is the Minister prepared to have this matter investigated by the Commissioner for Public Sector Standards; and if not, why not?

The PRESIDENT: In respect of the second point, it seems to me you are seeking an opinion. However, the Leader of the House may have heard it differently.

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) As the Premier did not request an interview be arranged there was no contravention of the caretaker provisions that apply during the election period.

(2)-(3) As the Premier did not participate in an interview with Elle Macpherson during the election period, the questions are irrelevant. The statement by Howard Sattler during his radio program of 29 August 1997 clearly states how this attempt by radio station 6PR to organise an interview originated -

This radio station and this program in particular have been named as the forum for that interview. It's been strongly insinuated that we were asked to be party to a scripted series of questions and answers that were couched to enhance the Government's image prior to the last election. Those innuendos, which up till now I've not been asked to deny, are totally untrue. Are you listening to this, are you writing it down, are you going to get it right this time?

We were never approached by the Premier's office to do an interview with Elle, never approached. Quite the opposite. We contacted the Premier's media secretary after she was appointed to the position 'cause we thought it might help us get the interview. We also approached EventsCorp, we approached the Tourism Commission, we approached the manager of Elle Racing, Mr John Harvey, the man who's now in a legal war with the Government, with requests for interviews - and talking about Mr Harvey of course, why wouldn't he want to bag the Government at the moment - but again, we simply approached him because we thought he might help us get an interview.

We were eventually successful, but not till after the election - take a note of that too, after the election. Around about February, late February this year when Elle was in Western Australia taping her promotional commercials. There was no script and there were no restrictions on the questions that I was able to ask the supermodel. The interview did not take place during the Premier's segment that he has each Tuesday on this program, the first program to have a Premier in a regular segment.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Complaints

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

(1) What are the maximum containment levels for class 3 landfill sites?

(2) Did the Department of Environmental Protection receive questions and/or complaints from the public about 15 November 1996 re emissions from the Stephenson and Ward Medi-Collect incinerator? If yes, were these emissions related to an eight minute downtime due to a solenoid problem? If yes, why did the department fail to convey that information to the complainants and instead claimed that the emissions related to meteorological conditions, reference L162/94, 28 November and 19 December?

(3) What adjustments have been made to the downtime requirement of the Stephenson and Ward Medi-Collect incinerator?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The maximum levels of contaminants permitted in class 3 landfill sites are specified in the document "Landfill Waste Classifications and Waste Definitions". I seek leave to table this document.

(2) Yes. I am advised that a letter of complaint was received from a member of the public on 18 November 1996 regarding the emissions from the Stephenson and Ward incinerator. The matter was investigated by Department of Environmental Protection officers who found that the incinerator was operating normally at the time of the reported emissions. The high visibility of emissions was due to meteorological conditions and was not related to a malfunctioning incinerator.

(3) Could the member please clarify the intent of the question relating to downtime requirements as it is not clear? I will then be pleased to provide a response.

[See paper No 759.]

TOURISM - ELLE RACING

Mr John Harvey - Sponsorships

764. Hon KEN TRAVERS to the Minister for Tourism:

(1) Will the Minister confirm that EventsCorp was actively chasing sponsorship deals for John Harvey's Elle Racing syndicate?

(2) Was he aware that EventsCorp had an introduction fee arrangement with John Harvey?

(3) Will he confirm that EventsCorp was also seeking a 15 per cent administration fee for assisting in organising media interviews and promotional events for Elle and Elle Racing?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Since the Western Australian Government's agreement with Elle Racing provided only a small percentage of the funds needed to mount a successful Whitbread campaign, it was in the State's interest to assist Mr Harvey in his endeavours to secure a sponsor. However, it was at all times Mr Harvey's responsibility to secure the necessary sponsors.

(2) Yes. If Mr Harvey had actually been successful in securing a sponsor from those introduced to him by EventsCorp, some of that money would have been used for the benefit of the Fremantle stopover.

(3) No. However, interest was shown by a television organisation in filming a documentary and the Whitbread office was to organise this. Such a task would consume a considerable amount of the office's time, so it was proposed that the Whitbread office charge a fee to help defray some of the costs such a project would involve. This proposition did not come to fruition.

HOSPITALS - CATARACT SURGERY

Waiting List and Scheduled Fee

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

In regard to cataract surgery for public patients in Western Australian public hospitals -

(1) What was the waiting period for these patients as of -

(a) June 1993
(b) June 1996
(c) Currently?

(2) How many people were on the cataract surgery waiting list as of -

(a) June 1993
(b) June 1996
(c) Currently?

(3) What was the scheduled fee for basic cataract surgery in -

(a) June 1993
(b) June 1996
(c) Currently?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) (a) Mean waiting time 4.76 months
(b) Mean waiting time 3.25 months
(c) Mean waiting time 3.32 months.

(2) (a) 619
(b) 804
(c) 827.

(3) WA public hospitals schedule fee.

(a) $886.75
(b) $1010.20
(c) $814.70 - has been negotiated back from $1010.20.

DRUGS - HEROIN

Methadone Program - Waiting List

766. Hon M.D. NIXON to the Minister representing the Minister for Health:

(1) What is the current waiting period for admissions to the methadone program?

(2) What alternatives are available for those drugs users who are having to wait for a position on the program to become available but are requiring immediate treatment for withdrawal symptoms?

(3) What is the situation for people living in regional areas?

Hon MAX EVANS replied:

I do not have the answer to hand at the moment.

HEALTH - ORGAN DONATIONS

Consent of Next of Kin

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

(1) With respect to section 22(2) of the Human Tissue and Transplant Act 1982, is the consent of the deceased's next of kin required in order to utilise organs if the deceased is a registered organ donor?

(2) Are next of kin consulted in any way, prior to the use of organs of a deceased registered organ donor?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) If the deceased is registered as an organ donor or has expressed a wish to become an organ donor, then under the law no consent is required. In practice, the next of kin is always consulted. If the deceased has previously discussed with his family his wish to become an organ donor, the chances of the family refusing are reduced.

(2) The next of kin of registered organ donors is always consulted before organs are removed and used.

CORONIAL INQUESTS - ABORIGINAL LEGAL SERVICE

Deaths in Custody and Police Vehicle Pursuit Deaths - Representation

768. Hon CHRISTINE SHARP to the Attorney General:

This is a fairly long question. I note the previous comments of the Attorney General and I assure him it should not require too much research to answer the question.

(1) In the past five years how many families or individuals has the Aboriginal Legal Service represented at coronial inquests relating to deaths in custody and police vehicle pursuit deaths?

(2) In keeping with the Royal Commission into Aboriginal Deaths in Custody recommendation 23, does the Aboriginal Legal Service have any resources specifically set aside to deal with coronial inquests relating to deaths in custody and police vehicle pursuit deaths?

(3) Will the Government be ensuring all families or individuals involved in coronial inquests relating to deaths in custody and police vehicle pursuit deaths are adequately represented, irrespective of whether they choose to be represented by the Aboriginal Legal Service?

(4) In view of recent coronial inquests into non-Aboriginal deaths in custody where families have not been able to obtain legal representation, will the Government ensure all families involved in coronial inquests relating to deaths in custody are adequately represented?

(5) Can the Attorney General assure the Legislative Council that the Aboriginal Legal Service and the Legal Aid Commission will have adequate funding to ensure proper representation for all parties at coronial inquests?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(2) The Aboriginal Legal Service does not fall under the portfolio responsibilities of the Attorney General. I suggest the member seek this information directly from the Aboriginal Legal Service.

(3)-(5) Currently guideline 23 of the State service delivery agreement of the Legal Aid Commission relating to inquests, operative from 1 July 1997, permits a grant of aid in only very limited circumstances - either, firstly, as a result of an inquest, there must be a realistic risk that serious criminal charges may arise against the applicant; or, secondly, the outcome of the inquest can reasonably be seen to be likely to have a significant impact on civil proceedings involving the applicant - and as a result of such representation, there is a real likelihood of some substantial benefit accruing to the applicant. Historically legal aid has rarely been granted for inquests and, in fact, they fall within priority four of the priority guidelines, being a matter for which legal assistance is not ordinarily granted but, if granted, is assigned to a staff practitioner of the

commission on a director's assignment. Under the current guidelines for inquests, it is unlikely that families or individuals involved in coronial inquests relating to deaths in custody and police vehicle pursuit deaths would satisfy the criteria in guideline 23.

Current funding to the Legal Aid Commission has been made on the basis of the priority and uniform eligibility guidelines as set out in the state agreement. In circumstances where there is an in-house capacity to take the matter on and the guideline is satisfied, representation could be granted for a party at a coronial inquest. This would be subject to competing interests for legal aid funding at the time representation was sought. I will just add one other point: I think people misunderstand the nature of coronial inquests. First of all, coronial inquests are inquisitorial proceedings; they are not adversarial. The person who assists the Coroner is, in fact, representing the interests of all parties in the State. Many people think they need someone at the inquest to follow the police or somebody else, or whatever. That is the role of counsel assisting the coronial inquiry. It must be a fairly unusual situation where there is separate representation, because the interests are already being looked after by the counsel assisting the inquest.

POLICE - SERVICE

Applicants for Employment - Homosexuality

769. Hon HELEN HODGSON to the Attorney General representing the Minister for Police:

(1) Is the Minister aware that applicants to the Western Australia Police Service must be aged 19 years or over?

(2) Is the Minister aware that consenting sexual behaviour between males aged between 16 and 21 years is unlawful?

(3) What is the Government's policy with regard to sexually active homosexual males between the ages of 19 and 21 years applying for employment within the Police Service, given their criminal status under Western Australian law?

(4) Will the Minister call for the expulsion of sexually active homosexual males currently in the Police Service aged between 19 and 21 years?

(5) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Yes. I should just mention that it did not become illegal until a 1992 amendment by the Labour Party which took homosexual activity in toto and made it illegal as between males, where previously a non-discriminatory provision made sodomy illegal, whether it was male, heterosexual or homosexual. For some reason the Labor Government revised the sexual offences and made all homosexual activity between males illegal. Why it was done, I am not quite sure.

Hon Tom Stephens: Are you wanting to change it?

Hon PETER FOSS: I would be happy to talk about bringing it back to what we had before.

Hon Tom Stephens: Will you bring in a Bill?

Hon PETER FOSS: If the Leader of the Opposition introduces it, I will support it.

The PRESIDENT: Order! I ask the Attorney General to address the answer through the Chair.

(3)-(5) It is the practice of the Western Australia Police Service to consider applications for employment equally, provided the applicants meet the required standards. In the event that an offence by a serving police officer is revealed, appropriate action will be taken.

LOCAL GOVERNMENT - ALBANY

Amalgamation of Town and Shire Councils

770. Hon MURIEL PATTERSON to the Minister representing the Minister for Local Government:

(1) Is the Minister aware of the article in this morning's newspaper in which the Opposition is reported as saying that we should take a more active role in changing local government boundaries in Albany?

(2) Can the Minister tell the House whether he thinks this is necessary and inform the House about the current situation in Albany?

Hon N.F. MOORE replied:

On behalf of the Minister for Local Government, I thank the member for some notice of this question.

(1)-(2) I have been informed by the Minister that it appears, once again, both the Opposition and *The West Australian* are not up with events. Yesterday afternoon the Albany Shire Council announced its decision to tell the local government advisory board that it favoured the amalgamation of two local governments - those covering the Albany town and the Albany shire. This decision removes the most serious obstacle to a smooth transition to significant change in local government in the area. In its decision, the Albany shire nominated several benefits it expected for the region, including a unified community of interest; establishment of a strong financial authority; and removal of all perceived duplication of services. The Minister for Local Government says that he agrees with those views. It will still be necessary for the advisory board to report to him on what it thinks should happen in the area, but the potential for a serious division in the Albany community now appears to be over. Yesterday afternoon the Minister for Local Government issued a media statement congratulating the Albany Shire Council on its community leadership and applauding the example it has given to all other local authorities in Western Australia which have been considering the future structure of local government in their areas.

FAMILY AND CHILDREN'S SERVICES - OFFICE FOR CHILDREN

Establishment

771. Hon CHERYL DAVENPORT to the Leader of the House representing the Minister for Family and Children's Services:

(1) Will the Minister support the call made by the National Association for the Prevention of Child Abuse and Neglect which yesterday sought to establish a state office for children?

(2) If so, when will that occur?

(3) When will the Government make its position clear with respect to the motion moved by Hon Barbara Scott relating to the establishment of an office for children?

Hon Tom Stephens interjected.

Hon N.F. MOORE replied:

Hon Tom Stephens seems to have a bit of a problem today. I hope it goes away before the day finishes. I thank the member for some notice of this question.

(1)-(3) The Minister is aware of the call by the National Association for the Prevention of Child Abuse and Neglect for the establishment of the role of a children's commissioner. The creation of the role of a children's commissioner was also one of the recommendations in the report of the Wood royal commission inquiring into paedophilia in New South Wales. The recommendations in the final report of the Wood royal commission into paedophilia are presently being examined by all relevant government agencies to determine their relevance for Western Australia. The report on the paedophilia inquiry consists of three volumes with more than 1 300 pages and 140 recommendations touching on the responsibilities of a series of government agencies. The report will need a considered overall response. Cabinet has requested the Minister for Family and Children's Services to prepare a coordinated response by the State Government to this report. As soon as this report has been the prepared, the Minister will report back to the House. The issue the member has raised will also be addressed in that context.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site

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

(1) How did polychlorinated biphenyls, PCBs, get into the soil and ground water at zone 1, and how much was spilled?

(2) What is the estimated total cost of the clean-up of the toxic matter?

(3) Has the State Government or any of its departments contributed, or will they contribute, any funding to the site clean-up and, if so, how much?

(4) Has the State Government or any of its departments at any time, as guarantor for the operators of the Stephenson and Ward incinerator, guaranteed a waste stream to the incinerator?

(5) Why has the first option of the clean-up proposal not included in its cost estimate the cost of cleaning up the incinerator area?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) It is not known how the PCBs came to be in the soil and ground water at the Stephenson and Ward site, other than it relates to the incineration of PCBs at the site in 1981-82. It is not known how much was spilled or otherwise escaped to the environment.

(2) As announced by my predecessor in December 1995, the Government has allocated up to $1.4m for the clean-up of this site.

(3) The $1.4m mentioned in (2) has been allocated to the Department of Environmental Protection as supplementary funding. I understand that approximately $1.08m remains to be spent on completing the clean-up.

(4) Not to my knowledge.

(5) The reference to "option 1" is not clear. However, the DEP work plan that has been submitted to the EPA for undertaking the clean-up proposes to leave the lightly contaminated soil that exists underneath the incinerator until a future change of land use. This area will be contained by a clay slurry wall around the incinerator to prevent the contamination extending further into the environment. The cost estimate done by the DEP relates to its proposed remediation strategy.

HOSPITALS - MANDURAH DISTRICT

Budget

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

(1) What was the budget for Mandurah District Hospital for 1996-97?

(2) Has the budget for Mandurah for 1997-98 been finalised?

(3) If so, have funding levels decreased in real terms, and by how much and in which areas?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The budget for the Peel Health Service, inclusive of Mandurah hospital, for 1996-97 was $14.908m.

(2) Yes.

(3) Overall funding for the Peel Health Service, inclusive of Mandurah hospital, has not decreased. The operator of Mandurah hospital, Health Solutions (WA) Pty Ltd, has been contracted to maintain the same levels of service activity as in 1996-97.

FUEL AND ENERGY - ENERGY RESEARCH AND DEVELOPMENT CORPORATION

Disbanding

774. Hon HELEN HODGSON to the Leader of the House representing the Minister for Energy:

(1) Is the Minister aware of recent statements by Sustainable Energy Forum chairperson Gordon Thompson, reported in *The Australian* on 26 August, that the Federal Government's decision to axe the Energy Research and Development Corporation has put Australia's leadership role in sustainable energy development at risk?

(2) What effect has the Federal Government's decision to axe the ERDC and cut back on energy efficiency programs had, or is it likely to have, on Western Australia's sustainable energy development industry?

(3) What programs does the State Government have, either in place or planned, to ensure that such short-sighted federal decisions do not adversely affect Western Australia's innovative sustainable energy sector?

(4) Will the Minister table the State Government's policy on sustainable and renewable energy research and development?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The Federal Government's decision to disband the ERDC will mean that those seeking funds for energy research and development will have to seek funds from other sources. These sources could include the federal Department of Industry, Science and Tourism, which potentially provides around $500m for programs under the general heading of "R & D Start". The main effect on Western Australia of the decision to cut back on energy efficiency programs has been the cessation of the enterprise energy audit program, which included the accreditation of energy auditors, and the cessation of the national energy awards and support for the national house energy rating scheme.

(3) The State Government's Alternative Energy Development Board provides money for research and development, as well as for information, demonstration and promotion of sustainable energy use. It is developing a list of alternative sources of funds for research and development. The Office of Energy is developing, with the Federal Government and other State and Territory Governments, a way of continuing the accreditation of energy auditors by the Institution of Engineers. Western Australia runs its own energy efficiency awards. The Office of Energy is managing support for the house energy rating scheme.

(4) The State Government's Alternative Energy Development Board is finalising a strategic plan following the changes made by the Commonwealth. When this is provided the Minister for Energy will consider it in the wider context of relevant work undertaken by the state owned utilities, and will be able to provide a policy relevant to the current circumstances of sustainable and renewable energy research and development for Western Australia.

HOUSING - KEYSTART LOANS LTD

Mortgages - Success Rate

775. Hon RAY HALLIGAN to the Minister representing the Minister for Housing:

(1) What percentage of Keystart home loans are successful?

(2) In what way does the Keystart program benefit those in the community who are unable to obtain bank loans?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Over 97 per cent of all Keystart loans are successful. Since the inception of the program 21 000 loans to a value of $1.6b have been provided. Currently there are approximately 12 500 loans in the scheme for an outlay of $900m.

(2) Keystart plays an important part in the home finance industry. Keystart represents a bridge between conventional home finance in the private sector and the rental market. It gives people who would otherwise have to rent publicly or privately an opportunity to own their own home. The private sector deposit requirements are, by necessity, higher and most Keystart applicants do not qualify for those loans. As a low deposit scheme Keystart enables those people to go from rental housing to home ownership. I am pleased to inform the House that the scheme has not cost the taxpayer one cent. Home ownership is the dream of 95 per cent of Western Australians, and many members of this House will have helped their constituents into home ownership through this scheme.

The recent Census shows that home ownership in Western Australia is currently at 67.7 per cent, whereas six years ago it was 66.5 per cent. Although there has been a marginal increase, the level of home ownership in Western Australia is below that of Victoria - 70.8 per cent. Given that 95 per cent of Western Australians want to own their own home, there is a responsibility on this Government to ensure that people have access to home ownership.

EDUCATION - SCHOOL PSYCHOLOGY SERVICE

Restructuring

776. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

Some notice of this question has been given.

(1) Does the Education Department plan a major restructuring of the school psychology service?

(2) If yes, when will this occur?

(3) Under the restructuring, will non-psychologists from within the Education Department and outside the department who have no experience in educational psychology be able to apply for senior management positions?

(4) Is it true that the ratio of school psychologists to students will be reduced from 1:1 300 to 1:2 000?

Hon N.F. MOORE replied:

I do not have an answer to that question. I ask that it be placed on notice.

ABORIGINES - COMMUNITY PATROLS, MANDURAH

Budget Allocation

777. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Aboriginal Affairs:

Following a visit to Mandurah by the Premier the *Mandurah Telegraph* reported after the April 1997 Budget that the Government had allocated $50 000 for an Aboriginal community patrol in Mandurah and $33 700 to support the operations of regional Aboriginal justice councils and the regional commission of elders covering Peel.

(1) How has this money been spent?

(2) If the money has not been spent, when will it be spent, and for what specific purposes will it be used?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) The Government did not allocate $50 000 to an Aboriginal community patrol in Mandurah or $33 700 to support the operations of regional Aboriginal justice councils and the regional commission of elders covering Peel.

HEALTH - RADIO FREQUENCY RADIATION

Research

778. Hon E.R.J. DERMER to the Minister representing the Minister for Health:

(1) Has the Minister examined the discussion paper prepared for the commonwealth Department of Communications and the Arts by the committee on electromagnetic energy public health issues, entitled "Strategy for an Australian research program into possible health issues associated with exposure to communications equipment"?

(2) Has the Minister considered the findings of this committee that cellular and animal level research is required to establish a cause and effect relationship involved in the epidemiologically identified association between disease conditions and exposure of humans to radio frequency radiation?

(3) What steps has the Minister taken to expedite the progress of this research?

(4) When does the Minister expect results of this research to be available?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) I am aware of the paper which has been examined by officers of the Health Department.

(2) I am advised that the report refers to a commonwealth allocation of funds for research purposes. I will consider the findings when research is completed.

(3) This is a commonwealth initiative of interest to state health authorities. I support this initiative and I am interested in the outcome of the research.

(4) The allocation of funds to this research has only recently been announced and it is too early to predict when results will be available.

HEALTH - PEEL HEALTH SERVICE

Human Resources and Administration Manager

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

(1) Can the Minister confirm that Peel Health Service has advertised for a level 7 human resources and administration manager.

(2) If yes, will this position be located at Pinjarra Hospital?

(3) If yes, why is a level 7 human relations officer required at the planned 30-bed hospital?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(3) A position for a level 7 human resources and administration manager has been advertised. The selected occupant will occupy the Peel Health Service's area office at 110 Pinjarra Road, Mandurah and will be expected to be involved in human resources and administration matters covering all the Peel Health Service's sites. The human resource and administration manager is required to be involved in matters occupying the entire Peel Health Service and not just Murray District Hospital in Pinjarra.

RESTRAINING ORDERS BILL - PROCLAMATION

780. Hon CHERYL DAVENPORT to the Attorney General:

Now that the restraining orders legislation has received royal assent, when will the Act be proclaimed?

Hon PETER FOSS replied:

Monday.
