STANDING COMMITTEE ON UNIFORM LEGISLATION AND GENERAL PURPOSES

ACTS AMENDMENT AND REPEAL (COMPETITION POLICY) BILL 2002

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON MONDAY, 28 APRIL 2003

Members

Hon Adele Farina (Chairman)
Hon Paddy Embry
Hon Simon O'Brien

Committee met at 2.39 pm

ASHFORTH, MS KATY
Manager, Legislation,
Department of Agriculture,
examined:

BOWDEN, MR IAN
FESA Legal and Legislation Officer,
Fire and Emergency Services Authority of WA,
examined:

CRIBB, MR BARRY
Manager, Land Boundary Services,
Department of Land Administration,
examined:

FENNER, MR GARY
Valuer General,
Valuer General's Office,
examined:

GRAY, MR GORDON
Legal/Policy Officer,
Department of Consumer and Employment Protection,
examined:

HALLIDAY, MR ROBERT
Chief Executive Officer,
Perth Market Authority,
examined:

HANCOCKS, MR SIMON
Senior Policy Officer,
Department of Conservation and Land Management,
examined:

HOLLAND, MR GREGORY
Director, Management Services Centre,
Edith Cowan University,
examined:

MAUGHAN, MR TREVOR
Manager, Legislative and Legal Services,

Department for Planning and Infrastructure,
examined:

MORRISON, DR DAVID
Director, Structural Policy,
Department of Treasury and Finance,
examined:

NEWCOMBE, MR GARY
Director, Policy and Education,
Department of Consumer and Employment Protection,
examined:

STOKES, MR GARY
Chief Executive Officer,
State Supply Commission,
examined:

THOMSON, MR NEIL

Principal Policy Officer,
Department of Treasury and Finance,
examined:

The CHAIRMAN: I welcome everyone and thank you for attending today's meeting at short notice. These proceedings are being recorded by Hansard. Have you each signed a document entitled "Information for Witnesses", and have you read and understood it?

The Witnesses: Yes.

The CHAIRMAN: If you quote from any document during your evidence, will you give the full title of the document so that it can be recorded by Hansard. The transcript is a matter of public record. If for some reason you want to make a confidential statement or a private statement during today's hearings, you will need to advise me so that we can take the necessary steps to close the session so that your evidence can be taken in closed session. Details of the transcript cannot be made public until the report of the committee has been finalised and tabled in Parliament. Therefore, you need to make sure that you do not publicly disclose any information in respect of today's hearing otherwise you could be in breach of parliamentary privilege. Perhaps we might start with a brief outline of the national competition policy and how it affects Western Australia.

Dr Morrison: I am speaking to some notes that are in a format suitable for showing slides, but I have copies for the three members of the committee. It might be useful for them to have copies at this time.

The CHAIRMAN: The notes are quite detailed, so you will give an abridged version, will you not?

Dr Morrison: The majority of the notes comment briefly on each of the amendments. I will stop after the general introduction, which may suit you better.

The national competition policy is a set of reforms intended to promote competition at all levels of the Australian economy. It represented a commitment by Governments in 1995 to take a national approach to fostering greater competition and the efficiency and prudence which would arise from it. It is often forgotten by people, but it is important to remember that national competition policy is not simply an economic rationalist's perspective. Public interest overrides the consideration of a purely economic rationalist approach. The origins of this were back with the Hilmer review in 1993-94. Subsequent to that, the Council of Australian Governments met to discuss it and Governments agreed that there should be some progression along the lines of national competition policy. There was some research at the time by the Productivity Commission and ultimately three agreements on competition policy were agreed to in 1995, with all State Governments, Territories and obviously the Commonwealth being signatories to those agreements.

The three agreements are the competition principles agreement, which includes areas such as legislation review, which we are talking about today. The omnibus Bill that we have is the result of the legislation review program. There is also the conduct code agreement, which has to do with reforms to the Trade Practices Act to make it applicable to government instrumentalities insofar as they carry on a business. There was also an agreement to implement national competition policy and related reforms, which included a bit about payments.

I shall talk briefly about public interest. As I have said, competition policy is not just about competition for its own sake but public interest, which includes broader community goals. Those goals include social welfare, environment and regional development as well as economic goals. Members are probably aware that we have produced two sets of guidelines: the initial one in 1997, which is very comprehensive, on how to undertake a legislation review, and more recently with the new Government we have produced some other guidelines which, while in accord with the first set, spell out a checklist of objectives that must be referred to in legislation reviews or which must be adhered to, putting an emphasis on environmental and regional development and social welfare goals.

The review process is as follows: each amendment in the Bill has already been subject to a legislation review in accordance with clause 5, which relates to legislation review, and also clause 3, because some of the amendments relate to competitive neutrality reviews. The reviews have been undertaken and the results have been found to be in the public interest. Those reviews have involved consultation with key stakeholders, including business, consumers and government where it has been appropriate. They have also been to the Cabinets of the respective Governments, and cabinet permission has been granted to draft and print.

The National Competition Council has a role in these reviews insofar as it assesses jurisdictions each year. That assessment relates in particular to an assessment of whether Western Australia should get payments or not. The federal Treasurer then makes the decision on the basis of the recommendation given to him by the NCC. Therefore, the NCC will assess the State's meeting obligations such as the legislation review program.

[2.50 pm]

Clause 5 of the competition principles agreement requires that new and existing legislation be reviewed. All reviews of existing legislation are required when some restriction on competition is found. A review must be conducted to see whether the restrictions are in the public interest. New legislation with restrictions on competition must go through a similar review process. When Western Australia is assessed by the National Competition Council, it will take into account whether performance has been sufficient to meet the requirements of new and old legislation.

I mentioned that there is competitive neutrality as well as the legislation review. The competitive neutrality applies to whether government businesses should or should not have advantages over private sector competitors, and whether it is in the public interest to have that advantage. There are state policies that involve competitive neutrality. That goes along with payments made to the State.

Western Australia has so far received all payments in full, including those going back to 1997-98, when the competition payments were around $21 million. There are various tranches of payments. The current tranche means that the next payment will be worth about $74 million a year to the State.

It is important to recognise that in using the omnibus Bill rather than passing individual amendments separately, it was important to consider that the least controversial reviews were part of the omnibus Bill. If controversial matters were made part of the Bill, it would be a painstaking and slow process - it might never get an outcome. This aspect was referred to in the Treasurer's second reading speech, and also picked up by the Leader of the Opposition when outlining that, by nature, the Bill did not involve major reforms; it was referred to as housekeeping and relatively small changes. By and large, it is not controversial. One aspect was the subject of some questioning in the lower House.

The omnibus Bill will amend and repeal a number of Bills in accordance with the competition review of the laws. The amendments and repeals implement reforms with restrictions that were seen not to be in the public interest.

It is important to make the point at this stage that nearly the entire Bill as it now stands was introduced by the previous Government in a similar form. We can provide details regarding the differences between the Bills. It was in Parliament when the Government changed, and that is one of the reasons it was held up. However, some amendments were removed and a couple of amendments were added to the list. Nevertheless, it is by and large the same Bill initiated by the previous Government and accepted, fostered and slightly expanded upon by the present Government. It might be appropriate to leave it at that by way of general introduction and now answer any questions.

The CHAIRMAN: This Bill represents only part of the amendments required under the national competition policy. Has the balance been attended to in terms of the more controversial legislation that is yet to come before Parliament?

Dr Morrison: Although a number of amendments are to pass separate from the omnibus Bill, these are the less controversial. The most controversial is the one in the Press currently; that is, the retail trading hours review, which is still in progress. A few of the most controversial matters are yet to be introduced into Parliament.

The CHAIRMAN: Do they all need to be passed by 30 June?

Dr Morrison: They do. That is what the National Competition Council is telling us it needs. It will say we have not passed the legislation, and that, under our obligations, we have not implemented and completed all our reviews by that time. I think you will find that all jurisdictions will not quite meet that standard. That does not mean to say that all jurisdictions will overlook this matter, but it is possible that they will not meet all obligations. Clearly, the omnibus approach was important to us because we realised we needed to get legislation through quickly. The omnibus Bill was seen to be a way of doing that.

The CHAIRMAN: I think you touched on the advantages and disadvantages to Western Australia of the national competition policy. Can you briefly outline them?

Dr Morrison: In summary, it is meant to introduce reforms that favour competition, but only when it is in the public interest to do so. These amendments reflect reviews conducted by the State that found the changes concerned to be in the public interest. In addition, they affect whether the State will get the payments. The more reviews we can say that have led to changes in legislation by 30 June, the bigger the payment will be.

The CHAIRMAN: Are the consequences of not having the legislation passed by 30 June a reduction in payment to the State?

Dr Morrison: The NCC will not be drawn on exactly what different things might mean. Certainly, if it saw that Western Australia had not passed a reasonable number of amendments, it would be a worse situation than if it found that Western Australia had done so. We are presently writing a case upon which Western Australia will be assessed for payments. It would be strengthened by passing the Bill.

Hon SIMON O'BRIEN: My question concerns the public interest assessment. I imagine that the assessment is a many and varied thing in the field of national competition policy. Are any criteria laid down in the intergovernmental agreement or other factors laid out to make up the definition of "public interest" in conducting reviews?

Dr Morrison: Neil is flicking through the material for it now. Part of the Competition Principles Agreement specifies the matter that may be taken into account in determining the public interest. It lists a broad range of matters. At the bottom of that reference, other matters are listed that can be taken into account, including ecological sustainability. It might be appropriate for me to provide the documentation. I could read it out if you like.

Hon SIMON O'BRIEN: It is probably not that brief. It would help if you could provide a reference.

Dr Morrison: I believe the committee already has a copy. I refer to the Competition Principles Agreement, sections 1(2) and 1(3).

The CHAIRMAN: We will source that later.

Hon SIMON O'BRIEN: That is just for the record. We may comment on that aspect when reporting to the House.

You touched on the consequences for Western Australia if the Bill were not passed by 30 June. You indicated that it is something that cannot really be measured at this stage. What impact would result if Parliament were to say that it would not repeal the Bread Act?
[3.00 pm]

Dr Morrison: This is where the National Competition Council will not be drawn. We had them over recently and grilled them with all the questions we could ask, but when it came to them saying which way they would play it they were not forthcoming. They said things such as that if we had not substantially completed our review and reform program we would be worse off from a payments perspective than if we had substantially completed it. They also indicated an interest in high-profile reforms predominantly, but also stressed that we needed to complete the whole program. These are not particularly high-profile reforms, but they are part of completing the program.

The CHAIRMAN: We will move on to consider the repeal of the Bread Act. Mr Newcombe, what is the likely effect of the repeal of the Bread Act on the baking industry in Western Australia?

Mr Newcombe: Effectively none because the Act is not really in effect. I have a one-page summary, which I can hand to the committee. That is probably the quickest way to deal with things.

The Act has three essential effects. One is that it requires all bake houses to be licensed. The Act says they are to be licensed to satisfy the requirements of the Act and the Factories and Shops Act. There are no licensing requirements in the Act itself. Therefore, they cannot be satisfied. The provisions in the Factories and Shops Act were replaced with occupational safety and health legislation in 1987. There are no criteria for licensing and there is no licence fee. However, there is a penalty of $400 for not having a licence.

The Act also controls the delivery of bread. Provisions require that bread must be delivered between 4.00 am and 6.00 pm Monday to Saturday or 5.00 to 9.00 am on Sundays. They are subject to change as a result of ministerial discretion. In 1995, all metropolitan delivery was

deregulated by ministerial decisions. There were no controls from 1995 for metropolitan areas. Since May 1997, every request for an exemption to those delivery times has been granted. In effect, from May 1997 there has been no regulation of delivery times. It means that one of the core principles of the Act is not in force.

The third provision is that all bread delivery vehicles must have certain markings on them; that is, they must show the name of the bake house or the proprietor and the word "bake" or "bakery" in letters of at least 100 millimetres in height. That is still a requirement, but since the controls on delivery times became ineffective there is no point in requiring people to have their vehicles marked. In fact, it is a significant cost to businesses to do that. Small businesses cannot lease a delivery vehicle; they must have one specially painted. The three elements of the Act no longer apply; they have not applied. The review process was conducted briefly in 1998. It was public; there was an advertisement and the major stakeholders were written to. Only four written submissions were received, all of which supported the repeal. There have been no complaints; the department does not receive complaints about this legislation. Our general view is that no-one will notice it has gone.

The CHAIRMAN: Okay.

Hon SIMON O'BRIEN: I think that pretty well summarises it.

Hon PADDY EMBRY: By delivery, do you mean from the bakery to the retailer?

Mr Newcombe: Yes.

Hon PADDY EMBRY: Is much bread home delivered?

Mr Newcombe: It is delivery from a bake house to a retail outlet. The provisions also control the acceptance of deliveries. It is not home delivery; it is delivery from bake houses to retail premises.

Hon PADDY EMBRY: In other words, if a retailer is open for late-night shopping the bread must be delivered by 6.00 pm?

Mr Newcombe: Unless there is an exemption, which is the case at the moment. That is what it was intended to do - bread has to be delivered within those times. If retailers were selling later than that they could not accept more bread for delivery after that time. Because of ministerial decisions that provision has not been replaced.

The CHAIRMAN: I think that covers the Bread Act. Will you speak on any other Act?

Mr Newcombe: The Hire-Purchase Act.

The CHAIRMAN: We will have to do things in order otherwise we will get lost.

We will move on to consider the Wheat Marketing Act. When did the Wheat Marketing Board cease operation?

Ms Ashforth: 1997 or 1998. I am not sure exactly which year because there were substantial amendments to the commonwealth Act in both years. It had ceased by 1998 and become the Wheat Marketing Authority. It had very different functions; basically to control the export of wheat from Australia, which is a function that can be carried out by commonwealth legislation. There is no need for any complementary state legislation. Although it was never repealed, this Act has been incapable of operating since then.

The CHAIRMAN: The impact of its repeal will be nothing?

Ms Ashforth: Yes.

The CHAIRMAN: Okay.

Hon SIMON O'BRIEN: Redundant.

Hon PADDY EMBRY: Although it is repetitive, I want it clear in my mind that this legislation will have no effect on the single-desk status for export wheat.

Ms Ashforth: No, it will not. That is entirely under the commonwealth Act.

Hon PADDY EMBRY: Thank you.

The CHAIRMAN: We now move on to consider the Bush Fires Act. There are a series of amendments with respect to this Act. Mr Bowden, could you run through each of them?

Mr Bowden: Certainly. The legislative review of the Bush Fires Act that we undertook determined that although the Bush Fires Act restricted competition in a number of areas such as the control of the lighting of fires and what people could and could not do with fires, the restrictions were in the public benefit. As such, they were allowed to remain. The only restriction that we needed to make a legislative change to was to remove restrictions on competition. Section 33 of the Act relates to firebreaks. It empowers local governments to direct landowners and occupiers to make certain provisions on their land regarding hazard reduction, firebreaks and so forth. We determined that it was potentially an advantage to the public sector because although the private sector could be directed by local government to spend money on firebreaks, there was a perception that that section of the Act does not bind the Crown. It meant that a state government entity in competition with the private sector would not have to address firebreak matters. By making section 33 apply to state government entities, it would bring things to a competitively neutral state.

The CHAIRMAN: What sort of cost will there be to government?

Mr Bowden: We do not believe that the costs are going to be great, because good risk management suggests that those sorts of things should be done anyway. People with properties should take normal perimeter firebreak measures that are likely to be required by local government. We do not see it as a costly measure; we see it as good risk management.

The CHAIRMAN: Do you have any idea whether it is currently being undertaken by government agencies?

Mr Bowden: To be honest, no. The amendment that the Bill will put through will make provision for the entities to which it will apply to be named in the regulations. The next step is to go to Treasury and discuss the entities that are required to have competitive neutrality and then talk to those bodies to get some feel for what impact it may have on them.

The CHAIRMAN: At this stage those bodies have not been consulted?

Mr Bowden: No. At this stage there is nothing that binds those bodies either.

The CHAIRMAN: Do you have any idea which bodies are likely to be affected? I would imagine that the Department of Conservation and Land Management is one.

Mr Bowden: Before the changes CALM might have been. It may well affect the Forest Products Commission - basically anything in competition with the private sector. The gold entities will probably be involved as well. I do not have a list with me. We will seek Treasury's advice on which bodies are potentially affected. As I said, we will then talk to them.

The CHAIRMAN: David, do you have any idea which bodies they will be?

Dr Morrison: In terms of competitive neutrality it will be bodies that have a significant business arm or are involved in business, not a government department as such.

The CHAIRMAN: You do not have a list?

Dr Morrison: We have a list of government entities that are already subject to competitive neutrality. They tend to be government business enterprises such as the Water Corporation and Western Power. The larger government businesses are already subject to competitive neutrality in other respects.

The CHAIRMAN: They would not necessarily be attending to firebreaks at the moment. That would be an additional cost.

Dr Morrison: I would not know.

Mr Bowden: We would hope that they would be doing that as part of risk management of their own assets and the State's assets. Until we get into individual consultations we will not know.

Hon SIMON O'BRIEN: Just to approach it from the other end, have you any examples in which private sector businesses may have been disadvantaged by the way the Bush Fires Act is currently drafted?

Mr Bowden: No, we do not see any disadvantages. That was a result of the legislation review. It was not a case of individual circumstances bringing that to our attention. We were required to look at the Act and see whether there was potential for that sort of discrimination.

Hon SIMON O'BRIEN: It is literally the national competition policy review alone that has given rise to this amendment?

Mr Bowden: That is right.

Dr Morrison: I might just clarify that. Competitive neutrality has an aspect that states that a government business should be subject to the same regulations as a private sector competitor or the private sector unless it can be shown to be otherwise in the public interest. That is where this is coming from, although it did arise from a legislation review. It is in accord with that principle. It would need to be established that it is not in the public interest to treat them the same if we were to stop this from applying to all government businesses.

Hon PADDY EMBRY: You say that the greatest emphasis is on the public interest. I will quote a couple of examples for your response. I will talk about Main Roads. It is obligatory for a farmer to put a firebreak inside his land. It is not obligatory for Main Roads to put a firebreak on its. Many fires are started on the roadside. That has significant financial cost to a farmer if it gets onto his land. The purpose of a farmer putting a firebreak against the road fence is primarily to safeguard his land against a fire started on the roadside. Main Roads do not put in firebreaks. It is a very significant cost if the emphasis is on the public interest compared to Main Roads not being a business.

[3.15 pm]

The same applies to parks and reserves. In order for a farmer to get compensation for damage to his property from a fire that was caused by another farmer, he must sue that farmer. However, national parks are excluded from that. That is very much a financial interest when a party is affected. Will the managers of national parks be obliged to follow good practice and conduct controlled burning in those parks? Will they be required to clear internal firebreaks on the boundaries of the national parks, just as farmers whose properties adjoin national parks are obliged to do?

Mr Bowden: I will touch on the issue of Main Roads. Other issues besides fire prevention and fire safety impact on what Main Roads does and does not do on roadsides. It must consider issues regarding roadside vegetation, for example, and environmental concerns, including biodiversity and animal habitats. The brief of the current legislation review related solely to national competition policy. Therefore, we have not addressed issues such as national parks and Main Roads.

Hon PADDY EMBRY: In practice, people are charged money to go into national parks. Therefore, it is not equitable for the onus to be completely on the private shareholder. Main Roads, for example, does not conduct any controlled burning; the local volunteer bush fire brigades do that. Although Main Roads considers that it is occasionally necessary to conduct controlled burning, it never does it.

Mr Bowden: The matter of who owns the roads must be taken into account. Local governments own some roads and have some responsibility for roadside verges, and the State, through Main Roads, owns others.

Hon PADDY EMBRY: I refer specifically to Main Roads. Some of the road verges in the more recently developed areas are very wide. In the area in which I live, for example, they are in excess of five chains. It would become a very major inferno if it were to catch alight.

The CHAIRMAN: Are these amendments to the legislation intended to bring the Department of Conservation and Land Management and Main Roads into line with requiring the -

Mr Bowden: I understand it is not.

Dr Morrison: While conducting the legislation review, we had to consider restrictions on competition. In this case, we considered there was a restriction on competition because a government business could have been favoured over a private sector competitor. However, in this case, there is a much wider public interest issue, which has been acknowledged at this committee today. This Bill will allow the minister discretion over which departments or businesses would be listed. Although the origins of this relate to competitive neutrality and competition, broader public interest issues are involved. The Department of Treasury and Finance has not been involved in prescribing exactly which businesses would be listed. However, from a competitive neutrality perspective, they would be the businesses that are already subject to competitive neutrality. As I said, we acknowledge that wider public interest issues are involved.

Hon PADDY EMBRY: If the authority or the organisation that decided whether something was in the public interest recommended that Main Roads conduct adequate controlled burning and create firebreaks, could the minister determine whether that would happen? Could the minister override the recommendations of his advisory board or whatever, which it decided were in the public interest?

The CHAIRMAN: As I understand it, those government agencies to which these amendments will apply will be listed in the regulations. As is usual, the regulations would be tabled in Parliament for disallowance. Effectively, the minister, the Cabinet and then the Parliament would have to tick off on them.

Dr Morrison: That is right.

The CHAIRMAN: We do not know what they are now, but we might have an opportunity to comment on that later.

A number of amendments have been suggested for the Chicken Meat Industry Act. Ms Ashforth, will you explain the amendments as a general introduction before we ask questions.

Ms Ashforth: There are three main amendments. One amendment would remove the requirement under section 17 of the Chicken Meat Industry Act for agreements between growers and processors of broiler chickens to be in a prescribed form. Although the prescribed form will remain, it will not be mandatory for them to use it. However, if they do use it, certain other provisions of the Act will come into play.

Another amendment removes the requirement for ministerial approval to establish a processing plant. That is another approval that is no longer necessary. Certain things in the industry - for example, planning, health, occupational health and safety issues - must be approved by the Department for Planning and Infrastructure and the Health Department. The Minister for Agriculture does not need to give his approval as well.

The other main amendment is to insert a capacity for the regulations to prescribe requirements that growing premises will have to meet to be approved by the Chicken Meat Industry Committee. Growing premises will still need to be approved; however, the committee will not be given broad

discretion. The requirements will be set out in the regulations and they will limit the committee's ability to approve or not approve submissions.

The CHAIRMAN: Why will the need for ministerial approval to establish a processing plant be removed, yet the requirement for ministerial approval for growing premises be kept?

Ms Ashforth: They are slightly different, of course, anyway. However, approval to establish a processing plant in this case is given by the Chicken Meat Industry Committee, which has been set up to exercise certain functions under the Act. The industry apparently accepts that the committee must exercise its function in the approval process, whereas it does not consider it necessary to get additional ministerial approval to establish processing plants. I do not have a lot more background information on that matter. I have not been closely involved in the review or its findings. However, the review was conducted in close consultation with the industry, and that amendment was agreed to. They are the three main amendments to which all the other amendments relate.

The CHAIRMAN: You said that the industry was widely consulted. How did the industry react to the potential impact the proposed amendments would have on the industry?

Ms Ashforth: The industry supports them. It considers them to be warranted and acceptable.

The CHAIRMAN: The committee would like a brief overview of the proposed amendments to the Conservation and Land Management Act.

Mr Hancocks: The amendment to remove section 140 of the Conservation and Land Management Act would remove a provision which, to our knowledge, has never been used. That provision prevents land that has a certain area of plantation trees to be rateable to local governments. In the early 1980s, the State Government bought private land in the south west for plantations. The land then came under the control of the Crown. The shires of Nannup and Bridgetown-Greenbushes lobbied the State Government against the program. They said that if the buying program were forced on them, they would be disadvantaged because of the loss of rateable land that would be available to them. Therefore, Cabinet decided that rates would continue to be paid for lots purchased, which is the current situation. The effect of removing this provision is virtually nil.

The CHAIRMAN: Does that also apply to plantation forests?

Mr Hancocks: It applies to plantation forests on private land. Plantations on crown land are not rateable under the Local Government Act.

The CHAIRMAN: Does that not raise issues of competition neutrality?

Mr Hancocks: Not at this time, because those plantations have not been transferred to the Forest Products Commission. When or if that land can be given to the Forest Products Commission, the commission is required under its Act, which is competitively neutral, to pay to the Department of Treasury and Finance a tax equivalent to the rates.

The CHAIRMAN: Is that a tax equivalent to the rates for the period of growth, or just for the years in which the plantations will be harvested?

Mr Hancocks: It will be for the period that the Forest Products Commission holds it.

The CHAIRMAN: Do you mean for the period in which the Forest Products Commission holds it or the period in which CALM previously held it?

Mr Hancocks: When the land goes across to the Forest Products Commission, it will be under the regime whereby tax equivalents must be paid.

The CHAIRMAN: Are those tax equivalents paid to the local authority?

Mr Hancocks: No. The tax equivalents go to the Department of Treasury and Finance.

Dr Morrison: The rate equivalents go to Treasury and therefore to the consolidated fund as distinct from being paid directly to local government. The tiers of government have an arrangement

whereby they keep neutral the current revenue shares that each has. The State Government does not pay its rates to local government but keeps an equivalent amount. Similarly, in dealing with the Commonwealth Government, the State keeps an equivalent amount of its income tax payment on its businesses. The idea of these equivalents is that they do not change the relationship between the different tiers of government in terms of the revenue they collect. That longstanding arrangement goes back to an agreement between the different tiers of government.

The CHAIRMAN: Let me get this clear. Each year, is money paid from the State Government to the departments or agencies through the budget process and then is the tax equivalent paid back to the Department of Treasury and Finance?

Dr Morrison: The rating applies only to government businesses, but it becomes an income of the consolidated fund, which in turn pays out to different government agencies, of course, through the budget process.

Hon SIMON O'BRIEN: I have a problem with the same point. Will rate-exempted state forests become rateable?

Mr Hancocks: Effectively, plantations are grown on several different land tenures. Freehold land is still held in the name of the executive director of the department, and some plantations are planted on state forests and some on timber reserves, which are non-rateable because of the Local Government Act provision.
[3.30 pm]

Some plantations are planted under timber sharefarming agreements, which are agreements with private landholders. In that latter case, the landholder is liable for the tax or rate unless there is some arrangement in those timber sharefarming agreements. I understand that those timber sharefarming agreements do not address rates. So, when we refer to plantations, there are a number of different land tenures and a number of people who hold the land.

Hon SIMON O'BRIEN: Understood. Will the effect of these changes to the Conservation and Land Management Act 1984 be to require any party to pay more by way of rates than he otherwise would have paid or perhaps has not planned to pay under his own business plan?

Mr Hancocks: It is possible that the Forest Products Commission would pay that money to the department, if it were deemed liable for the rates, because we recover our management costs. The department holds the land but the commission markets the timber and has contracts for its felling and sale.

Hon SIMON O'BRIEN: Would any private business find itself with an extra expense?

Mr Hancocks: No, it would not.

Hon SIMON O'BRIEN: Okay. I return to the issue of your department's potential liability. What sort of amount could we be talking about?

Mr Hancocks: I do not have a figure for that.

The CHAIRMAN: Has the Forest Products Commission been consulted on the amendments to this legislation?

Mr Hancocks: Yes, it has.

The CHAIRMAN: Has it stated a position?

Mr Hancocks: It agreed that these provisions were virtually inoperative. On that basis, I think it decided that it would not object to them going. Bear in mind that when the review was undertaken, it was during a transitional period when the legislation was changing. However, it was involved all the way through until what was the forest products division within the Department of Conservation and Land Management eventually became the Forest Products Commission.

Hon PADDY EMBRY: Perhaps you covered this point and I did not understand your explanation, but you started off by saying that there was an unfair situation in which the local authority was missing out. How will that change under this legislation? If the money that you pay is to be paid to the State Government, in what way does that benefit the local authority?

Mr Hancocks: Where there were large land purchases in the Blackwood Valley, the two local governments that I mentioned put a case to the Government that they would be disadvantaged, because the land then became non-rateable. The Government at the time said that it recognised that, and that it should pay the rates. That has happened to this day. They will not be disadvantaged at all.

Hon PADDY EMBRY: Are you saying that some of the money that is paid to government will actually go back to the local government?

Mr Hancocks: Yes.

The CHAIRMAN: Just for those shires?

Mr Hancocks: Yes, that is where those -

Hon PADDY EMBRY: Does it affect only those shires that have a lot of state forest and therefore have a low rateable area?

Mr Hancocks: No, this is actually private land that was purchased and placed originally with the Conservator of Forests as a body corporate, and then when CALM came into being in 1985, the executive director was a body corporate that assumed the responsibilities and assets of the former forests department or the Conservator of Forests.

Hon PADDY EMBRY: Will this apply equally to the plantations in which CALM has a share - as opposed to arrangements where perhaps the landowner gets a percentage of the cut rather than an annual payment? Does it apply to CALM, as the managing agent for an overseas company, which, in most cases, is paying for it? Does that apply to a share farming arrangement as well?

Mr Hancocks: When the CALM amendment legislation and the Forest Products Act came into operation on 16 November 2000, all the timber sharefarming agreements went to the Forest Products Commission, so if those agreements provided that the executive director was to pay rates, it would then become the Forest Products Commission that would pay the rates. If they do not provide for that, the status quo will have been maintained in that transfer of responsibility.

Hon PADDY EMBRY: Thank you. From what date will the change take place, and are you looking at any form of retrospectivity?

Mr Hancocks: You mean as a transfer of land to the Forest Products Commission?

Hon PADDY EMBRY: As regards the rating. Will the legislation be retrospective or will it operate from the date the legislation comes into effect?

Mr Hancocks: The liability for rating, to be changed by the removal of section 140 of the Conservation and Land Management Act, would be from the day that this legislation comes into effect.

Hon PADDY EMBRY: So it will definitely not be retrospective?

Mr Hancocks: Not to my knowledge.

The CHAIRMAN: We will move on to the Eastern Goldfields Transport Board. Trevor, please state your full name.

Mr Maughan: Trevor Maughan, Manager, Legislative and Legal Services, Department for Planning and Infrastructure.

The CHAIRMAN: Will you give us an overview of the proposed amendments to this Act?

Mr Maughan: Yes. These amendments flow out of the national competition policy review of the Eastern Goldfields Transport Board Act. They relate to commercial neutrality. The board provides public transport services in the Kalgoorlie-Boulder area. In addition to those public transport services that are subsidised by the Government, it also undertakes contract work, under which contract it competes with other busing companies, specifically in relation to the transportation of passengers to mine sites. It also does some general contracting work. To ensure that the pricing at which it is able to put buses out to the public is the same as the price that a private supplier can meet, we decided that it was appropriate that the shield of the Crown be removed and that it be subject to local rates and taxes as its competitors were.

The CHAIRMAN: Just for the contracted service?

Mr Maughan: No, it will be for the whole of the authority's and the board's functions.

The CHAIRMAN: But it currently does not have any competition with public transport?

Mr Maughan: No, it does not.

The CHAIRMAN: Thank you. We will move now to the Edith Cowan University Act.

Mr Holland: Thank you, Madam Chair, my name is Greg Holland and I am here representing Edith Cowan University.

The CHAIRMAN: Again, could you outline the proposed amendments?

Mr Holland: Certainly. The intention of the amendments to the Act is to provide Edith Cowan University Council with similar investment trust powers to those currently available to the other three public universities in Western Australia. Those universities are covered by their own Acts and statutes. We are looking at repealing one section in Act and putting in place another to give the university similar powers to invest moneys for trust and for surplus funds that are not used for daily operational purposes. Many of the changes are based on the Murdoch University Act. We are really asking for parity with the other Western Australian-based universities. This issue has been outstanding for about 10 years. We are keen for it to proceed, and I am happy to answer any questions.

The CHAIRMAN: There must have been some initial reason, when the legislation was passed, that those powers were not provided. Can you explain what those reasons were and what has changed?

Mr Holland: No, I cannot, Madam Chair. I was not around at the time and, from going through the files, I cannot inform myself why that happened when the ECU Act came into being.

The CHAIRMAN: I note that you said that the amendments are based on the Murdoch University Act. Was there any reason that Act was chosen as opposed to the University of Western Australia Act or one of the others?

Mr Holland: UWA and Curtin University of Technology have different things within their objects and operations as universities. Edith Cowan University is similar to Murdoch University, so we felt that that Act would be more than adequate to provide for Edith Cowan University Council to have those powers to invest.

Hon SIMON O'BRIEN: So you will basically be on an identical playing field as Murdoch University. Will that also put you on par with the other universities or will there still be some disparity?

Mr Holland: No, there will not be any major disparity at all. The differences within the UWA Act and the Curtin University of Technology Act are fairly minor and they are peculiar to those universities. We have used the Murdoch University Act because it is very simple in its wording and it gives us the ability we need to manage the business of the university, which is very different today from when ECU was brought into being.

The CHAIRMAN: Thank you. We will move now to the Gold Corporation Act. No? Its representatives are not present. We might come back to that Act with the Treasury officials later if there are any issues. We will move to the Hire-Purchase Act.

Mr Newcombe: My name is Gary Newcombe, Director of Policy and Education at the Department of Consumer and Employment Protection.

Mr Gray: My name is Gordon Gray, Legal Policy Officer of the Department of Consumer and Employment Protection.

The CHAIRMAN: Please outline the amendments.

Mr Newcombe: Again, I have a short handout if that is useful.

The CHAIRMAN: Fantastic. That is very useful, thank you.

Mr Newcombe: Essentially, this is an amendment to the operation of the Hire-Purchase Act. It will result in it not applying generally, but in some provisions of the Act continuing. I will briefly run through the Act. The Hire-Purchase Act is consumer legislation. It was one of the first pieces of consumer protection legislation to be introduced. It regulates three aspects of hire-purchase transactions; the information you get before you enter into agreement and the actual agreement itself; certain conditions and warranties that are implied into each hire-purchase agreement; and the rules about the termination and repossession of goods that are subject to hire-purchase. The Act also contains some provisions that provide extra protection for farmers who obtain products on hire-purchase.

The Act itself has had a major change in its impact since the introduction of the Consumer Credit Code in 1996. The Consumer Credit Code now applies to all consumer credit transactions in this State. In fact, it is uniform legislation. The Hire-Purchase Act now applies to only commercial hire-purchase transactions and not consumer transactions, which it was initially introduced to do. All other States in Australia have repealed their hire-purchase legislation. The review was conducted not only because of national competition policy but also because the Legislative Council Standing Committee on Legislation, which considered the Consumer Credit Bill when it went through Parliament, originally recommended that the Hire-Purchase Act be reviewed within a year of the new legislation coming into operation to see whether it was worth it continuing. There were two drivers for us to look at the legislation. The review was done in 1996. As you can see, again it was a public review. It was publicly advertised and also directly brought to the attention of stakeholder groups. Thirteen submissions were received, mostly from the finance industry, but also a joint one from the major consumer representatives in this State. The vast majority of submissions were in favour of repeal. Indeed, the finance industry has for a long time sought to have this legislation removed because this is the only State that has it. The major reasons for its removal were that it applied only to commercial contracts and was intended to apply to consumer contracts.

There is a national market for finance in Australia. This is the only State that has this legislation. It actually increases the cost of hire-purchase in Western Australia because forms and so on are produced just for this State. This legislation has been repealed in all other States and no problems have been identified in those jurisdictions. Commercial clients are generally able to look after themselves better and in fact are generally more concerned about tax and cost issues than implied warranties. The Trade Practices Act has specific provisions for business in relation to unconscionable conduct and so on, so there are other provisions now in place that were not present when the Hire-Purchase Act was introduced. As I said, hire-purchase is the only form of commercial finance in Western Australia that has its own form of legislation. We do not have legislation for leasing, for instance.

The major issue about the repeal of the Act was the additional protection it provides to farmers. I will briefly explain that. The additional protection for farmers under the Hire-Purchase Act relates to repossession. It enables a farmer to take court action to defer repossession if he has not met his

payments for up to 12 months if he can establish that because of seasonal variation in farm income within that 12-month period he could meet the repayments.

[3.45 pm]

That was a concern because that is in addition to what is in the Consumer Credit Code. It is not currently in the Consumer Credit Code.

What has been proposed is hopefully the best of both worlds; that is, the Hire-Purchase Act will not continue to apply to new hire-purchase agreements entered into after the amendments come into operation. It will continue to apply to existing hire-purchase agreements; they will all be subject to these provisions. However, three provisions will continue to operate. Section 24 enables the court to reopen harsh or unconscionable hire-purchase agreements. This is slightly wider than some of the other provisions, so we have recommended that that be continued. Section 25 - the power of the court to deal with repossession of farm goods - has been retained. Farmers will retain the right to defer court action for 12 months if there is repossession action. The section that sets out the right of the hirer to any surplus if goods are repossessed and sold has also been retained. If the goods are repossessed and sold and there is a surplus, it goes to the hirer and not the person providing the finance. As I said, it will continue to apply to those hire-purchase agreements that are currently in force.

The CHAIRMAN: You mentioned that the majority of the submissions received supported the repeal. What were the concerns of those that did not support the repeal?

Mr Newcombe: The major concern was that if it were to be repealed, the special protection for farmers would be lost. There was certainly some concern about that. During the review process the decision was made that that was an additional protection that should be retained.

The CHAIRMAN: During the review process was the amendment to the Consumer Credit (Western Australia) Act also taken into consideration with respect to the Queensland template legislation?

Mr Newcombe: No. I think the review was conducted around 1996 to 1998. The review of the Hire-Purchase Act predates the proposal to go to template legislation. However, the option of template legislation was around at the time the Consumer Credit Code was first introduced. As far as its impact on hire-purchase, the way the Consumer Credit Code operates has no impact. It covers the field in terms of consumer transactions. It will not impact on hire-purchase agreements whether it applies as state or template legislation. At the time of this review, the Consumer Credit Code was applied by state law and the understanding was that that was how it would continue to apply.

The CHAIRMAN: So the passage of the Consumer Credit (Western Australia) Amendment Bill 2002 will have no impact on these proposed amendments?

Mr Newcombe: No. All it will do is change the way in which the Consumer Credit Code is amended on a continuing basis.

Hon PADDY EMBRY: Was the concern about the farmer hire-purchase shared by other States or is Western Australia going to be in a unique position?

Mr Newcombe: Some other States have particular protection provisions for farmers. I cannot recall if it is all of them but certainly New South Wales does. We will not be completely different but it is not unanimous. It is very fair to say that the major agricultural States -

Mr Gray: Queensland has a separate Act - the Credit (Rural Finance) Act - that operates in the same way as our protection for farmers in the Hire-Purchase Act.

Hon PADDY EMBRY: Are you are saying that you do not anticipate that will be a problem for the commonwealth authorities?

Mr Newcombe: No.

Hon PADDY EMBRY: Thank you.

The CHAIRMAN: Thank you. We will now move on to the Licensed Surveyors Act. I am not sure who wants to take the lead on this. We need a brief explanation on the proposed amendments.

Mr Maughan: The legislative amendments achieve two outcomes. First, they change the composition of the board by removing the Surveyor General as the ex officio chairman of the board and they provide for the appointment of a member of the board by the Governor. It changes the two memberships that are currently nominated by the Surveyor General. One will now be recommended or nominated by the chief executive officer to represent the interests in relation to land registration matters. The second will be the nomination of the minister to represent users of licensed surveyors; that is, a consumer representative. The other amendments reflect that simple change in the composition of the board.

The next thrust of the amendment is in respect to section 7 and it narrows the criteria on which a licence can be refused. Current provisions talk about a person being of "good fame", and the opportunity was taken to modernise the language just a tad, so we have now set out the criteria on which the licence can be refused.

The CHAIRMAN: It seems that these amendments do not really bear directly on national competition. Obviously, through the review, these matters have come to your notice and you have decided to take the opportunity to amend them, or am I missing something?

Mr Maughan: The review was open to the public, and public submissions were received. It was therefore thought appropriate to be cognisant of those amendments where possible. With respect to the composition of the board, it is far more equitable to have a consumer representative on the board than members of the one cloth deciding on all licensing issues. In fact, it makes the board more accountable and transparent in its operation.

Dr Morrison: In terms of national competition policy, the issue of the professions comes up quite often. As Trevor has said, this says that it may not be in the public interest to have just one profession controlling a board that governs that profession. It might be in the public interest to have other views or representations than that coming from one profession.

Mr Cribb: Five of the six members on the current board are licensed surveyors. The current constitution suggests that that would remain. This opens it up for there to be equal representation for surveyors and consumers. The Act is there to protect the consumer - not the surveyors. That seemed to be a fair amendment as a recommendation from the competition policy review.

The CHAIRMAN: Thank you. Next up is the Perth Market Act. I understand that there have been some recent developments with respect to this Act in that there is a proposal to remove these proposed amendments from the omnibus Bill. Is that correct?

Ms Ashforth: Yes, to either remove a couple of proposed amendments or to alter them somewhat.

Dr Morrison: My understanding is that it relates not to the whole of the amendments but only to the closing time powers. It is something that the Deputy Premier referred to in debate in Parliament and said that he would confer with the Minister for Agriculture about that one part of the amendment.

The CHAIRMAN: I am not too sure which officer wants to take the lead but could someone explain broadly the amendments that are proposed and the further amendments that may come up in the Legislative Council in relation to the discussions that occurred in the Legislative Assembly?

Ms Ashforth: The ones that are at issue with the Act are the repeal of section 11A, which is the main one; and section 11B, which is related to section 11A and has no meaning without it. Those provisions give the authority the power to say when the market will be open and when particular classes of people can come in to do business. That can be enforced because it is an offence to fail to comply with the terms of notice. The amendment to repeal those provisions was recommended

because they can appear, on the face of them, to either impose restrictions or, more realistically, to have the potential to impose restrictions, depending on what the notice actually says. A lot of other public markets operate without those provisions and it was thought that the Perth market could do the same. It is better not to have restrictions on the face of the legislation. However, the recommendations were framed in a way that could imply that something was going to be put in its place when in fact it was not. When the Perth Market Authority realised the full extent of the amendments, when they were introduced, it had certain objections that Robert can fill you in on.

Mr Halliday: The authority has a very open market. Anyone can walk into the market 24 hours a day, seven days a week. One of the areas of control that the authority has is restricting when a buyer can physically come on site and go through the produce and decide what it is that he wants to buy. That is the only control the market authority has. Section 11A of the Act works in reverse to what a lot of people thought and ensures competition. If people can come in 24 hours a day, seven days a week, they can pick the eyes out of the produce that has only just arrived on a truck or produce that is in short supply or demand. By controlling market hours under the current section 11A of the Act, we give everyone the opportunity to know when the market is open. It is then up to them whether they want to go there at that time or not. That is primarily the only control the market authority has in terms of trading.

Hon SIMON O'BRIEN: Can you provide a hypothetical example of how that works in practice?

Mr Halliday: Yes. Market inspectors control access by buyers to the site, who generally arrive early. The markets currently start at 5.30 am, so a buyer will generally turn up about 5.00 am.

Hon SIMON O'BRIEN: Therefore, midnight to 5.30 am, for example, is a chunk of the 24-hour day when the market is closed pursuant to section 11A of the Act as it currently exists?

Mr Halliday: That is correct in terms of buyers being able to access the central trading area, which is one large building.

Hon SIMON O'BRIEN: Can you continue with your example?

Mr Halliday: This disadvantages many of the country buyers. They have fair distances to travel, so they cannot always be at the markets earlier than somebody else to pick the produce that they want. Setting market hours would make it fairer to country buyers, city buyers and supermarkets. If they want to view the produce and make a purchase, then the opening hours are from 5.30 am to 12 midday Monday, Wednesday and Friday. On Thursdays and Tuesdays it is from 7.00 am to midday.

Hon SIMON O'BRIEN: The hours you have just outlined are the actual implementation of section 11A?

Mr Halliday: Correct.

Hon SIMON O'BRIEN: Correct me if I am wrong, but it is now contemplated by this Bill to repeal section 11A. Is that matter that has now come up in the Assembly as possibly one to be revisited before the Bill passes through the Council?
[4.00 pm]

Dr Morrison: The Deputy Premier has indicated he will do that with the Minister for Agriculture.

The CHAIRMAN: I understand that the Bill removes the power of the authority to restrict the establishment of other markets.

Mr Halliday: That is correct. A number of subsections have been removed from section 13. The authority did have the power to restrict where other wholesalers could operate from and how close to the site they could operate. Auctions could only be undertaken by the authority. They were the main ones. The authority has no problems with that at all.

The CHAIRMAN: Has the authority refused the establishment of new markets in the past?

Mr Halliday: No, it has not.

Hon SIMON O'BRIEN: I had better ask this just for the record, though I do not know if it will be possible to answer it, and I understand it is not. If the intention of the repeal of section 11A were to implement national competition policy, what would be the effect of not now repealing section 11A?

The CHAIRMAN: The argument is the protection of national competition policy. It is just a different spin on restricted hours.

Hon SIMON O'BRIEN: Yes. Could we sustain an argument, if we were of a mind to do so, that Mr Halliday offered, that in fact section 11A enhances competition or would we fall on the sword of saying that we are keeping a regulated regime? Is that being decided somewhere else at this time?

Dr Morrison: This is only an opinion, but I suspect that the National Competition Council, if it were to look at this particular Act and reform, would see that the more substantive reforms were being carried out, but that this one relating to hours, particularly if you can find a public interest reason that justifies it, would be relatively small. I think that these issues will be discussed between the Deputy Premier and the Minister for Agriculture. I would have thought that they would find that those powers would enable them to really restrict competition, even though they might not have done so in recent years. They would be the real, material restrictions in this case rather than the setting of hours.

Hon SIMON O'BRIEN: Clearly it has been signalled in another place and now here that this will be a debate of substance when the Legislative Council considers part 11, so it is probably worth spending just a couple of minutes on it. Has section 11A been used as a disciplinary tool from time to time by restricting certain buyers from participating?

Mr Halliday: Not certain buyers, but any buyer who transgressed the opening times would initially be warned and then get a legal letter on the second offence. On the third offence we prosecute through the courts.

Hon SIMON O'BRIEN: It is not used to stop one buyer?

Mr Halliday: No, all buyers.

Ms Ashforth: That is quite an important point. It appears that in the lower House the Treasurer's concern was that the discrimination - they do not call it discrimination - the distinguishing between classes of people and so on may occur between buyers, in favour of one buyer against the other or in favour of one seller against the other. That is not the intention. It has never been used in that way. If there is some discussion about what amendments might be made instead of the wholesale deletion of the repeal, it might be to make that a bit clearer.

Hon SIMON O'BRIEN: Just to make sure I have it absolutely clear, as it stands now if the authority decrees that 5.30 am will be the opening time for buyers, that is the time for all buyers. It is not as if buyer A can start at 5.30 am and buyer B must wait until 9.00 am. It is one law for everybody. To look at the flip side of that, if the 24 hours per day were a full 24 hours per day, from what you have observed of marketing over the years would it tend to discriminate against small concerns that cannot afford to have buyers on site 24 hours a day?

Mr Halliday: It certainly would, because a lot of the smaller shop owners and keepers come to the markets early in the morning to buy and then go back to their store, put up their display and start selling. They are usually one or two-people enterprises. Twenty-four hours opening causes a number of problems for when growers can pick and deliver to the markets. The growers know when the markets are open, so they arrange for their produce to be picked as late as possible and delivered prior to the opening time so that it is at its freshest and lasts the longest. The growers would have a problem with when to deliver their produce. It could well be sitting around theoretically for 24 hours before anyone does anything with it. The wholesalers will have a very distinct cost impost by having to man their tenancy the whole time, because there are 24

wholesalers who are rather fiercely competitive among themselves. As soon as one broke - by which I mean decide to deal with the buyer two hours before everyone else - they would all start having to do the same sort of thing to be competitive. It would create a lot of cost.

Hon SIMON O'BRIEN: I think you said that at the moment on Monday, Wednesday and Friday it is basically a 5.30 am to noon operation and on Tuesday and Thursday it is later.

Mr Halliday: That is correct. It is primarily put back later for country buyers, to give the country buyers a chance to get to the markets on Tuesdays and Thursdays, which is their preference.

Hon SIMON O'BRIEN: Opening times then were 7.00 am to midday again, were they?

Mr Halliday: Yes.

Hon SIMON O'BRIEN: If we are looking at a 24-hour operation, even on five days a week, that would mean a huge increase in opening times, would it?

Mr Halliday: That is correct, because they can also access the site on Sunday and pick up deliveries that have been pre-ordered by phone, fax or e-mail. There are also wholesalers who are primarily supplying supermarkets and the major retail outlets that need to stock up on the Sunday because they had had good weather and had presold on the Saturday. It is basically a fairly active market throughout the week.

Hon PADDY EMBRY: Just to summarise to be clear in my mind, the market will be open for business for fewer hours in the day than currently, will it?

Mr Halliday: No, that will not change at all. The market hours now have been in place for three years. That was by universal decree of buyers, growers, wholesalers and everybody, so that does not change. If section 11A were removed, it would encourage local buyers to jump the gun and get in early before other people can get on site, whether they are 30 or 300 kilometres away, and get to the markets to purchase the best available and what might be in short supply.

Hon PADDY EMBRY: I understand that. That is why I am suggesting that the hours would be slightly restricted.

The CHAIRMAN: They will not be restricted; they will stay as they currently are.

Hon PADDY EMBRY: That is what I mean. We are talking at cross-purposes but saying the same thing. It should in practice reduce the cost because they will not have to be there for insurance, staffing and all sorts of arrangements. You anticipate they would have had to be there 24 hours a day before. Now, with what you are proposing, they will not have to be.

Mr Halliday: What we are proposing is to keep what we have currently got so that the costs are as minimal as possible. If section 11A is removed, the costs and the hours for site access will increase.

Hon PADDY EMBRY: That is what I meant. I am just tackling it from a different direction.

Ms Ashforth: The thing is not necessarily that the authority needs section 11A to say what time the market will open. It runs the market, so it can say that the market will be open 5.30 until 7.00 am, as it does now. However, it has no teeth to enforce that by virtue of the way that its markets generally in Perth operate. It would be ineffective and would therefore in practice lead to what Robert says.

Dr Morrison: From a competition policy perspective and how Western Australia might be assessed by the National Competition Council, if it became an issue, it could only be an issue if there were discrimination beyond that which would be justifiable in the public interest. Obviously a public interest case has been sketched here, but if there were discrimination powers that went beyond that into things that might not be fair for buyer versus buyer or whatever, there could be an issue.

The CHAIRMAN: We now move on to the Sandalwood Act. Mr Hancocks, would you give us a brief outline of the proposed amendment?

Mr Hancocks: Currently under the Sandalwood Act 1929 the amount of sandalwood that can be pulled or removed from private land is limited to 10 per cent of the sandalwood that can be pulled throughout the whole of the State. That is set by order of the Governor under that Act. Removal of this section would allow the quantity of sandalwood to be pulled from private land to be assessed on an environmental basis rather than as a percentage of the aggregate. Its removal will not have a great effect on the private land sandalwood because most of that land has already been cleared for agriculture. From time to time sandalwood does become available in the wheatbelt area when it has been killed by a fire. Because the roots, all the branches and the trunk are used, the dead sandalwood can be used.

I have here some copies of the last sandalwood order, which was made in 1996. That order limits the amount of sandalwood that can be pulled in the State to 3 000 tonnes per annum. That is split between 1 500 tonnes green and 1 500 dead, so currently private land is restricted to 300 tonnes, which is 150 tonnes dead and 150 tonnes green. I would doubt whether there would be 150 tonnes green available in any one year. The removal of sandalwood from future farms effectively paid for a lot of land clearing in Western Australia. That is why the Act with a limitation was introduced, so the sandalwood resource would continue to be able to supply a market that its exploitation had created. It principally comes these days from crown land.

The CHAIRMAN: How would the proposed amendments impact on the sandalwood plantation industry?

Mr Hancocks: In 1996 the Act was amended to exclude sandalwood in plantations. That was to encourage investment. That followed on from research in the Ord River area where basically people were trying to find good hosts in a subtropical environment because sandalwood is a hemiparasite. Some investment for Indian sandalwood has gone into the Ord River area. The Act does not say "native sandalwood" but just defines it by genus. *Santalum albida* is Indian sandalwood, which people are trying to grow in the Ord River area.

The CHAIRMAN: What level of consultation on these proposed amendments has occurred with respective stakeholders?

Mr Hancocks: There was lobbying in 1996 for the plantations to be removed. That was effectively the only barrier, because the State controls the industry through contracting for both the pulling and the sale. If you have a contract to purchase a certain amount of sandalwood, all you are worried about is being provided with it by the contractors who are pulling for the Forest Products Commission.

[4.15 pm]

The CHAIRMAN: Is that the Forest Products Commission?

Mr Hancocks: Yes. It is the same process as with the CALM Act. The review was under way when the decision was made to split the Department of Conservation and Land Management.

Hon SIMON O'BRIEN: I notice you used the term "pulling" rather than "harvesting". Does that indicate the plant is pulled out root and all?

Mr Hancocks: Yes. We rely on natural regeneration. It does not shoot back to grow a tree. The scent from sandalwood is in the wood in the roots as well as in the branches and trunk.

Hon SIMON O'BRIEN: You gave the figures from the 1996 licensing regime determination indicating that 10 per cent is to be taken from private sources. How is that amount allocated? Is it first come, first served or a historical level?

Mr Hancocks: The licensing is controlling by CALM; we control the licensing part, and the contracting part is controlled by the Forest Products Commission on crown land. Licensing only

applies on private land because the FPC does not have a role. We have advertised for expressions of interest and followed through with inspections. We found some people were a little ambitious about the amount of sandalwood on their property. If someone has a small amount, we decline to go through with the process. If they insist, we know we have to follow through with that requirement. Some people have been found to have nil, yet they put themselves up as proponents of private land sandalwood. That is a mystery in itself.

Hon SIMON O'BRIEN: I am trying to get a handle on the sandalwood industry, which flourished well before my time - I think. How many businesses or private operators would rely on sandalwood for income at the moment?

Mr Hancocks: I do not have the figures at hand. One large company has contracts to be supplied with a substantial amount. A company in Albany run by Steven Birbeck called Mt Romance Australia Pty Ltd utilises what used to be waste. It is such a scarce resource that even the sawdust of sandalwood is valuable enough to obtain a product. The FPC could provide information on the annual amount contracted.

Hon PADDY EMBRY: The best quality sandalwood comes from the root system rather than from branches. I am interested that a push was made some years ago. A concern was expressed in many areas that sandalwood was being eradicated from pastoral country. People wanted a plantation industry to replace what was becoming extinct in the State; they hoped it would become an expanding industry. With the long time it takes for sandalwood to mature, I wonder whether enough plantations are replacing sandalwood from pastoral land. Has the long growing time proved to be too large a hurdle?

Mr Hancocks: That is still rolling along, because sandalwood is planted as an extra species on timber share farming land and planted as part of rehabilitation for biodiversity conservation reasons. It is going in. As a result of the long lead time, it is hard to get the investment bodies outside of somewhere like the Ord River, which uses an exotic species. For example, if we were to buy a block of land on which sandalwood used to exist, and we started from scratch, it would take a long lead time before getting a product. It would tie up the land.

Hon PADDY EMBRY: One would be growing it for the grandchildren, not the children. It is a problem to spend a lot of money on that venture.

Mr Hancocks: Yes.

Hon PADDY EMBRY: I am interested that the percentage of harvestable sandalwood with plantation timber will need to change in due course as the industry develops.

Mr Hancocks: The 10 per cent figure relates to naturally growing sandalwood. The plantations are exempt from the operations of the Sandalwood Act. If you could effectively grow it on plantations on private land, no limitations would apply.

The CHAIRMAN: Thank you.

Mr Stokes: I am Gary Stokes from the State Supply Commission.

The CHAIRMAN: Could you briefly outline the proposed amendments?

Mr Stokes: This provision specifically relates to stamp duty. When government disposes or wishes to dispose of an asset by bundle packaging assets, it is seen that it gives the public sector an unfair advantage over the private sector, which does not have that means available to it. The change will not affect our operations.

The CHAIRMAN: What sort of revenue can the State expect to receive from stamp duty?

Mr Stokes: Probably very little in relation to this proposal. In fact, it was indicated as part of the review process that little cost or benefit would accrue to the State by having this amendment. I

cannot recall when the last disposal of asset took place under our Act. It was some time ago. It might have been government print.

Hon SIMON O'BRIEN: What sorts of assets are we talking about - motor vehicles?

Mr Stokes: No. We are talking about government businesses. Where the Government wants to sell a body like state print, for example, and transfer it into a corporate vehicle, no stamp duty would be payable under the current scheme. The exemption will disappear, so we will be on the same footing as the private sector. It is not allowable for the private sector to bundle assets into a corporate vehicle in which it sells shares at a lower stamp duty rate. The amendment attempts to make a level playing field.

Hon SIMON O'BRIEN: If I were a buyer on the open market and state print came on the market - winding back the clock a little - it would be more attractive to buy state print and avoid the duty on the purchase than to buy an equivalent printing business and pay the duty. Is that the idea?

Mr Stokes: Not quite. We are talking about a stamp duty exemption when the State transfers assets from government to a corporate vehicle, as in a holding position, if you like, rather than directly to the buyer. The Government, for example, might set up a company structure, and transfer a body like state print to that entity. It would then sell that asset rather than sell it as a direct printing works. It might sell by way of shares or whatever else. The transfer to the intermediary is currently exempt from stamp duty.

Hon SIMON O'BRIEN: Would this in any way involve the sale or transfer of land?

Mr Stokes: No. Our Act deals only with goods and services; we have no jurisdiction over land whatsoever.

The CHAIRMAN: But if the Government -

Mr Stokes: Yes. If the Government were selling it as a package, it would be possible to do so if it were placed in a corporate vehicle.

Hon SIMON O'BRIEN: I am thinking of something like the Hope Valley-Wattleup redevelopment.

Mr Stokes: That is unlikely. This amendment is more about selling businesses. We are talking about situations like selling the Water Corporation by sliding it into a corporate vehicle.

The CHAIRMAN: Imagine the stamp duty payable on that one!

Hon PADDY EMBRY: You would not want to sell it on the amount of water involved! Western Power is an example of a minimum amount of land, but a huge amount of infrastructure.

Mr Stokes: Indeed.

The CHAIRMAN: Thank you very much, Mr Stokes.

Mr Fenner: I am Gary John Fenner from the Valuer General's office.

The CHAIRMAN: Please briefly outline the proposed amendments.

Mr Fenner: I have some notes that are more copious than the committee will need, but it is better that way than not being expansive enough. I start on page 2, which is the commentary part of the submission rather than the background, which goes into ancient history. Section 51 deals with spelling out the qualifications of the Valuer General's position if and when it is advertised. Basically, it shifts from listing specific qualifications to a more general description of the suitable qualifications of a person. While I do not personally agree with this change, I can see the need for the State Government to comply with national competition policy guidelines and remove certain specifications. I think the wording has gone as far as possible to ensure at the end of day that one has a valuer as Valuer General, rather than someone who has no valuation qualification. The wording still falls within what is allowed under national competition policy guidelines.

The CHAIRMAN: Why is the definition of qualification an issue of national competition policy? I would not think it would naturally fall under national competition policy.

Dr Morrison: It is probably a borderline issue, but there is some feeling that it need not be prescriptive in such a position: it might preclude somebody who in all respects bar one is extremely well suited for the position.

The CHAIRMAN: Are you saying that the current legislation states that you must be qualified in -

Dr Morrison: You must have a valuer's qualification.

Mr Fenner: You must be a licensed valuer or be eligible for membership of the Australian Property Institute.

The CHAIRMAN: I understand that with the Planning Appeals Tribunal legislation passed last year, the president of the tribunal is required to have legal or planning experience. I do not see the distinction. Why was this picked up as an issue? There are many other pieces of legislation that state that qualifications are required for various positions.

Dr Morrison: I am sure there are. The only point I make is that it relates to the public interest argument made some time ago. It was why limit people's considerations when assessing relevance for a position? Any competency requirement will relate very much to having knowledge about and being expert in valuations. I think the public interest argument was then simply that it is possible that the selection panel might consider somebody best for the job who has everything but that qualification.

[4.30 pm]

Why put shackles on that choice? I am not saying that is the best public interest argument; it is just my understanding of the public interest argument that was put in the review from your agency and endorsed by the minister at the time.

Mr Fenner: It is also fair to say that when this started we had not had the mortgage brokers outcry. People have become more conscious of regulations and qualifications in the four to five years that have just passed. I was part of the original group; I suppose I was the dissenting part of it. Unfortunately, I have progressed up the ladder and I am sitting here now disagreeing. I thought it was worth recording that I believe the Valuer General should be a valuer. I have done that.

The CHAIRMAN: I would have thought that the public interest argument could have been run the other way; that is, it is in the public's interest more broadly for the person who holds that position to have a valuer's qualifications.

Dr Morrison: That is an interpretation of the public interest. I am trying to recall - I think I have - the argument put at the time, which was for the panel to decide who was best. Obviously, any competency requirement would relate to some knowledge and expertise in the area of valuing.

Mr Fenner: That is the first of the section's amendments. I do not know what happens in the process and whether it is possible to change things at this stage or whether they proceed as drafted.

The CHAIRMAN: The committee is required to provide a report to the Legislative Council. We will make considerations in due course based on the submissions received. We will eventually make a report to the Legislative Council. I cannot pre-empt what those decisions will be.

Mr Fenner: I will courageously proceed and speak my mind.

The CHAIRMAN: Okay.

Mr Fenner: Clause 52 is a straightforward amendment in that the Valuer General's Office, for many years, has made information available to the public. More specifically, information has been made available to various professional groups such as real estate agents, valuers and so forth. The existing legislation was not particularly clear about including the general public in the group that

had access to specifically approved information. I believe the opportunity has been taken here to include that broader class of people specifically. I support that inclusion as it is an area in which we have provided increasing assistance to the property industry so that it is well-informed in its decision-making. As part of that, we have encouraged the public to have direct access to the same information that the property professionals have. I think it is a useful adjustment.

The CHAIRMAN: Just continue. We will raise a question at one point.

Mr Fenner: Clause 53 inserts a new section after section 16. It allows the minister to make and retain copies of information held by the Valuer General and to have the Valuer General's Office staff provide such information. This provision gives the minister substantially increased access to information held by our office. I am not sure whether that was the intention of the amendment at the time. My office relies on confidentiality for a lot of information it collects. We collect rental information and trading figures - information that is supplied by people under compulsion. I am not entirely satisfied that the additional powers do not provide some additional risk to the safety of the information and the integrity of the way in which the office conducts its business. I have some concerns about what the provision does and where it is placed. My understanding is that the intention was to provide the minister with additional information about information collected that may be released under section 14(2) of the Valuation of Land Act, which was mentioned previously. In my view, that would have been a valid reason for the minister to have the additional information. At that point, he or she would assess whether the information on which the public benefit test was to be passed met the hurdle. He or she could approve the release of information for publication. The way in which the new section is worded does not make it come out that way; it has been placed after section 16, which has nothing to do with the topic. We raised this earlier. As I said, it extends the powers of the minister to have copies of information provided. I have some concerns and I do not support the amendment.

The CHAIRMAN: David, did you want to comment?

Dr Morrison: I am not aware of the detail of that. My understanding was that this should have been drafted with the people involved. In this instance, that was not the case, but it should have been. I must admit I am surprised at this stage to be receiving criticism of the Bill, as it has been around so long.

Mr Fenner: I attached a letter in 2000 raising the question of the positioning of this provision. I raised it again in a cabinet comment sheet in which I submitted an attachment about the placement of the provision and its issues. To be fair to David, it may have occurred around the time the original correspondence between the Treasury and me was signed off. It was very close to the time at which my predecessor retired. There may have been a lack of continuity. I know he signed it off and I acknowledge the original sign-off to Treasury of the draft. For the purposes of this exercise, I sat down recently to look at it and I thought it was necessary to bring to the attention of the committee what I feel are its shortcomings. With your indulgence, I have done that.

The CHAIRMAN: I am struggling, because I do not quite understand what information you are particularly concerned about providing to the minister given that the minister would have to comply with the provisions of the Privacy Act at the commonwealth level in disclosing such information.

Mr Fenner: Regarding section 14(2), I have no concerns at all, because it concerns a range of information that we may or may not release under the public benefit test. The clause does not restrict its application to section 14(2).

The CHAIRMAN: That is right.

Mr Fenner: Our office carries out a number of valuations that involve the purchase and compulsory acquisition of land. There is a range of what I consider to be highly confidential and personal detail held. The provisions of the section are very wide sweeping in what the minister can direct that I provide. Currently, if I were in doubt about information to be provided to the minister

because it might breach a transaction partially completed or otherwise, I could at least ask the minister to request it formally in writing so there was a paper trail of what had transpired.

The CHAIRMAN: This amendment would not prevent that from happening.

Mr Fenner: No, I agree with that. I am raising the issue that the amendment goes further than originally intended. In my view, it frees up section 14(2) information and gives the minister additional detail and updates about what information is released under section 14(2). There are two things that should happen. It should be placed in the Act as section 14A, not 16A, because that is information it relates to. The wording should also be looked at.

The CHAIRMAN: I am trying to understand. A minister is not likely to request information about the sale of a person's property if such information is not held publicly or there was no specific reason. Such a request would be put in writing. The minister is subject to privacy laws in making public any of that information. I am trying to understand where is the harm and concern.

Mr Fenner: An example I could give would be a minister who requests specific information -

Hon PADDY EMBRY: Could you speak a little louder, because the years are catching up with me!

Mr Fenner: We are all in that boat!

I was asked about a property for which we carried out specific valuations and I was reluctant to hand over details because I was aware that, at the time, the Department of Conservation and Land Management was negotiating the purchase. I was concerned that the information might be released under parliamentary privilege while the process was almost halfway through. It was a delicate matter.

The CHAIRMAN: I would see that instance as an example of when it is perfectly legitimate for a minister to ask whether you have done a valuation because a government department is purchasing a property. If there is some concern in the mind of the Cabinet or the minister that the property is being purchased at a price higher than its valuation, the minister has an obligation to the public regarding the expenditure of public money.

Mr Fenner: In that case I was concerned that the minister would release the valuation to the party buying the property prior to reaching the point of a formal resumption. It is a relatively isolated example.

Hon SIMON O'BRIEN: What is the purpose of the powers given under proposed section 16A? Why are these new powers suddenly required?

Mr Fenner: I thought they were required to ensure that the minister had absolutely all the information required under the section to make a decision about the release. That is what it should relate to, rather than it being a general provision that applies to everything the office does. Obviously, the release of information under section 14(2) is only a very small part of what the Valuer General's Office provides regarding valuation services. We provide valuations for the Commonwealth Government, the State Government and local governments. Some of those valuations may not be the business of the minister, especially if it relates to the Commonwealth Government.

The CHAIRMAN: Did the committee make any recommendations for this to be amended with any particular understanding; that is, that it would be applicable only to section 14?

Mr Fenner: That was my reading.

The CHAIRMAN: Are there any minutes?

Mr Fenner: I have the original report. I had a chance to look at it briefly over the weekend. My understanding was that it related to section 14(2). I am not sure why it was placed as proposed section 16A; it does not appear to have any relevance.

The CHAIRMAN: Would you be able to provide the committee with a copy of the original report?

Mr Fenner: Yes.

The CHAIRMAN: David, are you aware of any discussions that have occurred since the original report that led to the change?

[16.45 pm]

Dr Morrison: I am not aware of that having happened. That report, of course, was endorsed by the Government of the time. This amendment would implement the findings of that report.

Hon PADDY EMBRY: Is your obvious concern due to your belief that the information that you think should be kept confidential should be put in the hands of as few people as possible? With all due respect, there must be some trust somewhere along the line. Where is the trust within your own department, which has decided not to release the information? I admire loyalty within the department; however, not everyone in your department might be 100 per cent trustworthy. That is a fact of life.

Mr Fenner: We provide what I consider to be relatively delicate information to the Department of Treasury and Finance and the Commonwealth Grants Commission. There are instances when I do not think it would necessarily be appropriate to release information to a minister, even when it is not the same Government or the same minister. Historically, the Valuer General has had to be very tactful and wise in what information is provided, without getting himself sacked or rapped on the knuckles.

The CHAIRMAN: My understanding is that the minister should make a request to the other minister, not directly to you. You can refuse to provide another minister with information on the basis that protocol requires that that minister request information through another minister.

Mr Fenner: In this case, the minister can ask for anything.

The CHAIRMAN: Only your minister?

Mr Fenner: Yes, and she may well ask for something that was relevant to the Treasurer, the Commonwealth Grants Commission or the State Grants Commission. I have laboured the point.

I will touch briefly on one more section. Proposed section 54 is pretty much like the other section to which I referred. It deals with the qualifications of valuers providing valuation advice. I will give committee members enough background to understand it. If a local authority wishes to carry out its own valuations for rating and taxing purposes rather than employ the Valuer General's office, currently under the relevant section, it has to employ qualified valuers. This amendment proposes that a qualified valuer does not necessarily have to be appointed. However, another provision provides that the Valuer General can reject anyone so employed. In view of that section, I do not have a major problem with the amendment. Obviously, the Valuer General could choose not to employ unqualified valuers. He could say that that was not good enough and would not have to accept the work done by those valuers as proper evaluations. Although it would be useful for the Act to provide that qualified valuers have to be employed, indirectly, qualified valuers will still have to be employed. Therefore, I have no major concerns accepting that amendment.

The CHAIRMAN: I find that interesting. Could unqualified valuers conduct valuations for which expenses would be incurred? Could those valuations be submitted to the Valuer General's Office and then be rejected?

Mr Fenner: The amendment indicates that the local authority would have to get approval for the unqualified person to carry out the work before he commenced. Therefore, the work would not be done without the Valuer General's approval. As I said, indirectly, the Valuer General will retain control, without it necessarily being mentioned in the legislation.

The CHAIRMAN: I can see a legal Pandora's box being opened on this issue.

Dr Morrison: My understanding is that the amendment was designed to correct a disparity in the qualification rules between the local authorities and the Valuer General. Is that not the case? There was some disparity about the level of acceptable qualification that a local authority had to hold but the Valuer General did not necessarily have to hold.

Mr Fenner: The amendment simply deletes that provision under the list of say-sos that says a qualified valuer must be employed. It will bring the Act into line with the way the Valuer General has been treated - he does not have to be a qualified valuer under the terms of the Act.

The CHAIRMAN: That is right. I find these amendments curious. I do not know why we are picking on valuers. Why do we not apply the same criteria to doctors or some other profession? It seems bizarre.

Mr Fenner: Four or five years ago it was thought that everyone should be able to have a go at things. I never agreed with that idea in the sense that if a doctor or lawyer were treating me, I would like to know that he was well qualified. Obviously, David is more of a national competition policy expert than me. We were being advised as to what we should do to bring our Act into line.

Dr Morrison: This amendment was suggested with reference to the public interest, as I said before. There is an issue with regard to the professions. Obviously, very high costs can be paid in some professions if people are not appropriately qualified. As I understood it, the intention of these reforms was not to take away people's qualification requirements but to ensure that there was not a disparity between the rules that were applied to local authorities and staff employed by the Valuer General. I understand now and I understood at the time that there was a change to competency requirements for the Valuer General himself or herself rather than a requirement that they be qualified Valuer Generals.

Mr Fenner: It may help to put the matter in perspective. Because I sit on the professional body, I am aware that an Act regulates the licensing of valuers. When this issue was getting going, there was a strong push for the complete deregulation of valuers. Therefore, there would no longer be a licensing provision. Of course, when the major blow-up occurred with the mortgage brokers situation, we needed to demonstrate control over who was saying what and to restrict what advice people could give. Those sorts of proposals, particularly under the current Government, have been well and truly put out of our thoughts. Victoria deregulated valuers - which it now regrets - but all the other States have changed their views on those things. To some extent, the discussion we are having today is more a reflection of a fair few thoughts which were put together four or five years ago and which finally made it to draft legislation. Quite a few people - myself included - have rethought what went into some of that proposed legislation. I have expressed my opinion about the proposals by coming here today and having a few negative things to say.

The CHAIRMAN: David, I would appreciate it if you would come back to the committee with some justification for why these amendments should be supported, why there is a distinction with respect to valuers and no other professions and how it serves the public interest. I would have thought that the public interest was best served by protecting their interests. I do not know how non-licensed people carrying out work is in the public interest.

Hon SIMON O'BRIEN: If it is in Mr Morrison's capacity as director of the competition policy unit, in addition to that query could he give me some indication of the status of compulsory selection criteria generally across the public sector. The Valuer General's Office is, of course, established by statute, as are other offices, whereas Mr Morrison's position, for example, is not. A requirement for a number of positions across the public sector would include essential selection criteria. Those criteria may include a qualification, whereas in other cases the criteria might be couched in terms similar to those in clause 51(1), which refers to a broader range of skills applicable to the position. If this is being done in isolation, perhaps we should consider it from that

point of view. However, if it has been happening generally across a number of statutory positions over the years, we would only be bringing it into line.

Dr Morrison: We could undertake that.

The CHAIRMAN: How long would that take?

Dr Morrison: My staff are all busy, but we could give it priority because we know the importance of the committee finishing its work quickly. We have an interest in getting the legislation through before June 30.

Hon SIMON O'BRIEN: I am asking for a fairly general inquiry. It could possibly be referred to the responsible office of public sector management if it does not come under the heading of national competition policy. If it is not happening across departments as part of the national competition policy, it is probably not right for me to ask this question of you. That is why I raise it now.

Dr Morrison: Certainly the first part of the question goes to the public interest argument. Neil has it written down. That falls firmly within our scope in terms of taking a view across the public sector. We will be in touch with people who have access to that information, so we can probably carry out that research as well.

Hon SIMON O'BRIEN: I would appreciate it if that could be done. It would be useful for the committee to have that information; however, at the same time, I am not trying to load you with an onerous burden.

Mr Fenner: Something that has always appeared in many of the descriptions of who should have what is that they do not necessarily have to be members of professional bodies or be licensed; however, they must be eligible for it. In my view, that makes a broader range of people able to qualify for these positions. For instance, if an academic at Curtin University taught valuation and wished to apply to be Valuer General, he would be eligible to be a licensed valuer and a member of the Australian Property Institute as a certified practising valuer. Therefore we would still retain the ability to attract a person with a suitable background without necessarily blowing the whole lot out of the water and rather than employing someone who simply had been a very experienced real estate agent for the past 20 years or whatever.

Dr Morrison: For example, it could be stipulated that the head of the Department of Health must be a doctor. Obviously, the head of the Department of Health does not have to be a doctor. That is something that we can look at.

Hon PADDY EMBRY: There are obvious advantages in not having someone as a head of a department who potentially has tunnel vision. If I have understood it correctly, surely it is bizarre to think that the Valuer General would appoint an unqualified valuer to value something.

[5.00 pm]

I do not quite understand your concern, because the Valuer General would not do that.

The CHAIRMAN: Why have the provision at all to give him the power to possibly do that?

Mr Fenner: I will give an example. For instance, in Victoria and a couple of other States where there is no requirement for that, a large part of the process has been put out to unqualified people, with the final sign off possibly being done by someone who is qualified. We are seeing quite a fragmentation of the whole process. Some of the more menial or simpler tasks have been put out. For instance our office uses Curtin University of Technology students who are training to be valuers to do a lot of that sort of work, under supervision.

The CHAIRMAN: They are all under supervision.

Hon PADDY EMBRY: I assume that in that case you are not talking about a major aspect of the valuation but a very narrow section of it.

Mr Fenner: Yes, absolutely.

The CHAIRMAN: I am conscious of the time. I will draw this section to a close, with David to provide us with the additional information. How long do you think you will need?

Dr Morrison: The people who do this work are in the process of writing a report to the National Competition Council. Would the end of the week fit in?

The CHAIRMAN: A week today will be fine. How is that? That gives you a little more time. Katy, please provide an outline of the proposed amendments to the Western Australian Meat Industry Authority Act?

Ms Ashforth: These amendments are designed to clearly separate the roles of the authority as a regulator and as a commercial operator of the Midland saleyards. Currently, it is just the Midland saleyards, but the minister has a power to direct the authority to undertake or arrange for the operations of any other facility. That has been limited by the amendments at clause 56(3), so that the minister will do that only if satisfied that the meat industry will suffer substantial loss or disruption. That amendment will mean that the minister cannot just direct the authority to undertake this or that facility, because that would put the authority in conflict with its role as a regulator, say, of an abattoir or something else. If there is good justification, and it is limited, that is regarded as acceptable. It also removes a reference to the review of the operation of saleyards, as opposed to abattoirs and processing works. Again, that is to take away the perception that the authority can regulate, review or control other saleyards, which, to some extent, it might be in competition with. That is basically the effect of the amendments. It adds within the reference to the Midland saleyards a reference to any other undertaking that takes the place of the Midland saleyards, because a replacement is currently in the planning stages. That will avoid a need to amend the Act again to take that into account.

Hon SIMON O'BRIEN: Does the authority currently operate any saleyards or abattoirs other than Midland ?

Ms Ashforth: No.

Hon SIMON O'BRIEN: Can you indicate how many abattoirs and saleyards the authority must regulate around the State?

Ms Ashforth: Not a very accurate one, I am afraid.

Hon SIMON O'BRIEN: Wildly inaccurate will do for today. It will give me an idea of the value of it.

Ms Ashforth: I know there is a saleyard at Katanning. I am not really sure, but we could find out. There are only a few; there are not a lot.

Hon SIMON O'BRIEN: Is there still one at Wyndham?

Ms Ashforth: I suppose there is one somewhere up north. I reveal my ignorance of the practicalities of the industry in this regard.

Hon PADDY EMBRY: I suggest that it probably affects places where only sheep are sold, and not cattle.

The CHAIRMAN: I do not know. Why would you say that?

Hon PADDY EMBRY: Because the meat authority took over from the Lamb Marketing Board in many ways. Is there not a connection there?

Ms Ashforth: Are you thinking of the Meat Marketing Corporation?

Hon PADDY EMBRY: Yes.

Ms Ashforth: That was a different entity. It became the Western Australian Meat Marketing Co-operative, but this is different. You may still be correct in practice. That is where I would not like to comment, but the Meat Marketing Corporation was a different thing.

Hon PADDY EMBRY: Thank you.

Hon SIMON O'BRIEN: The number of enterprises was for my own education. It is not a question on notice.

The CHAIRMAN: What level of consultation has occurred with stakeholders on the proposed amendments? Who has been consulted?

Ms Ashforth: The review took place a long time ago. It was before I was with the department. I understand that all the reviews involved consultation with all relevant stakeholders. I know that these amendments were settled with the authority. I believe that the recommendations of the review were put out to industry and accepted.

The CHAIRMAN: I do not have any other questions. Katy, I am sorry that you had to wait so long for those brief couple of questions. David and Neil, that leads us back to the amendments to the Gold Corporation Act. Will you briefly outline the proposed amendments?

Dr Morrison: The Gold Corporation is not subject to competitive neutrality in the same way as other major corporations and government businesses are. This is simply about introducing to the Gold Corporation aspects of competitive neutrality or making it consistent with the application of competitive neutrality to other major government businesses. The changes to the Act that are needed in order to do that include the removal of the exemption from shire rates and land tax for property owned by the Western Australian Mint. The Gold Corporation is to pay an equivalent amount of shire tax and land tax to the Western Australian Government. That introduces this shire rate equivalent payment to the Government as well as land tax. Another aspect of it is to place the Gold Corporation into the national tax equivalent regime, which confirms the status of the Gold Corporation. Those sorts of payments are already made by the Gold Corporation, so it will not have a financial effect. Finally, a guarantee charge will be introduced, which is designed to allow for the fact that, as part of government, the Gold Corporation gets cheaper finance than private sector competitors might receive.

[5.15 pm]

It becomes a matter of introducing to Gold Corporation some of the same requirements that apply to other major government businesses as part of the competitive neutrality obligations of national competition policy.

The CHAIRMAN: Who are Gold Corporation's competitors?

Dr Morrison: There is certainly no competitor in Western Australia that performs the same role in this State. I understand that there are competitors in other States. There are moves for Gold Corporation to amalgamate with other organisations in an attempt to make Gold Corporation bigger. Gold Corporation has competitors - not that there are many in Australia. I am not particularly well informed on Gold Corporation -

The CHAIRMAN: I would have thought its only competitors would be like bodies in other States.

Dr Morrison: That is true. I am not aware of there being a competitor to Gold Corporation within this State.

The CHAIRMAN: How much revenue could the State expect to receive from the proposed amendments with respect to rate equivalents and income tax equivalents?

Dr Morrison: My understanding is that it would be quite small. Gold Corporation has not been making large profits. Therefore, in recent times, in terms of tax equivalent payments, the revenue

collected would be small. If Gold Corporation were to become more profitable, that would be a different situation. I understand that in recent years it has made very little money, if any at all.

The CHAIRMAN: What impacts are the proposed amendments likely to have on the gold industry in Western Australia?

Dr Morrison: I think there will be very little impact, because it will not have a major effect on Gold Corporation. The gold industry in Western Australia should not be affected very much.

The CHAIRMAN: Do you have any queries Simon?

Hon SIMON O'BRIEN: I think we have covered the issues under other Acts, Madam Chair. Perhaps the comments that arise are best considered in deliberation.

Dr Morrison: The major government businesses in this State are already subject to competitive neutrality in full. At present, of those major government businesses, Gold Corporation is an outlier. It is the only government business that is not acting completely consistent with the requirements of competitive neutrality. This would simply make it subject to that in the same way as the other government businesses in the State and of any scale in Australia. Of all the States, Western Australia has done the least to implement competitive neutrality insofar as it has decided it is in the public interest to exempt more government business in the State than have other States. The issue of Gold Corporation is simply one of it being consistent with the other corporations.

The CHAIRMAN: David and Neil, are there any concluding comments you want to make about any of the issues that we have touched on during today's hearing?

Dr Morrison: Simply to reiterate comments about the payments issue. While, by and large, these are relatively small issues and not big controversial issues, it is important that the legislation be passed prior to 30 June to enable us to build some sort of a case for getting all our competition payments, which would seem to be under some threat.

The CHAIRMAN: I will now generally refer to the potato industry. Amendments are proposed for that legislation but I note that it is not included in this Bill. Will they come up separately?

Dr Morrison: Three issues were outstanding after the last assessment by the National Competition Council. The council will be looking at closely, along with a number of others areas, the matters of retail trading hours, potato marketing and liquor licensing. Potato marketing is an issue that is still potentially under consideration. It has not yet gone forth to the economic review committee - a cabinet committee - that considers competition policy matters. We want to get that up to the ERC as soon as we can.

The CHAIRMAN: With respect to the costs to the State if it does not comply, how is the $74 million payment to the State determined? If there is one aspect that the State does not think is in its best interests to proceed with, even though it may be a requirement under national competition policy, is there a formula or calculation that is used to calculate the cost to the State of not proceeding?

Dr Morrison: The NCC does it in a way that is not quantified. It uses broad criteria when making that determination; for example, how important it is to the economy. If a particular reform is not introduced, what difference will it make? The council also has the criterion that the whole legislation review program should be finished. Most of the issues dealt with today would not have a major impact on the state economy either way. However, they are part of completing the program and in that sense they would be considered. At this stage the National Competition Council is not clear on how it might go about deciding whether, if we do not reform retail trading hours, there will be a 20 per cent or a 10 per cent reduction in payments or whatever. The origin of the payments goes back to the Commonwealth Government being seen to have benefited more from competition reform than have the State Governments. The Commonwealth was the primary beneficiary in terms of having growth taxes that made the gains that would arise from economic growth. Therefore the

States mounted the argument that they should be paid because they were doing most of the reform effort while the Commonwealth was making most of the money out of it. That was the justification for the payments. In the selling of our report this year to the NCC we will be emphasising energy reform, in particular electricity reform, as an area where there are estimated to be much bigger gains than in the things that we have discussed today.

Hon SIMON O'BRIEN: Within the review of legislation to which you just referred, which is reflected in this omnibus Bill, was the Hairdressers Registration Act 1946 considered? I ask that because an amendment for that Act to be repealed now lies upon our supplementary notice paper. It is an amendment to include that provision into this omnibus Bill. Was that Act considered at all in this review?

Dr Morrison: When that Act was originally reviewed it was found to be in the public interest that it be repealed. When considering professions, it was thought that brain surgeons should be well qualified. However, when it came to people cutting hair, it was thought that it did not matter whether a person was qualified. The review originally found that not to be in the public interest. Certainly, anyone cutting my hair does not need to be highly qualified to do so - I even trust my wife to do it! There was an argument that it may not be in the public interest. That was originally put up and it was therefore part of the original amendments that went up in 2000 - do you recall, Neil -

Mr Thomson: I do not believe it was included in the first Bill but subsequent to that there was a further review that -

Dr Morrison: Subsequent to that there was a review.

Hon SIMON O'BRIEN: I recall that some years ago a Bill to repeal that Act was debated and ultimately defeated. I am not sure whether that was in the context of national competition policy, an omnibus Bill or if it was done as a stand-alone.

Dr Morrison: I think it was a stand-alone. It went up by itself but it related to a competition policy review, which would have been done during the life of the previous Government.

The CHAIRMAN: David, can you provide the committee with information about that particular Act; the proposal to repeal it the last time, the reasons for its rejection and why it has not been carried through again? Obviously there has been some reconsideration of the Act.

Dr Morrison: There has been another review that has reached a different conclusion.

Hon SIMON O'BRIEN: In the context of this inquiry the information we want is only in relation to national competition policy, not particular views about whether there should be a hairdressers registration board. That is the limit of this committee's interest. If it is put up as an amendment to this Bill and it has a history in relation to national competition policy, it would be helpful if we could report on it. In that sense we would appreciate the historical information on that Act's earlier consideration.

Dr Morrison: We can certainly chronicle that.

The CHAIRMAN: Thank you David and Neil for attending and for your forbearance through this very long hearing. I declare the hearing closed.

Committee adjourned at 5.26 pm.