

WATER SERVICES BILL 2011
WATER SERVICES LEGISLATION AMENDMENT AND REPEAL BILL 2011

Cognate Debate — Motion

On motion by **Hon Helen Morton (Minister for Mental Health)**, resolved —

That leave be granted for the Water Services Bill 2011 and the Water Services Legislation Amendment and Repeal Bill 2011 to be dealt with cognately.

Second Reading — Cognate Debate

Resumed from 21 June.

HON SALLY TALBOT (South West) [9.08 pm]: Let me indicate from the beginning that the Labor opposition supports these bills. We feel positively enthusiastic about a number of aspects of these bills. Those are, of course, the parts that we had actually drafted before we lost government in 2008. The parts of the bills that we are less enthusiastic about have arisen largely, I suspect, because we are now talking about a delay of four years in getting this legislation into this place. I am sure that the minister—who of course is in much the same position as me, as being a lead speaker in this debate but not actually the person with the portfolio responsibilities for this area—will have something to say about that in her summary of the second reading debate.

We are dealing with a complicated bill in the Water Services Legislation Amendment and Repeal Bill 2011, which is largely a matter of housekeeping and tidying up many existing acts, either by amendment or by repeal, to give us a more streamlined system of delivery of water services. For honourable members who are less familiar with this material—because it is pretty complicated—than those of us who are keen to speak on this bill might be, I should point out from the outset that we are dealing with water services provision; this is the Water Services Bill. We are not, strictly speaking, dealing with water resources—water resources, of course, being the aspect of the provision of water that is often most hotly contested in Parliaments, particularly in a Parliament such as that in Western Australia where we have a dry state and particularly heavy water use in some areas. Members might ask at the beginning of this debate—it is certainly a question I want to pose—why we are dealing with the Water Services Bill, after four years of the Barnett–Grylls government, and not a bill dealing with water resources. Of course, members who have been following this debate over the years will know that it is only in the last two years, or three years at a maximum, that those two aspects of the water portfolio have fallen apart from each other. For many, many years Western Australia has approached the two things together. We can actually walk and chew gum under normal circumstances; we can deal with the very difficult and highly political questions relating to the security of water resources at the same time as we deal with the provision of water services. Unfortunately, of course, the water portfolio has been in the hands of a couple of Liberal ministers who have shown that their capacity to walk and chew gum is, at least on occasions, severely curtailed. It seems to me that this bill that we are looking at today, and the whole issue of water in Western Australia, is one of those clear illustrations of the fact that the government is not able to deal with a level of complexity that it should be quite capable of dealing with.

A paucity of material is now emerging from the government, at least regarding the security of water resources. It has taken us four years to get a bill to the stage at which it comes into the Parliament to deal with the provision of water services. As far as water resources go, we have only got to the stage at which we have a draft discussion paper. After four years, it seems passing strange that that should be the case, particularly, if I may say so, because at a briefing I received recently—not, I might add, the briefing on this bill, for which I thank the minister and the minister's advisers; it was a very competently delivered briefing—on an entirely different subject, when the topic of royalties for regions came up, I was told that the government has a new focus on royalties for regions, and guess what? It revolves around the fact that the government has done an analysis of needs in regional Western Australia and, surprise, surprise, the two most pressing concerns are energy and water. It took the government four years to work out that when it is dealing with a program such as royalties for regions, it actually has to do the work about the priorities in regional Western Australia before it starts doling out the money. Unfortunately, of course, that has not happened, and we will look back on the last four years when a program such as royalties for regions, which should have been delivering an excellent outcome for regional Western Australia, will come to be remembered—it has now become a bit of a hackneyed cliché—as providing singing toilets and plastic cows.

I was very relieved the other day to receive this briefing about a new direction for royalties for regions, but I must say that my relief was secondary to my sense of complete disbelief that it has taken this government four years to realise that the provision of water, and the securing of water resources, in regional Western Australia is one of the most pressing issues. That is a failure that will certainly be written up in the history of this time, but it is one for which the two government parties will be held thoroughly accountable by the electorate, particularly in Western Australia as we move towards the next election in March.

It is a mystery to me as to why we are dealing with only the provision of water services at this very late stage in this government's term of office. Nevertheless, that is where we have ended up at this moment, so let me just outline a few of the provisions of the bills that we are looking at cognately today. As I said, they involve a number of different acts, some of which will be amended. Those are the Country Areas Water Supply Act 1947, the Metropolitan Water Authority Act 1982, the Metropolitan Water Supply, Sewerage and Drainage Act 1909, the Rights in Water and Irrigation Act 1914, the Water Agencies (Powers) Act 1984 and the Water Services Licensing Act 1995. In fact, that latter act is being gutted to the extent that only the plumbers licensing provisions are left in that act, which I think is rather a curious outcome. It seems that the plumbers now have their own act, which might seem to some people to be a slightly odd situation, so perhaps the minister will be able to address that in the second reading summary also.

Four acts are being repealed. Probably the most significant, certainly for anyone like me who is a member for the South West Region, is the Water Boards Act 1904, which is the act that established the Bunbury and Busselton Water Boards. Those two water boards, which currently function quite separately from the Water Corporation, are being, I suppose one would say, corporatised and brought into the Water Corp model. I will have something to say about that in a moment. The other three acts being repealed are the Land Drainage Act 1925, with the Land Drainage (Validation) Act 1996; the Country Towns Sewerage Act 1948; and the Busselton Water Board (Supply of Water to Dunsborough) Act 2009, which is an act that is within the living memories of people in this house; it was dealt with in this Parliament. It is one of many anomalies to do with the fact that the Bunbury and Busselton Water Boards have, as they currently exist, a very, very narrow term of reference, so that when it came to asking the Busselton Water Board to supply water to Dunsborough, it could not do it without a change in the statutes. Certainly, the effect of these bills on the Bunbury and Busselton Water Boards is quite significant.

I want to trace back a bit of the history of the development of water policy over the last decade, since the beginning of the twenty-first century. I noticed that there was a comment in *The West Australian* newspaper at the weekend, I think, that said that the Gallop and Carpenter Labor governments would be remembered for the initiatives that they had taken in water, whereas the Barnett Liberal government will be remembered for the 62 per cent increase in power prices that we have seen over the last four years. Coming up as we were to this debate on the Water Services Bill, I made particular note of that; the critical differences between Labor governments and Liberal governments are already being observed. Of course, *The West Australian* newspaper is not famous for its overblown praise of the Labor Party in this state, so to read that and to realise that it was not a tongue-in-cheek comment and that indeed it was talking about the provision of water security for Western Australia, I thought, was a not insignificant remark by the state daily newspaper.

Some honourable members will remember that when the commonwealth Liberal government of Prime Minister John Howard proposed the National Water Initiative, which is going back nearly 10 years now, it caused some considerable angst in Western Australia, because the Premier at the time, Dr Geoff Gallop, who was, as I have just said, a leader who will go down in history as having had, to refer to the overused term, vision—Geoff Gallop was indeed a visionary when it came to water planning —

Hon Donna Faragher: What about Hon Alan Carpenter?

Hon SALLY TALBOT: When the then Premier, Dr Geoff Gallop, was invited to those discussions about signing the National Water Initiative, he, along with the Tasmanian Premier, decided not to sign. I would be interested to hear what honourable members on the other side of the house thought about that decision. I imagine that in many ways the Liberal Party would have supported that decision. I am not sure about the National Party, Mr Deputy President (Hon Col Holt). You might play your part in this debate at some stage later in the week. But it seemed to me, after re-reading and refreshing my memory of some of the discussion at that time, that in a nutshell Western Australia looked at the National Water Initiative and said, "It's all about the Murray–Darling and it will not deliver any sort of reasonable return to Western Australia so let's not be part of it." That is bearing in mind that water usage in Western Australia is slightly different from usage in other states. We have not over-allocated our water. For example, we use less water in agriculture than other states use. We use an awful lot of it in mining.

It seemed fairly evident in those early days that the National Water Initiative was not going to repay any great dividend for Western Australia. At that stage we did not sign and we were then subject to penalties because it is all about national competition policy. The broad framework was a requirement of all states to modernise their water legislation. That is the link to what we are discussing in the context of this bill. Having decided not to sign the National Water Initiative, Western Australia nevertheless went about modernising its water legislation. We were penalised by five per cent, or \$3.79 million. That and a number of other things led to a reconsideration of the decision made by Dr Geoff Gallop when he was Premier. The Labor Premier who followed him, Alan Carpenter, reversed that decision not to join and Western Australia duly signed up. I believe—the minister may be able to confirm this for me—that that resulted in that amount of nearly \$4 million being repaid to Western

Australia. I understand it was docked as a kind of suspended provision. It is not unreasonable to say that, although the decision not to join at that early stage was one that many members of this house, not just from the Labor Party, would concur with, for the state to find itself subject to such great penalties was more than a little incentive to reconsider that decision.

I would like to hear some comments from the minister about how our involvement with the National Water Initiative has progressed since that time. I will have more to say about this when we go into committee. My attention was drawn to the National Water Initiative 2011 assessment of where the states were up to. Some very troubling comments were made about Western Australia's performance. Because we have a Liberal government, I would be interested to see whether the argument will be put in this place that the reason Western Australia is lagging behind is that we were not signatories at the beginning of the process. As I have pointed out, Western Australia, under the leadership of Geoff Gallop, the Premier at the time, took measures to commence the reform of its legislation. As I said, I will have more to say about that when we go into committee.

As part of that ongoing reform, a review commenced under the previous Labor government in 2007 at the request of the then Minister for Water. As it was presented to me by the advisers, the three key terms of reference for that review were that existing water services laws were outdated, were hampering the efficient delivery of services, did not provide enough protection for customers and the general public and did not support the Minister for Water's role as a policy setter for the sector. That review took a considerable number of months to complete and involved a substantial amount of consultation with community representatives, conservation groups and a number of stakeholders from across the community sector as well as key industry groups such as the Chamber of Commerce and Industry of Western Australia and the Chamber of Minerals and Energy, and the key groups representing pastoralists and agriculturalists in the shape of the Western Australian Farmers Federation and the Pastoralists and Graziers Association. A very large number of people were consulted in getting to the point we have reached today. I understand that the government has made a commitment to continue that degree of consultation. It will be very significant if the government is able to do that.

As the months and the years have gone by and as we have seen this kind of legislation coming into this place, I have noticed that the government starts with good intentions and does a preliminary round of consultations with the key stakeholders. Then, suddenly, as we get closer to the parliamentary processes and the changes of statutes, that level of consultation begins to drop away. When we get to the stage at which we are drafting regulations to put the new statute into effect, the consultation becomes practically non-existent. I would like to hear the minister's comments about how that level of consultation will continue into the future. That is particularly important with a piece of legislation such as this because one of the problems that has been encountered—I referred to it just now when I talked about the terms of reference for the review and not supporting the Minister for Water's role as policy setter for the sector—concerns the development of codes. I understand that one of the first codes that is planned to be developed is a customer code. I felt a little frisson of fear when it was described to me in the briefing—this is no fault of the officers; it is certainly the way the government has developed this narrative—that we are using some of the energy providers as a blueprint for a customer code. That might be laudable on paper but in practice I would suggest that anyone who wanted to go anywhere near Western Power's set-up for a blueprint would perhaps be barking up the wrong tree. At least they would want to phrase their narrative in a slightly different form. It did take me slightly by surprise. I will have a bit more to say about that in a moment.

The development of a customer code is obviously key when it comes to looking at how ordinary working families in Western Australia will be served by this new legislation. I would like the minister—maybe this can be addressed in the second reading summary so that we can move more quickly in the committee stage—to give us a bit more detail about how that customer code is being developed. One of the key aspects of it is how non-payers will be treated. Water is obviously an essential service. Some very interesting projections emerged from the estimates process over the past few weeks with the Water Corporation projecting some very steep price increases over the next three years. That obviously has an effect on people trying to manage their household budget. This is on top of the massive increases in electricity, gas and water that we have seen so far. If we are looking at another substantial hike over the next three years, we will clearly need a very sophisticated and sensitive way of dealing with people who are not able to pay the bills that accrue as a result of those increased charges. I would ask the minister if she can address some of those issues. I am assuming that the minister is the usual minister. Does the Minister for Mental Health have carriage of this bill?

Hon Helen Morton: I do.

Hon SALLY TALBOT: I keep referring to the minister as a "she". I thought that if someone else has carriage of the bill, I had better change that.

We finished the review process somewhere around 2010—I am not sure why it took quite that long—and then the legislation was drafted. I do not understand why it has taken so long; we now have something like seven and

a half weeks of Parliament left, so I assume that the Water Services Bill 2011 is on the list of priority bills that the government is putting up. It does seem to me to be cutting it remarkably fine in a four-and-a-half-year term to be dealing with such a fundamental piece of legislation at this late stage in the government's term of office. Maybe there is a reason that escaped me or maybe there were considerations that were not anticipated at the beginning about why it has taken this long, but I would be interested to hear that explanation if one is available.

I do not understand why Western Australia is not leading the way in dealing with what everybody now admits is a drying climate, whatever words people want to use; if they are reluctant to use the words "climate change", they can use phrases like "rising temperatures" and "declining rainfall". I wonder sometimes whether the government is under the misapprehension that to be called a "biodiversity hot spot" is supposed to be some kind of tourist attraction and that people go to a biodiverse hot spot because they can see lots of creatures there!

Of course when we talk about the south west of the state being a biodiversity hot spot, we are talking about an area that is much bigger than my electorate; it goes a long way north of Perth.

Hon Robyn McSweeney: Come on—you've never been out to half of your electorate!

Hon SALLY TALBOT: I know all my electorate very well, Hon Robyn McSweeney.

Hon Simon O'Brien: Have you been to Esperance yet?

Hon SALLY TALBOT: Esperance is not in my electorate, so —

Hon Simon O'Brien: No, but have you been to Esperance yet?

Hon SALLY TALBOT: — I do not know why Hon Simon O'Brien raised Esperance; we are clearly talking about the electorate of the South West Region, and I am trying to explain to honourable members opposite the difference between the electorate of the South West Region and the biodiversity hot spot. Hon Simon O'Brien is obviously a bit confused about this, so can I just explain that —

Hon Simon O'Brien: No, don't bother; we're not interested in what you want to explain!

Hon SALLY TALBOT: — Esperance is not in the electorate of the South West Region; however, it is in the biodiversity hot spot —

Several members interjected.

Hon SALLY TALBOT: — which, as I am trying to help honourable members by explaining —

The DEPUTY PRESIDENT (Hon Col Holt): Orders, members! Hon Sally Talbot, continue.

Hon Simon O'Brien: Aren't you moving to Mining and Pastoral?

Hon SALLY TALBOT: Oh, Hon Simon O'Brien has a very fanciful imagination—congratulations! Hon Simon O'Brien wants to watch who he is talking to; there are some people around the place who might be leading Hon Simon O'Brien on a bit, and I know he is probably particularly susceptible to being led on in some respects.

I was just referring to the fact that the biodiversity hot spot that is the south west is actually a very large part of Western Australia. We, of course, have accrued that label as a criticism. It is not a good thing; it is a very bad thing to be labelled in that way. It means that we have a very high representation of biodiversity, but that that biodiversity is under threat for one reason or another. That means we have accrued that label because we have a very fragile environment that has been very severely impacted by a number of different factors, including, obviously, climate change, and diseases that are particularly exacerbated by climate change.

But I wonder why, having had such a welter of data from bodies like the Environmental Protection Authority and the Conservation Commission, which, I notice, has been very active over the past few months—I congratulate the new chair of the Conservation Commission for all that output—we are not leading the way in setting policy for a precious substance like water. It seems to me that we need a new mindset, and I wonder whether the government is indeed capable of delivering that new mindset. When I look at a piece of legislation like this coming in at such a late stage, it seems to suggest to me that we are probably not going to get that new mindset.

I will explain exactly what I mean by referring to a slightly different area of policy, but one with which I am very familiar because it is within my own portfolio of responsibilities. I congratulate the Minister for Environment and Minister for Water, Hon Bill Marmion, for having put in place a review of waste-to-energy policies, because I think it is high time we had some well-informed debate and discussion. When I say "well informed", Western Australia is a long way behind the rest of the world when it comes to waste-to-energy provisions—we are a long way behind the rest of the world when it comes to a lot of modern energy technology. But the problem I have

with the waste-to-energy review is that we seem to have missed the basic point—I can assure honourable members that there is a direct link between what I am talking about and the bill under consideration tonight.

The basic problem with waste-to-energy policy is that the actual plants themselves are very substantial bits of infrastructure and cost a hell of a lot of money. If they are run by private enterprise, then obviously private enterprise will quite rightly ask for some kind of guarantee of supply, and the guarantee of the supply is waste. So we need to guarantee that an amount of waste will be produced by Western Australians over the next decade or so to attract that kind of multimillion-dollar investment to Western Australia. The problem arises right here: we used to have a bipartisan agreement that we were moving towards zero waste—it used to be by 2020—and indeed the name of the Waste Authority's website was Towards Zero. With the release of the state waste strategy a few weeks ago, that has dropped away; there is suddenly no more talk about towards zero; indeed, the Minister for Environment is now quite happily endorsing the idea that we are going to reduce waste by 60 per cent. There is a huge difference between 60 per cent and 100 per cent, and we have gone there with no discussion and no debate; the public has not been involved in talking about that abandonment of the Towards Zero target. The government has abandoned it—there is no question—and it is there in black and white in the state waste strategy.

I wonder whether locking in that reduction of 60 per cent is actually a way of ensuring industry a guaranteed supply of 40 per cent of all the state's waste, to prop up a multimillion-dollar industry? That will not do. If we arrive at that formula through a process of public policy debate, then that is an entirely different matter. But if this is being done behind the closed doors of government, then it is not good enough, because it is not public policy; it is some plan cooked up by the Liberal government behind closed doors. That is just not good enough. All of a sudden we are not talking about eliminating waste streams, we are talking about locking in supply.

Hon Helen Morton: Can you just help me work out what that's got to do with the Water Services Bill 2011?

Hon SALLY TALBOT: Absolutely; I am coming right back to it now, minister. I am right there; the minister is bang on cue.

The problem I have with a bill of this kind is that it begins to look as if we are encouraging both government trading enterprises and the private sector, because a large part of this bill is set up in a way to facilitate private involvement. I am not saying that is a bad thing per se, but I am asking about the way it is engineered into this bill. If I am wrong, I know the minister will set out very clearly in her second reading summary why I am wrong, or perhaps she will just explain what the government is doing. We must not get to a stage, surely, of saying that people can make more money by selling more water, because water is just not that kind of resource. We should be building into all our legislation the need to conserve water and to move to a sustainable basis in water consumption.

I have already said that in this state we have not actually over-allocated our water supply, but that is largely because we do not use water for agriculture in the same way that Queensland, New South Wales, Victoria and South Australia do, but we certainly use it for mining. What is more is that a large proportion of the water we use in the mining industry in Western Australia is potable water—how crazy is that? Some years ago I remember walking along the harbour in Darwin and meeting a guy who was selling little trinkets. He was a Chinese immigrant and he had only recently arrived in Australia. We got talking, and I asked him how he found it, and he said, “You have drinkable water in your toilets.” He could not believe that he had come to a country that was so affluent and had such abundant supplies that we could actually put drinking water into the toilet to flush it. That was a number of years ago, and we are still doing it. I ask again: why are we not moving to a place of leading the world in water services and the conservation of water resources? I know that was a long way of introducing what is precisely my problem with this bill, but it is exactly the same principle: if we have a scarce precious resource, surely we need to build into all our planning processes a way of, if not conserving that resource, then at least using it in a sustainable way. It is not clear to me how this legislation does that.

I was going to say a lot more about what Labor did in government, but I am sure other members will talk about that. There has been a very lengthy debate in the other place that I can refer to honourable members if they are interested. I refer to the “State Water Plan 2007”, which is a document I have used before in this house. This was regarded as world best practice at the time it was produced. I do not say that as a partisan observation; it was hailed internationally as a world best practice document. I wonder where we have gone since then. One of the great moments of mystery about this government, which I am sure is etched on the minds of other members as it is on mine, was the day the Minister for Water took to his feet in the other place and made a speech that had two sections. Part A of the speech was about how great the Waterwise campaign was and how it had been one of the most effective conservation programs ever to run in any jurisdiction in the world, and part B was about cancelling the Waterwise campaign. It just did not make sense in any terms. I seriously think that the minister did not read the end of the speech before he got up to start it, and I imagine the scenario in which he had a growing sense of horror, akin to something we might see in a British sitcom about politics rather than something being played out in the Western Australian Parliament. I do not know where we have gone since this document

was produced, but I strongly suspect that the answer is “not very far”. I have referred to the privatisation elements of this bill, and I have outlined my concerns with that, so I am sure the minister will address that in her second reading summary.

I refer to the whole question of using energy utilities as models, and I assume that Western Power is included in that. Why would the government look to Western Power for something like an asset management template? Did we not just have the most dramatic scandal in Western Australia about Western Power’s asset management; yet the explanatory documents in this bill says that the model is the energy utilities? It may make sense in a technical way, but I would like some explanation of how we are going to ensure that we never get to a place in which the auditing of something like an asset management system is being done by the same people who receive the auditor’s report and table it in the Parliament. I think it is acknowledged, at least implicitly, on both sides of the house, and it has been by the minister himself, that there was a major problem with the way Western Power was managing that. So how will the new water services act ensure that we are not led into the same sort of mess as we have been in with Western Power?

I notice there is also provision for an ombudsman working with water services, which I think is a good thing. But in that context I would like the minister, if she can, to provide more details about how the ombudsman will be resourced and what the terms of operation will be. At this stage, I will leave my second reading remarks and take up some of these issues again when we move into committee at a later stage of debate.

Debate adjourned, pursuant to standing orders.

House adjourned at 9.45 pm
