

ADJOURNMENT OF THE HOUSE

Special

HON KIM CHANCE (Agricultural - Leader of the House) [5.02 pm]: I move -

That the House at its rising adjourn until Tuesday, 31 July.

HON N.F. MOORE (Mining and Pastoral - Leader of the Opposition) [5.02 pm]: I meant to raise this with the Leader of the Government earlier. It seems to me that the Notice Paper does not contain many items; therefore, it may be in the interests of the House if it did not sit the week of 31 July and let the other place, which had an extra week's recess earlier, do some work before we resume the following week. It makes sense in managing the place.

HON KIM CHANCE (Agricultural - Leader of the House) [5.03 pm]: I note the comments of the Leader of the Opposition. Although I am not prepared to set a new time without some consideration, I seek leave to withdraw my motion with a view to moving another motion to adjourn until a time and date fixed by the President.

Motion, by leave, withdrawn.

Hon KIM CHANCE: I thank members. I move -

That the House at its rising adjourn until a date and time fixed by the President.

Question put and passed.

Ordinary

HON KIM CHANCE (Agricultural - Leader of the House) [5.04 pm]: I move -

That the House do now adjourn.

Pinjar-Cataby and Cataby-Eneabba Transmission Line Projects - Adjournment Debate

HON DEE MARGETTS (Agricultural) [5.04 pm]: Thank you, Mr President, I appreciate your giving me the call. I am rising at this stage because I asked some questions on Tuesday about the Pinjar-Cataby and Cataby-Eneabba energy transmission line. Members of the Neergabby community, among others, were very keen for me to follow up that matter today. As I did not have the opportunity to ask other questions today, and as the environmental impact assessment is due to close officially - I hope it will be extended - I would like to put some points on the record regarding the answers I received.

In the public environmental review carried out by Western Power, it argued that a transmission line would be required to supply reliable power to service future development in the region. On Tuesday we were assured that the issue was not about Breton Bay. Of course, the question then becomes, if the issue is not about supplying power to Breton Bay, what future developments is it about? An even more important question perhaps, especially in the light of the motion that was passed yesterday on greenhouse emissions - a very appropriate motion - is why, given all of that, can power not be generated locally where and when it is required? This would eliminate the need for super highways of high-tension power transmission lines being built more and more around the State, which seems to be the agenda of the industry according to the magazine on electricity supplies I have been reading.

I wonder at what point we should start taking seriously the concerns of the community and require our decision makers, including utilities, to ensure, wherever possible when providing new energy developments, the electricity is provided only by renewable methods of producing the energy from within the region, instead of installing high-tension power poles which will carry electricity provided by fossil fuels causing great greenhouse damage. I believe that has the ability to encourage regional employment and diversification. It would reduce Western Power's monopoly in power generation and alter the mindset that we find so difficult to move away from. This should be on the record because at some stage we must put our words into action. These are reasonable and appropriate words and policies. At some stage, Governments must think that perhaps Western Power should not be pushing and creating the agenda and that perhaps the Department of Resources Development should not be deciding in large part the agenda for future power needs and the means by which they are met.

Another important issue is that over the past month the community has put a lot of effort into the Gingin coast structure plan. The community and the Greens (WA) understand that much of the initial structure plan was about finding a way to get the community of Breton Bay involved in having heavy industry and massive new housing developments plonked in its area willy-nilly. The community put a lot of effort into that process and believes that its views should be taken into consideration. Even though these supposedly massive new needs for electricity were known well in advance, they were not included in the discussions on the Gingin coast structure

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plan. Our concerns are that many new roads, pipelines and high-tension powerlines for the massive new supply of electricity were not part of that process. People are beginning to wonder what that process was about and whether the work they put in to giving feedback will be taken seriously.

The community that participated in that process would feel it is not appropriate for decisions to be made about major infrastructures which were not in that consultation process until a decision has been made on the Gingin coast structure plan. The community is talking about its future employment opportunities, sustainable development plans, potential loss of amenity and sustaining its lifestyle. At some stage, Governments must take that seriously. I hope that the Department of Resources Development and other appropriate departments take that into consideration during the decision-making process. I certainly hope that the community's view that this process for the powerlines should not be rushed is taken seriously and that the time allowed for people to make comments is extended, at least on the Pinjar-Cataby powerline, because the people along the further stage of the line from Cataby to Eneabba, and the people in Geraldton, are saying that once the first stage goes through, they are goners and the rest is a fait accompli. No matter what decisions are made in the interim about sustainable power options for Geraldton, Jurien Bay, Breton Bay or Lancelin, or about environmentally and socially sustainable development plans, someone else's agenda seems to be pushing along these other decisions. Many community members are beginning to feel sickened by the fact that they do not seem to be part of any real decision-making process. The reason I am speaking on this matter is that I hope it will be taken on board and taken seriously, and that the final decisions will reflect at least some element of the concern that has been seriously expressed within the community.

Greenhouse Strategy - Adjournment Debate

HON DERRICK TOMLINSON (East Metropolitan) [5.10 pm]: I agree that the House should not adjourn until it has had the opportunity to learn the error of my ways.

Hon Ken Travers: Come on, we want to go home tonight!

Hon DERRICK TOMLINSON: I will make my confession short and sweet!

Hon Ken Travers: So, you are confessing to only one thing tonight?

Hon DERRICK TOMLINSON: In the debate on the motion by Hon Jim Scott about greenhouse gas emissions, I indicated that I received advice in 1991 from the then Minister for Environment, Bob Pearce, that Cabinet had appointed a greenhouse coordination council and that it had released a greenhouse strategy for Western Australia, which the then Cabinet had endorsed in principle. I indicated in that debate that to ascertain whether the greenhouse strategy for Western Australia was extant and whether the greenhouse coordination council still existed, I sought advice from the Environmental Protection Authority, only to be advised by the minister's office that I had breached protocol and should in future approach the Minister for the Environment and Heritage if I wanted information about the environment. My error was in not waiting long enough for the advice from the minister's office. My electorate officer had contacted the minister's office only to be told that it did not have time to look into those things and that she should look it up on the Internet. She in turn had found a report on the Internet titled "Greenhouse Strategy for Western Australia - The Greenhouse Effect - Regional Implications for Western Australia", which was dated June 1999. I explained to the House that, having waited a reasonable and appropriate time, I reported that to the House on Thursday, 21 June. On Monday, 25 June at 17.35 hours - four days after that debate - I received an e-mail at my electorate office from Peter Bayliss, the DEP liaison officer at the office of the Minister for the Environment and Heritage. The e-mail stated -

A decision to wind up the WA Greenhouse Council was taken in April. The Minister wrote to each member of the Council in early May to inform him or her of this.

With regard to progressing the development of a Greenhouse Strategy, the Government will be consulting widely with the community to achieve this objective.

The exact arrangements for this are yet to be confirmed by Cabinet.

The information that I received was that the State does not have a greenhouse strategy and has not had one since April. Neither does it have a greenhouse consultative council, which was also wound up three months after the Government was appointed. I advise the House of the error of my ways and throw myself upon the mercy of the House.

Election Undertakings - Adjournment Debate

HON KEN TRAVERS (North Metropolitan) [5.14 pm]: I wish to bring to the attention of the House a matter that occurred during debate on the Supply Bill earlier this week. During that debate, Hon George Cash referred to the fact that he had spoken earlier about his views on some events in the northern suburbs. At the time I was

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not aware of what he had said, so I took the opportunity to read, at that stage, the uncorrected version of *Hansard*. While I was in the Chamber he said -

... it is not very smart for some government members to say that they do not think it can be funded because it was not in the last budget or it can only be funded if it was in the last budget, because the member and I would agree that the Labor Government owns the budget now.

When I read the original comments Hon George Cash had made, I assumed that the reason he had brought to my attention his earlier comments was that that they related to a meeting in the northern suburbs that I may or may not have attended. I recall a meeting I attended in the northern suburbs with members of one of the local councils in that area. At that meeting, Labor members were asked about funding for a facility in the northern suburbs. The local authority asked when it would get funding for the facility. To the best of my recollection, and I had a fairly good knowledge of what we had promised in the northern suburbs, I indicated to the authority at that time - I am not sure whether any of my colleagues did - that it was not a commitment of the Labor Party prior to the last election. It was a worthwhile facility and something that I am sure all members would support. If it had been included in the budget and the forward estimates of the previous Government, there was a possibility that we could have continued to pursue that matter and find the funds for the local authority. However, if it was not in the forward estimates of the budget, and it was not a commitment given by the Labor Party prior to the election, I thought it would be very unlikely that the facility would be funded; but we would certainly do our best as government members to try to give it some priority when capital works funding became available.

On page 10 of the uncorrected version of *Hansard* of 26 June, Hon George Cash is reported as saying -

... I do not like to hear government members say that they are not sure whether something can be funded because they do not think any money was allocated by the previous Government. Government members cannot have it both ways. If it is a Labor commitment, the community is entitled to assume, especially following the Treasurer's comments, that that commitment will be met.

I wholeheartedly agree with that statement. If Hon George Cash is not referring to the incident to which I am referring, and there is another such incident, I hope he takes the opportunity to inform the House at a later stage. The issue of funding for the facility, which was raised with the City of Joondalup, was not an election commitment of this Government; however, it was a commitment of the previous Liberal members for that area, even though it was not in its Government's budget. We are finding time and again, right across the State, that members of the Liberal Party have led people to believe that a whole range of events would occur and that it was all funded and costed in the budget. People are now coming to us and saying that they were told that it was in the budget, but when it is checked, it is nowhere to be seen. It is not about this Government not meeting its commitments; it is about the previous members in the northern suburbs lying to their electorates. That is the only way I can describe it. They misled their electorates.

Point of Order

Hon DERRICK TOMLINSON: The word used by the member is not a correct word to use. He may refer to a distortion of the truth, but the word "lying" is unparliamentary.

The PRESIDENT: There is no point of order. The view was not attached to any member. I understand it was referring to members lying to their electorates.

Hon Derrick Tomlinson: So they are allowed to lie to their electorates?

The PRESIDENT: I will not rule on that contentious issue at this stage.

Debate Resumed

Hon KEN TRAVERS: Interestingly, during the last election, a letter was put out by one of the members in the northern suburbs. That letter arrived on the day before the election, Friday, 9 February. That letter implied - I would not say that it was a firm commitment - that his priorities for the next four years were to see a performing arts centre built, at a value of over \$40 million; the extension of the freeway - this was the one that I loved the most - to Two Rocks; and a state-of-the-art senior citizens centre and a youth centre. It was an extraordinary letter to go out on the last day before the election. However, the electors in the northern suburbs are smarter than that, and they saw straight through that letter. They realised that it was an attempt to mislead them into an expectation that the freeway would go to Two Rocks during the next four years and that the performing arts centre, the youth centre and the senior citizens centre would be built. It is very smart of members in the northern suburbs, when confronted with those situations, to point out to the local councils that the former members for that area misled them if they suggested that those items would be funded. This Government has a tight

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budgetary position. It will meet the commitments it made on capital works. If an item is not in the past budget, it will be difficult.

The member for Joondalup is working very hard on the Government to try to make sure that the facility that was mentioned at the City of Joondalup is moved up the priority list. I understand the challenge he faces with that, and I intend to do everything I can to assist him. I realise that we will probably not be in a position for at least a couple of years to get that facility built. However, hopefully, with a bit of luck, it will be a bit sooner.

Hon Alan Cadby: Is that an endorsed promise that you are making, to quote your Minister for Health in the other House?

Hon KEN TRAVERS: If Hon Alan Cadbury had been listening, he would know that I did not make a promise that it would be built. I said that the member for Joondalup was working very hard to try to -

Point of Order

Hon ALAN CADBY: Could Hon Ken Travers pronounce my name correctly, please. It is Cadby, not Cadbury.

The PRESIDENT: Order! There is no point of order, although the point is taken.

Debate Resumed

Hon KEN TRAVERS: Yes, Mr President. I apologise to the member if I mispronounced his name. As a person who often gets called Hon Ed Travers - I have never understood why that is the case - I appreciate what the member said. I extend my apologies, and I will attempt to get it correct at every opportunity in the future.

Hon Alan Cadby: I appreciate the apology. Thank you very much.

Hon KEN TRAVERS: I was clear in what I just said. However, so that the member is clear, I am not saying that the facility will be built in the next four years. Nevertheless, the Government will do everything it can to try to ensure that if money becomes available in the budget, it is given a high priority. The Government understands that the people of the northern suburbs were misled by those former members. The people of the northern suburbs had an expectation that something would be delivered in that regard. It is a necessary facility. The Government will do everything it can. This is not about the Labor Government going back on its commitments, which someone reading Hon George Cash's comments could assume. This facility was committed to by the previous Government, but it never placed it in the budget. It was not an election commitment of the Australian Labor Party. Nevertheless, the Government will seek to do what it can to correct the issue.

Australian Taxation Office, Tax-effective Schemes - Adjournment Debate

HON JOHN FISCHER (Mining and Pastoral) [5.24 pm]: I want to remark on the Australian Taxation Office's poor handling of tax-effective schemes, which has affected a lot of constituents in my area, especially around Kalgoorlie. Some time in late 1998 and early 1999, the Australian Taxation Office commenced extensive audit activity in relation to what it refers to as tax-effective schemes. This audit activity extended for a period of approximately three to six months for each audit. Of the 282 schemes that have been audited, approximately 250 have received amended assessments to date. The Australian Taxation Office is on the record as saying it will continue to issue amended assessments for the balance. The impact on the 60 000 taxpayers who have received amended assessments is significant in view of the fact that the normally substantial amount of tax paid is increased by the penalties and interest component and is often compounded by the participation in projects over multiple years. Most individuals are now facing tax liabilities of between \$40 000 and \$60 000. This has a significant impact on a large number of families, bearing in mind that most of these individuals are what might be termed "middle Australia". They are decent, honest citizens who do not possess the financial resources required to uphold their legal rights against the ATO.

The Australian Taxation Office has until recently adopted aggressive means of recovering amounts outstanding and has employed intimidatory tactics to achieve its end. It announced a cessation of recovery action in May this year. Those taxpayers must decide whether to dispute the amended assessment by lodging an objection and then pursuing their appeal rights either through the Administrative Appeals Tribunal or the Federal Court, either individually or by way of collective action through test cases, or whether to simply pay all outstanding liabilities, including the penalties and the interest.

No legal precedents are determinative in favour of the legal position that the Australian Taxation Office has taken in this situation. In 1984 in Lau's case, a tax-effective scheme was litigated in the Federal Court, which found in favour of the taxpayer. That is the most relevant authority available; in that case the pine trees were never even planted and the project failed. Despite there being no definitive legal decision supporting the ATO's view, it has adopted the view that investors are guilty until proven innocent.

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Although the Australian Taxation Office was aware of those tax projects before the early 1990s, there was no certainty of the ATO's position until July 1998. Many participants believed the ATO's silence represented implied consent for those schemes. For that reason many commentators propose a solution to the current problem, which is known as a line-in-the-sand approach. This approach means that any projects entered into prior to July 1998 should not be attacked and that those projects after that date should be challenged in the appropriate forum, which in this matter is the Federal Court of Australia. It should be noted that the ATO instead chose a course of action which has been described as a blanket approach by mass disallowance, and which has caused grave financial, emotional and psychological hardship to 60 000 ordinary tax-paying Australians.

Although the Australian Taxation Office has attempted to provide certainty through the product ruling system, it has in some respects contributed to greater uncertainty on current projects with product rulings by creating confusion regarding previous projects with which the ATO had concerns. This has been both by act, through public statements, including speeches by the commissioner, media releases and other correspondence, and by omission, in failing to educate people as to the difference. Several cases are now before the Federal Court. The ATO has agreed to fund the Budplan case and one particular film scheme case. It is, however, unfortunate that the ATO has chosen to fund a research and development project that is concerned only with intangible subject matter and a film scheme case, whereas the vast majority of projects are agricultural projects and franchise projects. The ATO has picked favourites for its test case litigation, and has then engaged in delaying behaviour in a lead case before the courts, despite protestations from the Commissioner of Taxation that it is not engaging in delaying strategies. The audit process, which in some projects ran for as long as 18 months, and sometimes involved the Australian Federal Police, had a devastating effect on the commercial prospects of many of those projects and diverted their resources during their critical start-up phase. Furthermore, the ATO has branded many of those projects as shams in the position papers it issues. It is common practice for the ATO to withdraw its grounds of appeal prior to trial, but the damaging effect of such claims endures.

Hon J.A. Scott: Are you reading from the documents, or from your own notes?

Hon JOHN FISCHER: I am reading my own notes.

There is no recompense to taxpayers or to the projects from these activities. This highlights the inordinate power and lack of accountability of the ATO. The Australian Taxation Office knows that the greater the difficulty, the longer the dispute continues and the more expensive the process, the greater the prospects of people forgoing their rights to challenge the ATO's decision. The litigation process is extremely expensive if undertaken on an individual basis, with costs estimated in some cases in excess of \$250 000. The Ombudsman has conducted investigations into the Main Camp and Budplan projects and has on occasions made critical comments of the commissioner, especially regarding the management of the issue and the delay in acting. The Senate Economic Reference Committee is also due to conduct extensive hearings regarding the issue and hand down a report. The media has struggled to comprehend the scale and complexity of the issues, and has contributed to the misinformation, stereotyping the individual participants in those projects and labelling them as tax cheats. There has been some political interest in this issue, but to date there has been a lack of support from the major parties. Despite all of these efforts, none has yielded any significant benefit to date and 60 000 Australians continue to ask for someone to help their cause.

The PRESIDENT: In giving the call to Hon Jim Scott, I indicate, on behalf of the Leader of the House, who may not get the call, that there will be no meeting of the business management committee tonight.

Committees of the House - Adjournment Debate

HON J.A. SCOTT (South Metropolitan) [5.32 pm]: Some comments were made earlier today regarding the position of the Greens (WA) on committees. Due to the course of the debate, there was no opportunity for us to respond to those comments at that time. The Greens (WA) is not part of the Labor Party; it is a separate organisation altogether, and we, as members of that party, will make up our own mind about issues that come before us in committees, in the way we hope will lead to the best decisions. The Greens resent the notion put forward by Hon Norman Moore that somehow a terribly unfair situation has arisen in relation to the committees of this House. I got the information about the establishment of the committees in 1993 and looked at the numbers. I was at the time the only Greens (WA) member in this place, and the Government of the time had the numbers in both Houses of Parliament. The Standing Committee on Government Agencies had three coalition members and two Labor members, and its chair was a coalition member. The Standing Committee on Estimates and Financial Operations had three coalition members and two Labor members; once again the chair of the committee was a government member. The Constitutional Affairs Committee consisted of two government members and one Labor member; and once again the chair was a government member. Membership of the Legislation Standing Committee was three and two in the Government's favour, and the Government had the chair. The Government dominated every committee. During debate on that committee, it was interesting -

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Hon B.K. Donaldson: Did you hear the Leader of the Opposition admit that openly? He said that this House has changed forever.

Hon J.A. SCOTT: Yes, he said that it has changed now. The only reason it has changed is that no party has in its own right the numbers in this House. The good thing about that change is that committees will operate fairly because each committee will have cross-party membership making up the numbers, which will make a difference to those committees. When one looks at the chairmanship of those committees, one can see that there is one Labor member, one Green member and one from the coalition.

Hon B.K. Donaldson: There is no such thing as a coalition on this side of the House. There is a coalition on your side of the House. You are getting mixed up again. It is the Labour-Greens coalition on your side.

Hon J.A. SCOTT: I know the coalition no longer exists and that only one National Party person sits in this place.

Hon Norman Moore clearly got it wrong. This issue was raised by a Labor Leader of the Opposition, Hon Graham Edwards, during a debate on committee appointments many years ago, when he said -

We have plenty of talent on this side. As has been the case in the few weeks that we have been here, Opposition members will make their presence felt. They are doing a good job to the degree that they have embarrassed Ministers opposite. I cannot understand why the Government would want to put a Minister on this committee.

Hon Eric Charlton interjected and said -

We want to have more on the committee.

That is how it was with the coalition: it wanted more of its own members on a committee. However, not only did it want more members on a committee, it wanted, and got, a minister on it. That is entirely inappropriate. How on earth can committees have proper checks and balances on the Executive when ministers are members of them? It is totally and utterly hypocritical in the extreme for Hon Norman Moore to sit opposite and carry on like a wounded animal that was run over by a car. Now that there is some fairness in the place, it hurts. A little fairness is too difficult for Hon Norman Moore.

Question put and passed.

House adjourned at 5.37 pm
