

WATER RESOURCES LEGISLATION AMENDMENT BILL 2006

Second Reading

Resumed from 30 August.

HON BARRY HOUSE (South West) [2.17 pm]: I started my remarks on the second reading debate of the Water Resources Legislation Amendment Bill 2006 a couple of weeks ago. During that time I concentrated my remarks on the role I have been involved in as Chairman of the Standing Committee on Public Administration, which had examined the bill and given a report to the house. I will reiterate a few things.

We reported to the house before the end of May. During that process I mentioned we had a rather pointed approach from the Minister for Water Resources, Hon John Kobelke, to hurry up and do the report and get it into the house so that some administrative arrangements could be made if the legislation was passed before the end of June. We duly produced the report to the house. Subsequently, the committee received a letter from the Minister for Water Resources - which I quoted last time I spoke - stating that he appreciated the committee's efforts in its deliberations and getting the report to the house before the end of May. I think three weeks of sitting were available to the government in June prior to the end of the period we were told was critical. However, there was no urgency from the government and the legislation was not brought on for debate and was not considered. As with a lot of things around here, from time to time we are told that the sky will fall in unless something happens by a certain time or a certain date. Lo and behold, every time that happens, the world does not stop. It is still spinning and the sky has not fallen in; the world still continues.

I am not naturally a suspicious person but I am tempted to ask why there was urgency for to us to get this legislation through. I can appreciate that one reason for urgency may be that the public service was frustrated that the legislation had been lying around for a year before it was considered. I can appreciate that there may also be reasons for urgency from an administrative point of view. I have been trying to search for a reason for that urgency. I suspect that it may have something to do with the changes to the water users licensing and fees regime that was introduced from 1 July 2007. By the way, next Tuesday happens to be the last day on which a motion can be moved to disallow these fees and licences. I suspect that there may be some further discussion and action on that matter in this house over the next few weeks. Nevertheless, the subsidiary legislation that relates to these issues may well have been one reason that the public service was concerned about that time lime.

The Rights in Water and Irrigation Amendment Regulations 2007 were gazetted on 22 June and were tabled in this house on 27 June. Those regulations refer to the introduction of a water licensing regime, and to the fees that will be charged for entitlements to both surface and underground water. Seven classes of water users are proposed in the regulations. The proposed regime is new to Western Australia, and there is a great deal of comment and concern in some quarters about the fairness and equity of that proposed new regime. The seven classes of water users range from smaller users who use a minimum of 1 501 kilolitres a year, to large users, such as the Water Corporation, who use more than five million kilolitres a year. The proposed fees range from \$200 to \$3 000. The regulations also introduce a new form of application for a water permit. All those things need to be further discussed and commented on, so I am sure members will hear more about that issue. One of the reasons that the public service may have been concerned about the time line for this legislation is the way in which the fee notices have been issued. I have been provided with a letter that was sent to a water user to remind him of his obligations under the current regulations. Although the new licence fee regime came in on 1 July, notices have been sent to water users on a rolling basis as their current water licences become due for renewal. The letter that was sent to this particular water user was dated 21 August 2007, and it was written under the letterhead of the Department of Water, Government of Western Australia. The Department of Water was established in 2005 as part of the restructuring of water governance under the machinery of government provisions. All members would agree that prior to that time, this state had the ridiculous situation where five or six different ministers were responsible for particular aspects of water management and seemingly no-one was prepared to take the bit between his teeth and take full responsibility. Therefore, in that sense the opposition certainly supports this legislation, because it will go some way towards introducing a proper management structure for this important area. One could argue that the Department of Water, which is providing advice and services to the Minister for Water Resources, is technically just a creature of government at this stage, because it will not come into existence until this bill has been passed by this Parliament and has been assented to by the Governor. Leaving that aside for the moment, the Acting Director General of the Department of Water, Paul Frewer, has sent the following letter to this particular water user -

I refer to our letter dated 1 May 2007 regarding the introduction of licence administration fees.

Please find enclosed an invoice for payment of the required annual fee or application fee.

Your licence provides greater security in water supply, it confers valuable rights to an asset used for primarily commercial activities and increases the market value of privately owned land. As such your *Licence to take Water* is valuable.

That is obviously a bit of a policy statement. The letter goes on to say -

Payment of water licence administration fees ensures your right to water is protected and provides security of supply.

The letter then provides a contact number in the Department of Water in case any assistance is required.

What is interesting is that attached to that letter is the tax invoices for the applicable fees for that surface water licence. Those invoices are written under the letterhead of the Water and Rivers Commission, because that is currently the only body that has the power to levy those fees. When this legislation is passed, all these fees will be levied by the Department of Water, because the Water and Rivers Commission will be abolished and its functions moved to the Department of Water. This particular water user has received two tax invoices. The first invoice is for an annual fee for the period 9 September 2007 to 8 September 2008 for surface water licence such-and-such a number, up to a volume of 72 270 kilolitres. Because this particular water user has three surface dams, the total annual fee will be three times \$200, or \$600. That is just the annual fee. Water users in an area that is not yet proclaimed, such as the Whicher area - which a little birdie tells me will be proclaimed in the near future - will have to pay not only an annual fee and an application fee, but also a water usage fee.

The second tax invoice that this water user has received is for a water licence administration fee. It is an annual fee for the areas stipulated. It is obviously for another licence. It is for a volumetric amount of 290 000 kilolitres. That bill is for \$1 200. That water user lives in the hills area, the escarpment area. He has three surface dams. He is an orchardist. He will be subject to fees of \$1 800 to pay for water used from infrastructure that he has provided himself. He has funded it himself and built it himself. It has probably cost him hundreds of thousands of dollars to provide that infrastructure. I suspect this is the base of the haste to get the administration right for all this so that it can be done in a tidy manner in the future under the one banner of the Department of Water.

There is a reference to the water resources portfolio under "Governance" on page 8 of the "State Water Plan 2007". It states -

The Water Resources portfolio was created in 2005, in recognition of the strategic importance of water to Western Australia and the need to provide direction across a wide range of water matters.

That is fine. It goes on -

The Minister is supported by the Department of Water, established in October 2005. The Department is responsible for water policy and planning and the overall management and regulation of water resources in Western Australia. Important accountabilities include water resources investigation and assessment, providing security for water for the environment and other community uses, licensing water for use and managing catchments, source protection, drainage planning and floodplains.

As an aside, that same section states -

The Water Corporation, Aqwest and Busselton Water Board provide essential water services and are wholly owned by Government.

Technically, the government may be quite correct in saying that these bodies are wholly owned by government, but I can imagine people from the Bunbury and Busselton Water Boards would not enjoy reading that - their water boards, which are 100 years old, have been created by their communities - because they pride themselves on the fact that their water infrastructure and facilities have been created by the communities of Bunbury and Busselton. They are community owned and provide very good services to both those communities. That section of the state water plan goes on to explain the roles of other government agencies, including the Department of Health, which is responsible for water drinking guidelines, the provision of safe drinking water and so on; the Environmental Protection Authority, which provides advice on environmental matters etc; the Department of Environment and Conservation; and the Economic Regulation Authority. The Economic Regulation Authority will provide pricing oversight for water pricing, on referral from the Treasurer.

I return to licence fees. It could well be a fact that the government has jumped the gun by sending out invoices for licence fees. This legislation is part of the government's wider program of establishing a water governance structure in the state, but it is far from complete. In fact, it is less than one-quarter complete. We know that from our work on the Public Administration Committee and the report we produced. Pages 2 and 3 of the committee's report - I will certainly not read it all - sets out the background in changes to water governance structures dating from 1994 and the Council of Australian Governments conference, through to the Western

Australian government signing up to the National Water Initiative in 2006, then responding to the blueprint for water reform and then establishing the legislative basis for all this. This bill is phase one of that process. Page 4 of the committee's report refers to phase two of the legislative reform program, which will involve the drafting of a further three bills. There will be a water services bill, a water corporations bill and a water resources management bill. It will take some time before those bills are introduced as the drafting of those bills is certainly not complete. The committee understands that they are in a quite preliminary stage. On a conservative estimate, I would suggest that that process alone will take a couple of years.

Further to that is the grand plan for getting all the water governance structure together to create statutory water management plans. They will cover the whole of the state. At the moment, as members directly involved in these things would know, only certain areas of the state are actually proclaimed. They include water catchment areas for metropolitan water supplied surface dams, agricultural areas such as Carnarvon and areas covered by Harvey Water. It certainly applies to areas such as the Preston Valley, a horticultural area around Donnybrook, and the Warren and Lefroy Rivers, the horticulture area around Manjimup and Pemberton. We know that other areas are scheduled for proclamation soon. Eventually, the whole state will be proclaimed in some way or another. That is the surface water areas. Most of the underground areas are already proclaimed. The issue with the licensing fees that concerns a lot of people is that the levying of the fees is only being applied to those areas that are currently proclaimed. The agreement entered into between Western Australia and the other states and the commonwealth government through the National Water Initiative allows for full cost recovery for administration. There are arguments over who is responsible for providing all those fees to cover the full cost recovery. The state water plan says that it is an environmental entitlement and fees will be assessed in a different way in different catchments. It will be a valid entitlement and will be measured alongside everybody else's usage, including the orchardists, the dairy farmers, residential areas and industry.

Who will pay for the environmental entitlement? If it is put in place for public use, surely the public in general should pay for that from consolidated revenue. That cost and responsibility should not be imposed on individual users, whether a farmer, horticulturalist, industrialist or water provider, such as the Water Corporation and the water boards of Bunbury and Busselton. That is the fairness and equity argument, which I am sure members will hear more about.

The proposition is that the government may well be jumping the gun with this legislation to rake in a lot of money - \$5.8 million - from a select group of water users, when the jigsaw is less than one-quarter complete. When I speak of a jigsaw, I speak of the whole government water structure of which this bill forms part. There are three more bills to go, a whole series of statutory water management plans and a whole series of other aspects that must be put in place. That will not be finalised for three or four years. The statutory water management plans, as mentioned in the state water plan, will not be complete until 2011. That is the estimate of the Department of Water, and it is four years away. I am sure that members will find many people of the view that the water licensing and fee structure - which will have been imposed by regulations since 1 July, unless they are disallowed - will have been unfairly imposed on a very narrow band of all water users in Western Australia before the picture is fully complete. We know that the picture will not be fully complete for another three or four years.

I could say a lot about this legislation in general terms. In general, the opposition has supported it in principle. However, there are concerns, as the Leader of the Opposition expressed in his comments, that it represents a pretty major shift in power and responsibility in this area. It consolidates water management under fewer ministers and one major umbrella, the Department of Water. That is fine; we do not have a problem with that. However, some questions must certainly be asked about the power that the legislation delegates to the Minister for Water Resources. The legislation will concentrate an enormous amount of power and responsibility in one minister at any one time. I know that is the sort of thing that the public service likes because it can get on and get things done. That is all well and good, but our job as a Parliament is to make sure that the public service does not go outside the bounds of its responsibilities and accountability. Aspects of this legislation will give the minister, in consultation with his advisory bodies and his department, the Department of Water, enormous powers to do certain things without referral to Parliament. As members of Parliament we often do not hear about these things until after the event when something has already been implemented and when the inequities and concerns become obvious in the community. All we can do in opposition is raise those issues through motions, questions and so on in Parliament. If we are in government, we must of course initially take responsibility, because it would be the minister who is responsible for making those decisions or delegating authority to somebody to carry out those instructions. If something goes off the rails, we must then take responsibility for not only the mess up but also its correction. Perhaps it will result in this Parliament considering further legislation some time down the track to alter that power structure.

We all know that water is a very topical issue, partly because of declining rainfall in recent years. There is no argument with that, particularly in the southern areas of the state. It is affecting life as we know it in many

different ways. It is affecting not only industrial water users and private water users, who cannot water their lawns and so on, but also some aspects of the environment, such as the caves at Yanchep, and Lake Cave, which is not much of a lake anymore, and Jewel Cave, where water levels are as low as anybody can remember. In that sense, I do not want to be critical of the government in trying to get a plan and a structure together. We have seen that manifest itself in some of the documents that have been released. I have referred to the "State Water Plan 2007", and there are a whole series of others, in which the government has determined the establishment of primary roles and priority actions.

Page 5 of the "State Water Plan 2007" gives seven prioritised areas. I do not think that we have any argument with those visions and objectives. They include "Use and recycling water wisely". We have no objection to that at all. Many members in this place over many years have expressed the need for the greater recycling of water through trapping stormwater, for instance, and using it more constructively; and reusing treated waste water in industry or public open space. They are two no-brainers. The state certainly could and should do a lot better in those areas.

The second area is "Plan and manage water resources sustainably". Once again, we have no problems with the general vision. That will involve regional water plans, statutory water management plans, integrated land and water planning, and pricing and cost recovery. This is the area to which I referred earlier. This part is being done before all the other pieces are in place. That is the argument of many people who feel targeted, particularly in the South West Region electorate. They feel targeted because they seem to be the ones who are singled out for the allocation of this fees regime as it is currently being implemented. Other priority actions include "Invest in science, innovation and education", "Protect ecosystems, water quality and resources", "Enhance the security of water for the environment and use", "Develop water resources for a vibrant economy", and "Deliver services for strong and healthy communities". I cannot finish my contribution on these general priorities without commenting on the proposal to take 45 gegalitres from the Yarragadee aquifer. I commend the Premier - it seemed to be Premier driven - for the decision to hold off on that proposal and instead employ desalination at Binningup as an alternative proposal to meet that need. That decision has created its own particular issues, as the house knows. One issue was consultation, because the decision seemed to have been made with very little consultation with the community. The other issue is the site of the desalination plant. The Water Corporation, which is the water provider, seems to have addressed that situation in a reasonable way, according to newspaper reports that I saw a week or so ago, by buying a disused quarry in which to site the desalination plant. I understand the quarry is about one kilometre back from the coast. The other proposal was to site the desalination plant in the underutilised Kemerton industrial area, which still has a large capacity for industrial development. That proposal was resisted very strongly by the Water Corporation on the ground of cost. We did not see a definitive study of that proposal to show that it was totally unreasonable. There were some rough figures that suggested that situating the desalination plant at Kemerton would add quite a lot to the general development, and the proposal was ruled out on that basis. Nevertheless, the decision to hold off on the Yarragadee extraction was the right decision. There was concern among some sections that wanted a complete line drawn under the Yarragadee; they wanted it stated that for forever and a day no water could be taken from the Yarragadee. The opposition did not want to go that far, although its position has always been that the Yarragadee proposal is dangerous because extraction would put extra strain on the environment. However, the needs of the south west are increasing by the day; 60 gegalitres of water a day is already being taken from the Yarragadee for domestic, agricultural and industrial use in the south west, and that amount will no doubt grow. That water source will be needed and used in some form or other. The Water Corporation has already sought approval to take an extra six gegalitres from the Yarragadee to service Nannup and Bridgetown. That request is vital, too, because those communities cannot exist without a reliable, safe water source, and they are just as entitled as people in the Perth metropolitan area to such a water source.

Water is a contentious issue. It is vital. As everybody knows, humans cannot exist without water for personal, industrial and community use. This legislation goes part of the way to setting up the water governance structure that will be necessary to manage water in an accountable and sustainable way.

HON KIM CHANCE (Agricultural - Leader of the House) [2.53 pm]: I thank the honourable members of the opposition, particularly Hon Barry House, the Chairman of the Standing Committee on Public Administration, which produced the report on the Water Resources Legislation Amendment Bill.

Hon Barry House: The committee has had some good chairmen!

HON KIM CHANCE: It has had some excellent chairmen, and I am sure the Leader of the Opposition would agree - albeit the committee now goes by a different name.

Hon Norman Moore: The committee will never be the same again!

Hon KIM CHANCE: It will never be the same again. I also thank the Leader of the Opposition. He and Hon Barry House have been the primary contributors to the debate so far. I thank the members for the way they have

gone through the legislation and the degree of understanding they have brought to the matter. Indeed, the way the standing committee dealt with this legislation has been extremely thorough.

Having thanked the chairman of the committee, I want to also thank the whole committee, because the fifth report of the Standing Committee on Public Administration deals with this legislation, which is quite large. The Leader of the Opposition had urged me to refer this matter to the public administration committee sooner than it was, and it was a mistake on our part not to take the Leader of the Opposition's advice. Hon Barry House asked why this legislation did not proceed earlier. Had the government referred the bill to the committee earlier, we would probably have had this debate six months ago and everyone would have been much happier about that. However, we cannot cry over spilt water. Hon Barry House made the point -

Hon Simon O'Brien: I got it; no-one else did!

Hon KIM CHANCE: I knew someone was keeping up.

Hon Barry House made the point that water is a contentious issue, and he is quite right. He spent some time going through current and recent-past matters relating to the Yarragadee aquifer. The Yarragadee has been a contentious issue, and I suspect it will continue to be; it may even become more contentious. Globally, people have said that the next war will be fought over water. Australia can regard itself as fortunate that while water is a contentious issue in Australia, it is probably not an issue that will start a war. However, when we read newspaper articles about Turkey, Syria and Iraq in particular, it becomes clear that while those countries may be concerned about terrorism, foreign troops and a range of other matters, the issue that really -

Hon Barry House: Just what they need; something else to fight over!

Hon KIM CHANCE: Exactly. The issue that really sets those countries on fire is water management, because those countries have transnational rivers and people are prone to erecting dams on transnational rivers, denying those downstream access to water. If the issues of the Tigris and the Euphrates are world events, the issue of the Murray-Darling Basin is certainly a national issue for Australia. The events that have developed in the Murray-Darling Basin, and the consequence of those events - which are now just starting to bite for consumers, through, presumably, sustained high food prices - give an indication of why water is so important.

Western Australians are doubly fortunate, for being Australians in the first instance, for reasons that I have outlined, and for being Western Australians in the second instance. The urgency of the issues of demand for and availability of water in Western Australia is some decades behind that in eastern Australia. The issue of water availability in eastern Australia - from Queensland right through to South Australia - results from a historical over-allocation of the resource. I know that is oversimplifying the issue a bit, but that is its fundamental cause. It could be argued that, for a number of reasons, Western Australia does not have a single over-allocated resource - not one. It could certainly be argued that probably a handful of our irrigation and potable water sources could be regarded as fully allocated. Around that is a range - a huge doughnut - for which it could be argued that full allocation, or perhaps over-allocation, is being approached, but that cannot be proved, because we do not really understand how big the resource is. Of course, Yarragadee is a classic, and huge, example of that. Its significance relates primarily to its immense size. The problem is that it is so big that we do not know how to measure it. There are issues with it. I actually agree with Hon Barry House's comments close to the end of his speech when he said that it was unlikely that the opposition - I think equally for the government - would want to go as far as to permanently quarantine the Yarragadee from exploitation. That is a commonsense approach, because it is already being exploited, and quite significantly so. In fact, some people would argue that it is being overexploited, but I have already referred to that. The government also would not want to quarantine the eventual use of the Yarragadee. Indeed, that was on the advice of the Minister for the Environment - rather than the Premier as indicated by Hon Barry House - that the Yarragadee was a resource that could be exploited, but that it could not be exploited with confidence that at some stage the rate of exploitation would not reduce. In other words, we would have to make a significant expenditure to exploit the resource, but that expenditure might in the light of later discoveries become redundant simply because the resource could later prove to be incapable of sustaining that rate of extraction. It was that factor that drove the government towards making the decision on the second desalination plant as a safer, albeit somewhat more expensive, alternative.

As it has been some time since we were engaged in this debate, and as we lose our recollection of these things, I will quickly refer to a couple of points that were made, particularly by the Leader of the Opposition. The Leader of the Opposition made the point that this is significant legislation; it repeals eight acts and amends another 12 acts. A single water act is an ambition that the Leader of the Opposition said we should strive for. I agree. A single piece of legislation is a good idea. The Leader of the Opposition reflected on the history of water administration, and in particular the split between resource management and the supply and sale of water. The previous coalition government split the former Water Authority of Western Australia into the Water and Rivers Commission and the Water Corporation. I recall when those two entities were together, as I was at that time a member of the board of the former Water Authority. The Leader of the Opposition also asked why we were re-

amalgamating them; why we did not proceed with the 2003 Machinery of Government (Water Resources) Amendment Bill; why we were amalgamating formerly separate functions; why we wanted to get rid of the commission and transfer those authorities to the minister; and why specified experience requirements were needed for members of the Water Resources Council. The Leader of the Opposition asked some more general questions about the ministerial body as the body corporate, in particular about its dealings in land. He raised the question about the notion of the body being a body corporate and how that differs from the minister. I will get to these matters a little later. The Leader of the Opposition drew our attention to page 28 of the report on the matter of delegation and asked a question that was raised by the committee. My recollection is specifically about clauses 141 and 191 on the matter of the specification of "any other person or body" in relation to the delegation of powers. I will not comment on that question at this stage but will, rather, wait until the committee stage to deal with that. The Leader of the Opposition asked whether the minister responsible for the Water Corporation and the Minister for Water Resources would be at some time in the future different people, and how we would deal with that. I think the context of the question - I am reading from my handwritten notes - is: who will prevail in the event of a difference of opinion between those two different ministers? I will not get into that question right now either. I think the Leader of the Opposition also asked about the local area water management authorities that exist now.

Hon Norman Moore: Because you are getting rid of them, so I want to know which ones you are getting rid of.

Hon KIM CHANCE: Yes, I will get to that.

Hon Norman Moore: I seem to remember better than you do!

Hon KIM CHANCE: The Leader of the Opposition has a very good memory!

I will address some of those issues that were raised by the Leader of the Opposition formally, but I will group some of them together. Some I will not address right now because they will be better dealt with in context at the committee stage, and the Committee of the Whole will go through those specific clauses of the bill.

Hon Barry House also raised issues in connection with the operational aspects of water licensing arrangements and the costs that will be involved in strengthening the tenure that farmers will gain as a result of those changes to the licensing arrangements. I know why he raised those issues. It is quite proper for him to have raised those issues, even though I will not respond. I do not think he expects me to respond in this forum. Hon Barry House made the point that the bill goes some way towards providing an effective water resources management process, although not perhaps in those words. In fact, those words were drawn from my second reading speech. I think Hon Barry House made the point that we were establishing water governance structures in this state and that this bill goes some way towards the achievement of that - I think the words he used were "about a quarter of the way".

Hon Barry House: Yes.

Hon KIM CHANCE: We certainly would not disagree with that. The statutory water management plans will be the ultimate expression of the finalisation of that process. However, the point Hon Barry House was making related to our seeking to take much of the cost of the whole process from water licence users in the irrigation areas. I think that was the point he was making. I accept the validity of that view and that it needs to be worked through. As the agriculture minister, I have been taking an interest in that matter.

It is fair to say that this bill is only the first phase of a comprehensive reform of water management. As a Western Australian, I am grateful that we have the opportunity to do that while we are not under the horrendous pressure that others in the world and in Australia are under. This is the appropriate time to be doing this. However, I do not accept that it is just a matter of our good fortune. There is some good fortune in it, but some people involved in the management of our water resources have long had an eye on the distant future, and I think we must acknowledge those people and the commitment they have made. The allocation of water in this state has always been done, in my view, in a very thoughtful and very intelligent way. I will give just one example. As I said, back in the early 1980s I was a member of the board of the Water Authority of Western Australia. I first became a member of the board in 1984 and remained a member until 1990, I think. The board used to deal back then with the water committees that the Leader of the Opposition referred to; we worked particularly closely with the Wanneroo water committee. I am sure the honourable Leader of the Opposition would know almost every one of the members of that body if I were to go through them. They were an amazing group of people. They performed a public function that we, as a public sector organisation - a state utility provider - could never have been able to achieve, no matter how much money we spent or how many resources, both human and financial, we poured into it. The reason that they were able to do what we could not was that they personally knew every applicant and they knew whether the applicants were fair dinkum. These people had been water users in the Wanneroo and east Wanneroo areas for decades and they could instinctively sniff out a fraudulent or frivolous application for water. They were just extraordinary. Obviously, the same applied to the other water management committees. What that brought very clearly to my mind was that we cannot even think

about effectively managing a water resource without the engagement and support of the people who are actually using the water. The essence of having localised management should lie at the very centre of any water-user legislation, if we are ever to hope to make sense of it. There are some profoundly difficult questions to be asked, particularly in the Wanneroo area example of a water allocation at the urban-rural interface where heavy agricultural water use sits alongside urban development. I know it was an unbelievably difficult area to operate in, but it would have been absolutely impossible without the commitment of those people on the ground, as well as the people in the public utility itself. However, that kind of commitment from the Wanneroo groundwater committee existed in irrigation areas right throughout the state, and we have seen some good outcomes from it. It has not all been accidental. However, there is now a need, partly because of some national arrangements - we have referred extensively to the Prime Minister's National Water Initiative - to codify our water law in a way that is consistent nationally, as far as that can possibly be done. We need to try to learn from some of the mistakes that we have made and that have so comprehensively been made in the eastern states, to try to apply our laws so that those mistakes are not repeated here and to try to understand some of the good things that we have had in our water management and bring those into our law. I hope that as we work through the water law reform mechanism, we will continue to recognise that we rely also on the users of the water to make the system work, because, without them, the best law in the world will never work.

The Leader of the Opposition asked some specific questions, some of which, as I said, I will try to respond to now, and some I will deal with during the committee stage. The Leader of the Opposition asked why the government feels the need to give the Minister for Water Resources so much authority and power. That is a subjective judgement perhaps. The bill seeks to provide the minister with those functions that are seen as necessary and those powers that are seen as needed to implement the water reform agenda and to provide more effective management of the state's water resources. Some of that will involve additional codification in law of matters that previously were not codified. I think that is just a process of moving from the unwritten to the written in many ways because we are required now to move to a more clearly defined set of water laws. The Leader of the Opposition asked why the Water and Rivers Commission and the regional and local water authorities were being disbanded. The abolition of the Water and Rivers Commission and the establishment of the Department of Water are aimed at improving the accountability of the agency in water resources management and at providing the government with greater control over the implementation of the water reform agenda. These changes are generally consistent with the recommendations of the task force that was established to review the machinery of government report and to reflect the recommendations in earlier reports, including the 1993 "Report of the Independent Commission to Review Public Sector Finances", better known as the McCarrey report, and the 1996 "Public Sector Management Act Review Report", better known as the Fielding report. Both reports referred to the number and make-up of statutory authorities in Western Australia.

Hon Norman Moore: Your machinery of government reports do not actually explain why we should get rid of the Water and Rivers Commission. I can't seem to find anywhere the reasons for it, except that it says that we've got too many of them.

Hon KIM CHANCE: Yes. Can I give the Leader of the Opposition a reason? It is my own reason and it is not necessarily reflective of the government's decision-making process now or at the time. One of the concerns I had always had - these concerns started while I was Chairman of the Standing Committee on Public Administration - was that for a relatively small jurisdiction, we had an extraordinary number of agencies. It seemed to be very difficult for the Premier of the state to be able to sit down with all the agency heads in one room. When Geoff Gallop first came to office, there were, I think, 57 chief executive officers.

Hon Norman Moore: Nobody disputes the need to get rid of those things you don't need, but all I'm saying is that when you have a machinery of government report that says, "Let's eliminate this particular statutory authority", you would expect that there'd be a reason that that one would go and not some other one. Why, for example, have you got a tourism commission when you're getting rid of the Water and Rivers Commission?

Hon KIM CHANCE: Yes; which one should go and which one should stay?

Hon Norman Moore: You're trying to get rid of it. You ought to give a reason, instead of simply saying that there are too many so we'll get rid of them.

Hon KIM CHANCE: What we were charged with in the government's consideration of the McCarrey report was, essentially, to identify which agencies and statutory authorities could not be eliminated. I think we started from the default position of what could not be eliminated or amalgamated. That was the intellectual process that we went through. By the end of that stage, I think we got the number of agencies down to something like 22 from 57. It was still nothing like the achievement of a former Premier of Victoria, who I think got the number in that state down to seven.

Hon Norman Moore: There's good and bad in all this.

Hon KIM CHANCE: There is good and bad, obviously.

Hon Norman Moore: That's the reason the government committee was founded in the first place, because there were too many statutory authorities, as opposed to departments.

Hon KIM CHANCE: Yes, it is an ongoing issue, and I am dealing with it right now with a statutory authority in my area. I have been asked to consider why that particular authority should continue, given that its economic scale of operation is not huge. The fact is that there is nowhere else to put it. I think that in a small state like ours with a small economy, there will always be functions that do not fit inside any other administrative arrangement. Perhaps that is one of the reasons that one authority survives and another gets amalgamated: there is no other place for it to go.

Hon Norman Moore: But in this particular instance, we are dealing with the Water and Rivers Commission, which was established only in the 1990s because of a fundamental change in the way in which water governance was administered. It was set up quite deliberately as a statutory authority, and now it's being abolished. I would have thought that we would have a greater explanation of why there has been a fundamental policy change, if you like, as opposed to simply getting rid of a statutory authority because there are too many of them.

Hon KIM CHANCE: It is a bit too specific for me to comment on.

Hon Norman Moore: But that's what this bill does.

Hon KIM CHANCE: Yes, I know.

Hon Norman Moore: The main purpose of the bill is to get rid of the Water and Rivers Commission.

Hon KIM CHANCE: The Leader of the Opposition's question is entirely relevant to the bill. I am not suggesting it is not.

Hon Norman Moore: That's why I asked you the question. Why is this bill here?

Hon KIM CHANCE: As the minister representing the minister, I do not know that I can comment on that, but it might be something that the Leader of the Opposition would like to raise in committee, and I will have advice then.

Hon Norman Moore: I certainly will, because I want to know why the bill is here.

Hon KIM CHANCE: Yes; okay.

Hon Norman Moore: Because that's its main purpose.

Hon KIM CHANCE: Yes. I do know something about the genesis of the Water and Rivers Commission, because while I was on the board of the Water Authority of Western Australia, the precursor to the Water and Rivers Commission existed even then, and that was the Water Resources Council. The Water Resources Council sat with its own chairman as a subset under the authority of the general manager of the Water Authority of Western Australia. I actually thought that was a brilliant arrangement. I do not really know why the Water Resources Council had to become a statutory authority. I could not see the point in doing that. The Leader of the Opposition might ask the question: why disband it? I might ask the question: why start it in the first place?

Hon Norman Moore: You can read back in *Hansard*, and it will tell you why it was set up in the first place.

Hon KIM CHANCE: Yes.

Hon Norman Moore: The argument was that that ought to be at arm's length from a minister, because you are dealing with the water resource, and it is something that might properly be dealt with by a statutory authority as opposed to a minister.

Hon KIM CHANCE: Yes. The seller of the water and the protector of the resource should be separate.

Hon Norman Moore: Quite right.

Hon KIM CHANCE: It was exactly the same logic. Again, indeed, it was the Leader of the Opposition's government that in 2000 divided the Department of Conservation and Land Management into the protector of the forest and the seller of the forest product. That has worked quite well, and it is an ongoing function. I can comment to the Leader of the Opposition about that; I cannot comment much about the Water Resources Council.

Hon Norman Moore: Seriously, when we get to the committee stage, I would appreciate some serious explanation, other than it's in a machinery of government report.

Hon KIM CHANCE: Certainly. I could speculate, but -

Hon Norman Moore: Please do. I'm always interested to hear you speculate.

Hon KIM CHANCE: No, it probably would not help the Leader of the Opposition at all.

Hon Norman Moore: It might be very helpful.

Hon KIM CHANCE: I will get the official line.

The Leader of the Opposition asked: why is there a need to establish the Water Resources Ministerial Body? The Water Resources Ministerial Body is a body corporate that is an agent of the Crown, and the minister is its governing mind. Its only purpose is to enable the Minister for Water Resources to perform any of the minister's functions that can be more conveniently performed by a body corporate than an individual. It has no functions or powers that are independent of the minister. It is a matter of commercial convenience - administrative convenience. The concept of a ministerial body is now preferred to the more common approach in the past of incorporating the ministers themselves and other statutory officers under state legislation, whereby bodies regularly carry out works, enter into frequent commercial arrangements, or own or deal in land. The Department of Water clearly falls into that category.

Although the minister does not have perpetual succession, the ministerial body does have perpetual succession. Perpetual succession and a fixed name in which land may be held are important to ensure that records held by the Registrar of Titles, for example, are informative, up to date and valid. The powers of the ministerial body are limited to the statutory powers of the minister, so it has no greater powers in statute. This will ensure that the ministerial body is limited to statutory water resource functions and related dealings with works and land.

The Leader of the Opposition asked: why will the Minister for Water Resources have so much authority over the Water Corporation and other water service providers if it turns out that another minister is responsible for those providers of water? The bill provides for new ministerial powers that will be inserted into the Water Agencies (Powers) Act 1984 as a consequential provision, so that the Minister for Water Resources can perform functions relating to conserving, protecting and managing the water resources of Western Australia.

The minister will be empowered to give written directions to licensed water service providers, such as the Water Corporation, water boards, local governments and other entities that hold a licence under the Water Services Licensing Act 1995, to provide information to the minister that is relevant to the minister's water resource management functions. These relate primarily to clause 114. These powers are appropriate, as these agencies have the potential to greatly impact water resources in Western Australia. I think it should be noted that any directions provided to these agencies by the Minister for Water Resources will be required to be tabled in Parliament, and the agencies will have the capacity to raise objections.

Hon Barry House: Just going back a little, did you say that the minister responsible would not exist in perpetuity? That is what I understood you were saying.

Hon KIM CHANCE: Yes, that is correct. A minister does not have permanent succession.

Hon Barry House: But there will always be a minister with responsibility for water issues, won't there?

Hon KIM CHANCE: No. If, for example, the role of the Department of Water was absorbed into the Department of Environment and Conservation, then the issue of perpetual succession in relation to the Minister for Water Resources would cease. However, the ministerial body corporate would not.

Hon Barry House: But surely you've still got a minister responsible for those functions, even if it's under another name.

Hon KIM CHANCE: Yes, because it would be termed as the minister with responsibility for that particular act.

Hon Barry House: It could be the minister for natural resources or something like that.

Hon KIM CHANCE: Yes. It is the act minister normally. We often see the term "the CALM act minister" used. That is a good question. Let us follow that through a bit further in committee, because I know that this is an issue that was raised in the other place in relation to the Biosecurity and Agricultural Management Bill, and I think there was quite an interesting debate over it. Thankfully, it did not arise in this house and I did not have to deal with it.

Is it absolutely necessary for clause 232(1) to be worded in the way it is? I think the committee also picked that up. The intent of clause 232(1) is to expedite the transfer of functions from the Water and Rivers Commission to the Minister for Water Resources and the Department of Water. The Standing Committee on Public Administration, in the report that we have referred to, considered clause 232(1), and it believes that that clause seeks to establish a Henry VIII clause, effectively allowing the enacted bill to be amended by regulations in relation to transitional matters associated with the bill. That was in paragraph 15.21 on page 49 of the report. The committee notes in paragraph 15.23, also on page 49 of the report -

... while the power enables an executive instrument (regulations) to alter the application of the Bill, alterations are limited to “*any matter or thing necessary or convenient to give effect to the transition from a former body to a relevant successor*”.

On the basis of that, I do not believe this is a Henry VIII clause. I think it is an interesting argument and one -

Hon Norman Moore: It’s one of the most blatant ones I’ve seen in years. It just says that if we have missed out anything in this bill, we’ll fix it up by regulation.

Hon KIM CHANCE: In my handwritten notes on the Leader of the Opposition’s speech, I wrote down the words, “I agree - it isn’t Henry VIII.” However, because I could not remember whether they were my notes to myself or my notes of what the Leader of the Opposition said, I did not read them out. I was thinking that I was glad that Norman did not think that it was a Henry VIII clause!

Hon Norman Moore: I actually have an amendment on the supplementary notice paper.

Hon KIM CHANCE: We will deal with that when we get to it. I was a bit uncertain about quoting the member on that, so I avoided doing it. I was not sure that the member said that.

Hon Barry House: We are bringing your adrenaline rate up.

Hon KIM CHANCE: Debates about Henry VIII clauses in committees are one of the good things that happen in life as far as I am concerned!

Hon Norman Moore: They only seem to happen in this chamber for some reason.

Hon KIM CHANCE: Yes, is that not strange? I cannot understand why that is the case. One would think that in the Assembly they would be vitally interested in Henry VIII clauses - but perhaps not in getting rid of them!

The Leader of the Opposition also asked why the government has chosen to require that members of the Water Resources Council have certain expertise or experience. The government considers that it is important that knowledge and experience of certain stakeholders, particularly those with Indigenous and regional interests, be explicitly recognised on the Water Resources Council.

I was also asked what local area water management authorities that currently exist will be abolished under the new legislation. There are currently 26 committees and councils that report to the board of the Water and Rivers Commission. When the bill is passed and the board is abolished, these committees will have an automatic transition to advisory committees reporting to the Minister for Water Resources, unless a decision is made to abolish any of them following a review of their roles and functions. Such a review is yet to be undertaken. While that does not give us a precise answer to the question raised by the Leader of the Opposition, it does point to the fact that there will be a transition to their new shape. As is always possible, it may be that a decision is made for their abolition.

I am sure that I have done a very ordinary job of responding on behalf of the government because there is such a wide range of issues and I may have missed a whole heap of important bits and pieces. We are going to have a fairly extensive committee stage simply because a lot of amendments are already on the supplementary notice paper. I will have excellent advice alongside me when we get to that stage. I will, hopefully, do a better job on that occasion. I thank honourable members for their broad and in-principle support for the legislation and for their understanding that this is a journey and that this is possibly just the first step in the journey. It is a journey well worth taking and one that has a bipartisan origin and will continue with bipartisan support.

Question put and passed.

Bill read a second time.

Point of Order

Hon KIM CHANCE: I ask that the Deputy President leave the chair until the ringing of the bells.

The DEPUTY PRESIDENT (Hon George Cash): Members, having regard to the time, the Leader of the House has invited me to leave the chair until the ringing of the bells. If there is no objection to that course of action, I shall leave the chair.

Sitting suspended from 3.34 to 4.00 pm