



WESTERN AUSTRALIA

# Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT  
SECOND SESSION  
1998

LEGISLATIVE COUNCIL

Wednesday, 28 October 1998

# Legislative Council

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

## STATEMENT - BY THE PRESIDENT

### *Filming for Parliamentary Education Program*

**THE PRESIDENT:** Order! Before I call for petitions, I indicate to members that a film production company has been engaged to upgrade the audio and video tapes relating to the parliamentary education program, which is directed primarily to schools and other interested organisations. The project is now well under way and the production company is in a position where it needs to film both of the Chambers in session. To facilitate this project, I have agreed to allow the production people to film proceedings from both side doors on the floor of the House and from the public gallery at some stage during the sittings scheduled for Wednesday and Thursday, 11 and 12 November.

The company has also expressed a desire to film various parliamentary committees at work, and arrangements have been made with the Deputy Clerk (Committees) for the production people to be in attendance in the Legislative Council committee office during Wednesday, 11 November, being our scheduled committee meeting day, to take footage of members and staff engaged in committee business in the Legislative Council's official meeting rooms. If there are no objections from members, the filming will take place with minimal inconvenience.

## JERVOISE BAY

### *Petition*

Hon Jim Scott presented the following petition bearing 6 075 signatures -

To the Honourable, the President, and Members of the Legislative Council in Parliament Assembled.

We the undersigned residents of Western Australia are concerned that the proposed Industrial Infrastructure development for the Jervoise Bay Southern Harbour will:

- . Cause human induced degradation of Marine Habitat
- . Degrade the Brownman Swamps
- . Cut off access to the coast for recreational activities
- . Increase the probability of Seafood contamination
- . Threaten the integrity of Mt Brown and the Beeliar Regional Park
- . Reduce the amenity of residential areas

We request that the plans for this infrastructure including the re-alignment of Cockburn Road be abandoned.

Your petitioners as in duty bound will ever pray.

[See paper No 324.]

## OFFICE FOR CHILDREN - ESTABLISHMENT

### *Motion*

**HON B.M. SCOTT** (South Metropolitan) [4.07 pm]: I move -

That an office dedicated to the wellbeing and interests of children be established and report directly to the Premier. This office to study all government initiatives, legislation and actions by government agencies and report on the way in which such action could impact on children. That this office studies issues across agencies and portfolios to provide a coordinated, holistic approach to all matters which affect the interests and wellbeing of children.

Members will be aware of my continued commitment to seek in Western Australia an office for children. I note with great interest that today is Universal Children's Day, in the middle of Children's Week. I have spent the morning involved in activities - making damper and seeing old-fashioned games - at Kwinana, in a wonderful setting.

Hon Tom Stephens: It would be a very good day to get the motion up.

Hon B.M. SCOTT: It is a very good day to discuss the motion. Most members will have looked through the popular Perth magazine *Perth Weekly*, perhaps to see whom they know in the photograph section. Last week's edition of *Perth Weekly* appropriately carried a major and well-written article on parenting in this State, which pointed out the positive work that is

being done by Family and Children's Services to promote parenting. I am very much in favour of that and am delighted to see that take place. Another magazine that came across my desk referred to Children's Week, which began on 24 October with the theme "A Caring World Shares", and tells people how they can celebrate. The emphasis of my speech is on caring and sharing with children. Much of the work of government is geared towards ensuring a secure economic future for our community. The underlying motivation of government is to ensure a secure economic future for our children and our children's children. This is a valid concept. However, against the backdrop of government policy driven by economic rationalism, an office for children should be established and have as its central goal achieving quality and excellence for children in education, care, health, welfare and so on. It should ensure also that we continue to work towards providing for children's safety and security in their domestic lives, fairness in justice issues and quality in their emotional and physical wellbeing, and good growth and development.

It is my view that an office for children should be established to report each year on whether government agencies are achieving the goals that they set so that policies for children will be just and fair. It has been said that Governments can be measured by the way they value their children, and that Governments need to be accountable not only in an economic sense, but also the values they uphold for their children. An office dedicated to the interests of children could achieve this overall accountability. The establishment of this office does not override any existing government portfolio or office, nor does this move reflect on any individual minister or portfolio. Indeed, as I have said in the House before, this Government drew together five Ministers in the Office of Road Safety and identified road trauma as a major issue for government to confront. The office for children would work in a similar way. To put that in everyday language, the Western Australian Football Commission performs a similar role for football in this State: It draws together policies and initiatives and ensures that the clubs meet their benchmarks and goals. The office for children would be given the highest possible position in government by being made a responsibility of the Premier, which would ensure that the welfare of our children was placed in the appropriate position on the political agenda. The office for children would monitor what the Government was doing for children and ensure that it was striving for excellence in that work. I have said since I came to this Parliament that public policy should be based on proper research, and that if we do not continually assess, monitor and analyse what we are doing, we cannot move forward and improve our performance.

The daily papers are filled with stories that strike me as being child focused. Today's paper is no different, and contains articles about the near drowning of another child in a home pool, and about the Family Court decision that resulted in a father committing suicide and killing three of his children. Those stories in the daily papers draw to our attention as members of Parliament the need for an overall unit to coordinate and monitor the practices that are in place to ensure that they are in the best interests of children.

I will briefly revisit the origins of the establishment of an office for children. Some members would be aware that I have been involved in children's work and services for a long time, even prior to the 1979 International Year of the Child. In 1979, the United Nations began to work on special covenants for children and suggested that countries establish offices for children. The resulting Convention for the Rights of the Child has gained broad acceptance across the world, and only the United States of America and one other country have not signed that convention.

Hon Bob Thomas: Some of your colleagues moved motions against that in this place in 1989.

Hon B.M. SCOTT: I know some people have problems with some of the clauses of that convention, which may be questioned. However, clause 12, which recommended the establishment of offices for children, is the issue that I am addressing today.

In 1981, Norway became the first country to establish a Children's Ombudsman, and other countries have adopted similar models. Sweden has located its Children's Ombudsman in a non-government organisation - Swedish Save the Children. The United States has a children's defence fund, which does a lot of very good research across America. Costa Rica and the Canadian Province of British Columbia have similar offices. New Zealand appointed a Commissioner for Children in September 1994, and Queensland appointed a Children's Commissioner in 1996. At least 19 countries have some form of children's ombudsman or commissioner. The issue that I am addressing today - an office for children - is a little different. Last year when I was in England, I met with Peter Moss from the University of London, who has done a lot of very good work on effective structures for children, and whose work is well worth reading.

South Australia has a Children's Interests Bureau, which was created by the Community Welfare Act and was established in 1983. I visited that bureau last year and spoke with the people there. That bureau has the broad role of promoting the welfare and interests of children. However, it appears that its role has changed over time. It has been described as having limited independence because it was established and funded by, and is accountable to, a government department, which has led to some ambiguity in its role as a monitoring body. That is the reason that I said at the outset that we need to establish a body that stands outside of any current government agency and has the capacity to monitor from the outside. The South Australian bureau is based within the agency that it was created to monitor, and its staff are called upon to operate as employees of that department while simultaneously being required to uphold the rights of children who are provided with services by that department.

In 1995 the bureau was amalgamated with the families and domestic violence unit to create a new office for families and children, which is still known as the Children's Interests Bureau. It conducts research and monitors government policies affecting children. To a degree it achieves some of the aims behind the creation of an office for children. Queensland has a Children's Commission, which was established in 1996. The office is governed by the Children's Commissioner and Children's Service Appeals Tribunal. The Children's Commission is independent of the direction of the Minister for the Department of Families, Youth and Community Care. However, it is attached to the department to ensure it is provided with administrative support.

The Queensland commission deals with complaints from children and young people and adults; it seeks to remedy their grievances and promote interest in their welfare. It has the specific tasks of monitoring and processing complaints about child maltreatment and neglect and the delivery of children's services, and of initiating appropriate consequent action.

In September 1996 the New South Wales Legislative Council Standing Committee on Social Issues produced a report "An Inquiry into Children's Advocacy". As a result of a recommendation in the report the New South Wales Premier established an Office of Children and Young People in March 1997. It reports to the Premier and to the Director General of the Cabinet Office. That office oversees the development and coordination of government policies for children and young people and ensures government agencies work together for their benefit. It is located in the New South Wales Cabinet Office, which puts it at the centre of government policy making, which is important.

The Office of Children and Young People in New South Wales will be a point of access for children and young people to explain their needs to government. The initial tasks of that office are to respond to issues raised by the Wood royal commission, respond to the recommendations of the standing committee's report on children's advocacy, develop a comprehensive youth policy for New South Wales and consider early intervention approaches to many of the problems facing children and young people. Generally, the office will be involved in those issues that affect children and young people across the State; it will highlight anomalies or gaps in government policy and require input from a number of different government agencies. It demands a fresh, coordinated approach.

As a result of a report of its community development committee, the Parliament of Victoria inquired into the needs of families for early childhood services. In March 1995 Victoria established the Office of the Family. However, its role differs from that recommended in the report. The draft mission of the office is to support the key role of the family in society by ensuring families have access to services that can support and enhance their role as primary caregivers, promote the health and wellbeing of children and young people and provide authoritative advice to government on issues of importance to Victorian families. The Office of the Family was established within the Department of Human Services in the youth and family division. The unit's manager reports to the Director of Youth and Family Services. Victoria has a large office with a staff of more than 100 and purchases a range of early child care and other services.

The Tasmanian model is different again. Tasmania passed new child welfare legislation in 1997 which is still in a transitional state. It will be interesting to see what emerges. The new legislation recommends the establishment of a children's commissioner.

That is a thumbnail sketch of what is happening in Australia and some other countries. With reference to the functions of an office for children, we should consider some of those functions I mentioned earlier, such as monitoring and analysing government policies and legislation and their impact on children; an investigation function, including the investigation of complaints and reporting on maladministration of government; an advisory function, which would assume an office of children would have a proactive role in policy directions rather than responding to drafted policies; a research database function; a spokesbody function; an advocacy function; and, as I said earlier, a coordination function. Coordination across government policies and programs is considered extremely important as well as the development of effective collaborative working relationships. The purchasing of services is a possible function but not one I envisage as part of an office. An office for children would have responsibility to ensure that departments had policies and procedures that addressed children's interests and wellbeing.

I see a children's office as a small office dedicated to this purpose, staffed with between three and five people, independent of any government agency, responsible to the Premier or to the Parliament, acting as a coordinating agency across portfolios and proactive rather than reactive. The response to this by some States and nations indicates that people tend to react to only the negative things that happen to children, such as child abuse. My suggestion is to look more broadly, using some lateral thinking and asking questions about what we need as a progressive community. As I said earlier, we should look beyond the economic-rational arguments and consider the quality and excellence of provisions for our children. That is how a committed, civilised community would respond to the needs of children.

An office for children could consider a range of matters in raising the questions I believe are important: How can we support and strengthen parents and families? The brochure I referred to on parenting would get a big tick at present in this State. It is being responded to extremely well. Parent offices have been established in shopping centres, etc. It should address questions such as: Are our children fit, fat and healthy? I was appalled to read in *The West Australian* only two weeks ago that Western Australian children are the least fit of all Australian primary school children. As I said earlier, my motion is

not intended to reflect criticism on any minister. However, children's fitness might be the role of the Minister for Health, the Minister for Education or the Minister for Sport. The point I am making is that somebody must ask the question and consider the research like that presented in *The West Australian* last week about which television programs are suitable for young children's viewing hours, appropriateness of videos, etc. I did some research a few months ago on video, television and movie categories. To my dismay 27 labels could be put on written material and very little work has been done to make the classification of videos, television programs and movies uniform. Parents might take their young child to a video shop and choose something that is classified G and find that it is entirely different from a television or cinema G rating. We must ask whether we are achieving uniformity across the board so that at least parents can be assured that the films to which they are taking their children or bringing home for their children are appropriate.

How long should small children spend in child care? Extending the operating hours of child care centres to 50 hours a week to accommodate women working part-time or full-time outside normal working hours was raised during the recent federal election campaign. One of the results is that some children spend 50 hours a week in child care. The purpose of the change was to accommodate shift workers. If child care centres are opening, is it appropriate that children be there for that many hours? Is it appropriate that parents go on holidays for two weeks and leave their children with someone providing family day care? That funding is provided for those involved in work and study. In some instances in this State, parents are using family day care for their children while they go on holiday for two weeks.

Playground safety is another issue I have raised repeatedly in this place. Does our transport system accommodate the needs of children? The previous Minister for Transport - I am sure it is also true of the current minister - was conscious of the needs of young mothers with prams, and the new buses and trains in the city accommodate them. Someone must consistently raise these issues. Steps might have been taken to address them, but we should ask the questions and establish that something is happening, because children do not have a voice in this place to ensure their needs are addressed.

What are the work and training opportunities for children with disabilities? I work with a group of disabled children in East Fremantle and the larger South Metropolitan Region. We identified the recreation needs of children with disabilities, not necessarily from the perspective of respite for their parents but for those teenagers to have some recreation. They are not invited to birthday parties or to stay overnight or on the weekends with friends. They require a 24-hour-a-day commitment from their parents. Do we cater for special needs children, such as those suffering from attention deficit hyperactivity disorder, or ADHD? Are our early intervention strategies appropriate and do they fill the gaps? Someone should be asking these questions.

I have raised previously in this place the need to consider all legislation introduced to determine whether it affects children. If so, we should request that an impact statement be prepared and considered. One relevant example of such legislation is the Human Reproductive Technology Act. Kevin Minson, the member for Greenough, is chairing a select committee undertaking a review of that legislation. I asked him whether the committee would be considering a child impact statement. He said that the committee would talk to children, but it would not be requesting such a statement. I told him that a study would best be done by someone with knowledge about how the legislation might impact on children. In this case, when donor sperm and so on is provided via the latest human reproductivity technology to bring children into the world -

Hon Cheryl Davenport: It has serious ramifications.

Hon B.M. SCOTT: It has huge ramifications. It reminds me of the adoption debate. Some children do not know or have no access to information about their origins or health history. They do not know whether the sperm donor was very generous. Perhaps it was a university student who sold sperm for much-needed money to buy books.

Hon Derrick Tomlinson: It would not buy many books.

Hon B.M. SCOTT: I do not know how much they get.

Hon Derrick Tomlinson: They get \$10.

Hon B.M. SCOTT: A resulting child could well have siblings and end up marrying one. In one case last year a brother and sister met and wanted to marry. Sadly they discovered they are closely related. I pay tribute to Kevin Minson. I wrote to him and asked him to obtain an impact statement and gave him a list of suggested agencies, including the University of Western Australia. He has written to eight different groups across Australia and Western Australia, and the committee is now receiving submissions. I did that because I have a vested interest in that technology and the review of the legislation. However, that is the role I believe an office for children could play. An article in *The West Australian* on Tuesday, 8 April this year is headed "Donor siblings quiz the State". This Parliament will face these issues in the future. Donors, siblings and children will be questioning the State about their best interests. Was it in their best interests that they came into this world as a result of this procedure and were not told that they had a twin brother or other siblings? We must also consider the legal implications. Who will deal with that aspect - the Minister for Health, the Minister for Family and Children's Services or the Attorney General? That is the role I see for a small office for children. It could simply ask the questions, not do all the work. It could ensure that the proper processes are put in place by the appropriate agencies.

The establishment of an office for children has the support of a number of groups. I never cease to be surprised at people

who write to me or about the things that come across my desk in support of this concept. I have been told that some right-wing groups are concerned that an office for children might consider children's rights versus parents' rights. That is far from my mind; that issue does not arise.

Last year I received a paper from the Australian Association of Paediatric Teaching Centres. At the risk of repeating something I have already read in this place, I will read this letter because it is important to remind members what this prestigious association stated -

This Association comprises all major paediatric hospitals and units in Australia and New Zealand and advocates for children and their health needs. Clearly the health and well being of children is intertwined with other factors including education, income, and family arrangements. There is currently not one organisation that considers the impact of Government decisions on the well being of children. It is our contention that the establishment of an Office for Children would ensure that the needs of children are addressed by all levels of government. You will see that we are not proposing a grandiose bureaucracy; rather the proposal is that a small office be established in each jurisdiction.

We urge you to support this statement and do all that you can to encourage the introduction of an Office for Children both at Federal and State/Territory level.

The statement has the support of the Australian College of Paediatrics, and has been prepared by Dr John Yu, the 1996 Australian of the Year.

That association's 1997 policy paper is dedicated to the establishment of an office for children. I shall read some of the proposals in the document. It states that the Australian Association of Paediatric Teaching Centres notes that -

In recent times, the interests of minority groups and those with special needs have been met by the establishment of offices, departments and commissions within Government.

The major omission in this recognition process has been children and adolescents whose interests and needs have infrequently and haphazardly been the focus of attention of society generally and government specifically. Most activity has been reactive and intermittent rather than proactive and coordinated.

I emphasise the words "proactive" and "coordinated". We are considering a proactive and coordinated response to children's needs. There is no need to go through the document in detail because I will table it, but the Australian Association of Paediatric Teaching Centres recommends that -

An Office for Children be established in the Federal Department of the Prime Minister and Cabinet and the Premier's/Chief Ministers Department of each State and Territory of Australia. A similar office should be established within the New Zealand legislature. The Office should be established by an Act of Parliament.

The objective of an Office for Children is to ensure that the interests and needs of children are considered in the drafting of legislation and the formulation of regulations. The intent is that the impact on children from birth to the age of eighteen years would be examined during this process.

The Prime Minister, the Premier and Chief Ministers take the initiative in establishing an Office for Children in their own Department.

The Office for Children would be a small Office of initially no more than 2-5 people, depending on the Government, similar to Offices in Scandinavia.

The document goes on. When I received that document in the middle of last year, I could not believe how closely aligned it was to my drafting and the notes that I had prepared. Also, an article in *The West Australian* of 12 September 1997 referred to that document and a call by hospital chiefs for a children's advocate. The then minister, Judi Moylan, supported that call. The article stated -

Perth-based association president Gareth Goodier said there were offices representing seniors, women and people of different cultures and races.

"Most groups have the vote," said Dr Goodier, who is also chief executive of Princess Margaret Hospital. "The most vulnerable group in our community are children because they don't have any access to political influence."

The aim of an Office for Children was not to swell bureaucracy but to have a small number of independent staff advocating for children and ensuring children's issues remained firmly on the agenda.

Last year, during Children's Week, I was invited by a group called the Defence for Children International to a launch here in Perth. In fact, it was on 22 October, which was International Children's Day. The group asked me to address my views on an office for children. According to its media release -

DCI has worked with other national organisations on major children's right violations, always focusing and informing the debate on the Convention of the Rights of the Child and other international standards. It campaigns against exploitative child labour, commercial child sexual exploitation and child abuse and neglect.

DCI has its national office in Canberra, which is staffed by volunteers and project workers, and has a number of groups operating in towns and cities around Australia.

Also last year the Australian Law Reform Commission issued a document called "A Matter of Priority". Brian Gordon, who was then the director of the Meerilinga Young Children's Foundation, wrote to me in relation to a response that had been prepared by the Meerilinga Young Children's Foundation. I will quote some excerpts from it. Addressing chapter 12 of the document, he stated -

We are writing to express support of the sentiments and concepts inherent in this chapter insofar as it accords special protection of children's interests and establishes a mechanism for promoting children's well being in all spheres of their lives.

In making the following points I acknowledge the work done by ACWA from which these are drawn. Whether it is called a Children's Commissioner or Children's Ombudsman, etc., we would conceive this role as:

Being an independent office responsible directly to Parliament.

Having oversight over the interests and well being of all children under 18 . . .

Having a broad overview of children's issues in both government and non-government.

Providing a voice in the heart of government administration for children and young people on issues that affect their lives - a voice they would otherwise largely lack.

Many societies have now begun to realise this need for a powerful voice for children. Throughout the world there are moves to recognise and acknowledge this need, e.g. -

- 1981 Norway established the Office of Children's Ombudsman. Similarly, Sweden has a Children's Ombudsman - a job shared by 5. The Ombudsman, however, is located in a non government office.
- 1986 Israel appointed a Children's Ombudsman.  
Costa Rica appointed a Children's Ombudsman.  
Canada (British Columbia) also has a Children's Ombudsman.
- 1989 The New Zealand Commissioner for Children was appointed.

In Norway, the Ombudsman successfully promoted changes in local government planning laws which now require all local Building Boards to appoint a special representative for children's interests.

That reminds me that after the International Year of the Disabled, much was done in local government and in Governments around the world finally to open our eyes to the fact that a section of the community could not access public buildings, shopping centres and, often, homes. I refer to the disabled. Brian Gordon went on to state -

. . . concerns that the office of the Ombudsman would interfere with family relationships were proven unfounded - a partnership developed as evidenced by the number of parents who turn to the Ombudsman for help.

The Norwegian, South Australian and New Zealand offices have a number of characteristics in common:

I will relate them because they are important. He continued -

They are established by legislation and, therefore, have statutory powers and a recognised place and responsibility in the government bureaucracy.

They are independent of other government departments.

They are 'child-focused'. That is, the legislation requires the 'best interests of the child' or the 'welfare of the child' to guide their activities and policies. The primary concern of all three offices is to promote the interests and well being of children.

All three have a range of 'tools' at their disposal and can choose which best suit the task at hand. These tools include research, publications, media releases, public inquiries, investigating and mediating individual complaints, making recommendations and proposals for change, reviewing legislation, policies and practices.

None of the three are confined to any particular sector of government. They are unique in having a broad overview of governmental activity affecting children. Among other advantages, they contribute to improving the co-ordination and consistency of that activity.

Moreover, all three offices can address issues which arise in relation to children in the non government sector. The actions of a range of professionals - (for example, food and toy manufacturers, the media) and other agencies (for example, welfare agencies) may greatly affect children.

Finally, all of the offices have developed contacts and networks with other agencies - both government and nongovernment - concerned with children's interests and well being. The responsibilities and roles of these agencies are not duplicated.

That is an important factor; the operations of current government agencies are not duplicated. The New Zealand model is interesting. I have spoken several times to the New Zealand commissioner. As I have said, the commission was established under the Children, Young Persons and Their Families Act 1989. I have a paper that I am happy to table outlining the office and function of the commissioner in New Zealand. I am now on the mailing list of the office of the New Zealand Commissioner for Children, and I receive the pamphlets that the office often releases, which cover a range of different child-focused issues.

Here in Western Australia we have a number of people who are concerned about children in specific areas. I also bring to the Parliament's attention a paper prepared on behalf of a group of parents concerned with children with special needs, specifically attention deficit hyperactivity disorder. This is a submission which was presented to Hon Derrick Tomlinson, I guess in his capacity as chairman of the education committee. It talks about the unique status of children and the role of government. It is a plea from Sandy Moran, who prepared this paper, that an office be established, and part of its function would be to consider children with special needs.

I will wrap up my comments by quoting from a paper that was given by Judge McGuire. Judge McGuire is currently the President of the Children's Court of Queensland, a position he has held for the past three years. He was speaking at the Jack Woodward Memorial Lecture. Among other outstanding statements he made in that address, he said -

There are fractures in our civil society; the moral order is breaking down, the family is failing.

Let me say at once, in my belief, the primary causes of child crime are family breakdown and associated lack of discipline.

He goes on to talk about western civilisation suffering from a strong sense of moral and spiritual exhaustion, and that we will be morally bankrupt unless something is done about it. He reversed the normal question about why people commit crimes and what we can do about early intervention. He poses the question in this paper: Why do children not commit crimes? We should look at the positive things, the positive parenting, the positive family issues when considering why the majority of children do not commit crimes. We, as a community, should look at the positive things in order to produce children who do not commit crimes. We should look at the things that a Government can do. I believe this is something that an office for children could do in a proactive way. It could do some analyses and consider why particular children do not commit crimes.

I finish with a quote from Judge McGuire as follows -

No civilisation can survive which fails to provide its children with security, stability, a sense of morality and love.

I ask members to support the motion.

**HON CHERYL DAVENPORT** (South Metropolitan) [4.53 pm]: I have great pleasure in supporting Hon Barbara Scott's motion. Prior to the last election, the Labor Opposition, in a policy paper which it distributed in October 1995, had as its policy, should it be elected to Government, the creation of a portfolio of children's interests. It agreed that a State Labor Government would, in its first term, establish a children's advisory council, appoint an independent children's advocate, draw up a legislated charter for children and develop a means of ensuring that children had access to legal counsel when needed. That paper was adopted by the Labor Party. It was prepared by my former colleague, Dr Judyth Watson, the then member for Kenwick. She, like many of us, had concerns that the interests of children were not being sufficiently considered, independent of the general run-of-the-mill decisions made by other departments. My personal interest in this issue developed as a result of the inquiries into juvenile justice that took place in the early 1990s. The lack of coordination of policies across departments impacted on children and young people, and it meant that many of those young people fell through the cracks.

On behalf of the Labor Opposition, I have great pleasure in supporting this motion. I want to establish some other good reasons for considering this as an option. Data collected in the Census which was conducted in 1991 showed that some 20 per cent of Western Australia's population was under 12 years of age. That is a significant figure when one considers the fact that many government departments, and indeed many community organisations, make policies without thinking about the impact that such decisions may have on children. To highlight one example that was brought home to me, that was how changes of policy in relation to liquor licensing and liquor laws might impact to some degree on children. That is not something that people would normally think about in the context of developing a policy of that nature. That is no criticism of anybody. However, an independent office could deal with the impact of such policy decisions and what effects they might have in the future.



I can also name other people who have called for the creation of such an office for children. Although I agree in the main with what Hon Barbara Scott has suggested, I would be concerned to ensure that that office, should it be created, had independence and had some authority to ensure that when policy decisions were made which might affect children, that could be taken a step further, and those policy decisions could be reviewed and changed. I have some concerns about whether having that office located in the Ministry of the Premier and Cabinet would give it enough independence. Certainly the policy that the Labor Party put forward prior to the last election suggested that such an office should be answerable to the Parliament in the same way that the Auditor General and the Ombudsman are. Therefore, that gives it a sense of importance. It does not leave it to consider and advocate policies on behalf of children and then see nothing done about them. From that point of view, they are some of the concerns that the Labor Party would have. However, I am sure ways exist to refine those things.

In September last year, during Children's Week, my colleague, the member for Kalgoorlie, called on the Government to consider the establishment of an independent office for children. That was based on the fact that during that week a number of people had visited this State, and a number of our local, non-government organisations had urged the Government to seriously consider this possibility. The Australian Human Rights Commissioner, Chris Sodoti, delivered a keynote address to the youth affairs conference in Western Australia. His view was that an office for children should be established in each State of Australia and nationally. During Child Protection Week last year, the Vice President of the National Association for the Prevention of Child Abuse and Neglect, Ms Paula Langley, urged the minister to establish an office for children to protect and monitor children's interests.

Debate adjourned, pursuant to standing orders.

**[Questions without notice taken.]**

**OCCUPATIONAL SAFETY AND HEALTH (VALIDATION) BILL**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

*Second Reading*

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [5.33 pm]: I move -

That the Bill be now read a second time.

This Bill is required to ensure the proper administration of occupational safety and health law in Western Australia. The Bill validates past actions of the WorkSafe Western Australia Commissioner at a time when there was a hiatus in his appointment. It removes legal uncertainties surrounding a number of prosecutions initiated under a delegation made by the commissioner when there was a deficiency in his appointment prior to 8 October 1996.

Under section 52 of the Occupational Safety and Health Act the WorkSafe WA Commissioner may issue a delegation in respect of prosecutions. As a consequence of the hiatus in the commissioner's appointment, the legal status of a number of prosecutions under the relevant authority of delegation has been brought into question. In a recent decision, the doctrine of de facto officers has been accepted, by which the orders and decisions of an officer suffering some defect in his or her appointment will be valid where the officer acts with colourable authority. However, it is not at all clear whether this principle will be accepted in other cases or applied consistently. I trust the House will accept that it is untenable to leave this matter unclear for any further length of time.

I am sure the proper administration and enforcement of occupational safety and health law is a matter of utmost concern to us all. The State Government is committed to firm but fair enforcement of the Occupational Safety and Health Act as an important component of its WorkSafe WA 2000 vision and plan for achieving the safest workplaces in the world by 2000. The Occupational Safety and Health (Validation) Bill validates acts, matters or things done by the commissioner under the Occupational Safety and Health Act where there was a hiatus in his appointment. I commend this Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

**FOREST MANAGEMENT AMENDMENT REGULATIONS (No 2) 1998**

*Motion for Disallowance*

Pursuant to Standing Order No 152(b), the following motion by Hon Norm Kelly was moved pro forma -

That the Forest Management Amendment Regulations (No 2) 1998, published in the *Gazette* on 18 August 1998 and tabled in the Legislative Council on 8 September 1998 under the Conservation and Land Management Act 1984, be and are hereby disallowed.

**HON NORM KELLY** (East Metropolitan) [5.35 pm]: The destiny of the Forest Management Amendment Regulations

(No 2) was probably clear on the day they were gazetted, when the Australian Democrats, the Greens (WA) and the Australian Labor Party indicated publicly that they would oppose the implementation of those regulations. When I gave notice of a motion to disallow these regulations, I was unaware that the Joint Standing Committee on Delegated Legislation was also considering inquiring into this matter. Because of the procedures for disallowance of regulations in the Parliament, I am glad I gave notice of the motion on the day the regulations were tabled in this place, because if I had followed the normal course of events and given notice towards the end of the period for disallowance, there was a good chance the debate would not have occurred until March next year. Most people involved in forestry matters would not have been happy about a six-month delay, with such draconian regulations hanging over the heads of people involved in peaceful protest in the south west forest. It is good to have the opportunity today to debate these regulations.

However, it appears that a member of the Joint Standing Committee on Delegated Legislation was also able to jump the gun last week when the deputy chairman pre-empted the debate on this matter by asking a question of the Minister for Finance. I appreciate the work that the committee has put into its consideration of these regulations. It has looked widely at other legislation and regulations to determine whether those gazetted in August this year are totally unnecessary. I shall refer to some of the matters raised by the committee. The regulations have a wide-ranging effect, and the definition of "structure" includes a post, pile, stake, pipe, chain, wire or other thing that is fixed to the land or to anything fixed to the land. As the committee report states, it prevents the erection of a tent without a permit by people walking the Bibbulmun Track. The WA Forest Alliance also pointed out that it prevents day hikers from setting up a cooking tripod to boil a billy. That indicates how wide-ranging these regulations are. Although the Department of Conservation and Land Management has stated that the intention of these regulations is not to penalise those sorts of people, that is not a good enough excuse for implementing such regulations. CALM has argued that the regulations are designed for long-term forest protests, and I am glad it has been up-front about that. The committee report also states that other suitable methods can be used against people who may be acting unlawfully in the state forest. The committee states that it is better to draft new regulations rather than selectively apply the current regulations. Not surprisingly, the timber industry has supported these regulations because it believes they are purely to prevent unlawful disruption of their logging activities in the native forest.

However, the current use of section 62 of the Conservation and Land Management Act and regulation 86 of the Forest Management Regulations, which refers to temporary control areas, provides ample authority for the Department of Conservation and Land Management to find a remedy for unlawful disruption. Today we have seen the effectiveness of those regulations, where peaceful protestors are moving off a state forest area due to a temporary control area being imposed in the Lane block near Northcliffe. We have ample regulation already in place to deal with a peaceful protest.

During hearings of the Joint Standing Committee on Delegated Legislation I was concerned that Mr Don Keene, a CALM officer who gave evidence, mentioned that he was not aware of section 82B of the Police Act, which refers to unlawfully remaining on premises. Section 82B(1) reads -

A person shall not, without lawful authority, remain on any premises after being warned to leave those premises -

- (a) in the case of premises occupied by the Crown or a public authority, by a person in charge of the premises or by a member of the Police Force;

CALM has stated that it would prefer to resolve these issues itself, and I can picture how it might want to do that. However, in the event of peaceful protest in the forests, it is beneficial that CALM officers have police with them to ensure that they do not go beyond their powers in trying to remove peaceful protestors. It would appear that by gazetting these new regulations CALM is set upon taking control by imposing draconian measures without fully utilising the existing legislation and Statutes that are available. Regulations 128D and 128E of the Forest Management Regulations contain suitable provisions to deal with unauthorised camping in state forests. Regulation 128D(3) states -

A person shall not without the authority of the Executive Director camp in a State forest or a timber reserve except in a camping area marked as a camping area.

That is another good measure that is open to CALM officers to prevent long-term camping if they so desire. Regulation 128E is headed "General provisions applying to camping" and states -

- (1) The following provisions shall be complied with by persons who camp in State forests and timber reserves -
  - (a) no structure of any kind of a permanent or semi-permanent nature shall be erected;
  - (b) a camping unit shall not be constructed of unsightly materials, nor in a manner likely to be offensive or dangerous to other persons; and
  - (c) a camper shall keep the site on which he camps in a clean and sanitary condition at all times.

Penalty: \$200.

Once again, that is another provision that CALM can use. There could be arguments about what could be construed as

unsightly materials, and what is likely to be offensive or dangerous to other people. I have looked at tree platforms that have been erected in various forest blocks, and I feel assured, from the expertise used in their construction, that we are dealing with people who are fully aware of how to rig up such structures in a safe way. The absence of any injury from the construction of such platforms is testimony to the responsible nature of peaceful protesters in these areas. I understand that today a number of protestors have voluntarily left Lane block and others have remained. One report I have received is that the remaining protesters are on those platforms. Even though they may be 20 metres from the ground, I am sure it is a form of camping, and if CALM officers wanted to personally deliver an infringement notice to those campers they are free to do so. I encourage them to attempt that.

The committee report refers to the various other powers that are available to CALM officers if people cause any damage in our state forests. For example, section 103(1) provides measures against wilful damage to trees. I have seen the compaction of soil around trees that was caused by logging contractors who exceeded the guidelines laid down by CALM as to where they can clear land to set up loading sites. In my role as a member of the Standing Committee on Ecologically Sustainable Development I have visited sites where such guidelines have been flouted. The damage done by legal logging operations which go beyond their guidelines can be far more excessive than people who are protesting in a peaceful way and who are aware of the damage they can do to their own cause if they are negligent in the way they behave in a state forest. From my visits to the protest sites I have seen that they strictly adhere to good sanitary and safety practices. The lack of fire outbreaks from these camps is testimony to the responsible nature of the protestors. The camps are far less destructive than a single incident of a prescribed burn getting out of control, as occurred either late last year or earlier this year near Nannup, where prescribed burning by CALM got out of control and destroyed a massive area of forest.

Hon Bob Thomas: Surely you are not advocating no prescribed burning at all?

Hon NORM KELLY: The dangers caused by fire outbreak by people camping in the forest in these peaceful protests is minimal compared with the damage that is done by outbreaks from prescribed burns.

Hon Simon O'Brien: That was not the evidence we had from CALM. It saw a real danger.

Hon NORM KELLY: CALM says there is a danger; it is how that is controlled. On the evidence to date the damage from fire outbreak from camping is minimal compared with outbreaks from prescribed burning. The committee report is full of the various regulations and sections in statutes which CALM can access to provide proper controls over the state forests. One of the arguments that CALM uses for the implementation of these new regulations is that it has a duty of care to people who are in the forest to ensure that people in the forest are in a safe environment. Page 14 of the committee's report illustrates an incorrect statement about CALM's duty of care. The report states -

. . . individuals entering areas of natural beauty in unadulterated conditions assume liability for what are commonly recognised dangers (such as the risk of falling branches). Only sites of hidden danger (such as unstable cliff faces, areas subject to subsidence and the like) pose special requirements of 'duty of care'.

When we consider how peaceful protests in our state forests are handled, it is unfortunate that an increasing tension is building up in the south west, especially with the impending signing of the Regional Forest Agreement.

Hon Bob Thomas: We were told that was supposed to take place in August.

Hon NORM KELLY: It was supposed to happen before the end of 1997 at one stage also. If the signing is done prior to proper consultation and the release of a draft RFA which is open for public submissions, as was the original intention, we face the potential for even more confrontation with the anger in our community where the vast majority of the community are opposed to the continued logging of old-growth native forests. Up until today, protesters have acted in a very responsible way. Members may remember that some months ago when protesters entered the Diamond woodchip mill, they chained themselves to the train and were on the site for about six hours. They halted the loading of the train and production for that time. However, there was minimal interruption to the woodchip facility - which, thankfully, was not working at full production - and it took place in such a manner that the lost production time could easily be made up. If there were environmental terrorists in this State wanting to work in an anarchic way, the protesters could just as easily have entered the Diamond woodchip mill and destroyed the equipment; they could have put the equipment out of action for many months, which would have resulted in lost production, lost jobs and the like.

Hon Bob Thomas: In criminal charges.

Hon NORM KELLY: They were liable for criminal charges for what they did anyway. What they did and what they have been doing is, in a responsible way, making their point.

Hon M.D. Nixon interjected.

Hon NORM KELLY: They are not putting lives in danger. They are making their point in the face of not being able to have their viewpoint clearly heard.

Hon Bob Thomas: What criminal charges were they liable for before they walked into Diamond?

Hon NORM KELLY: I cannot quote the actual section.

Hon Bob Thomas: But they had not done anything.

The PRESIDENT: Order, members! Hon Norm Kelly.

Hon NORM KELLY: Our new federal minister wants to ignore peaceful demonstrations such as the one that occurred in July when, on a winter's day of torrential rain, thousands of people marched in the streets of Perth in protest at the way this Government is handling the RFA process. For the new federal minister to ignore that -

Hon Bob Thomas: And called them arrogant.

Hon NORM KELLY: It is arrogant and shows, unfortunately, that this new minister -

Hon Bob Thomas: Is out of touch.

Hon NORM KELLY: - is out of touch even before he allows himself to get in touch.

Hon Simon O'Brien: He is one of the most sensitive and profoundly insightful persons of our time.

Hon NORM KELLY: That does not say much for the rest of the Liberal members in Federal Parliament, if that is the case.

Hon Simon O'Brien interjected.

Hon NORM KELLY: We can see how people might be driven to a point where they could act in a destructive way. However, these people want to act in a strong but peaceful and non-confrontational way to stress their points. That ability to protest peacefully should not be undermined. The regulations, as they stand, do undermine those processes in the same way as peaceful protests are undermined in our neighbouring countries to the north. I would hate to see regulations stay in place which would remove the ability to protest peacefully. As I said, there are many avenues available to ensure the safe use of our forests. We must remember that these state forests are multi-use forests. They are available for logging, recreation, tourism and various timber-related industries and they should be open and accessible for people to use in such ways.

In my discussions with officers from the Department of Conservation and Land Management and the Minister for the Environment, I appreciated being told of the minister's intention to seek the repeal of these regulations in the light of the opposition to them and the Joint Standing Committee on Delegated Legislation's report. However, it is important that the Legislative Council send a strong message to support the committee's report and to indicate clearly to the minister what is not acceptable in the form of regulations. It is a concern that the regulations could aggravate confrontation if the RFA process is not adjusted to recognise the community's concerns.

Hon Bob Thomas: What do you mean by "adjusted"?

Hon NORM KELLY: Adjusted as recommended by the report of the Standing Committee on Ecologically Sustainable Development. I remind members that that was a unanimous report by a committee with representation from all parties. It suggested an adjustment to the RFA process to allow for proper consultation and for a draft RFA to be published prior to signing so that people involved in forest industries can provide input, with a good idea of what a likely RFA would be in its final format. Therefore, even though the Minister for the Environment has expressed her intention to seek a repeal of these regulations, it is important that we support the disallowance to make it clear that these regulations are not acceptable.

I appreciate the minister's providing me with a commitment that she will consult with interested parties such as the WA Forest Alliance and non-government parties including the Australian Democrats prior to the gazettal of any new regulations. This is important because, as I mentioned at the start of my speech, it is possible that with the disallowance of these regulations the minister could have new regulations gazetted which would not come up for disallowance for another six months. Therefore, I appreciate that she is committed to proper consultation prior to having new regulations gazetted. However, given that she has accepted that these regulations are faulty, I would be surprised if this motion was not carried unanimously. I urge all members to support the motion.

**HON J.A. COWDELL** (South West) [5.58 pm]: I first raised this issue in the House on 20 August this year following rumours of these new regulations. Being concerned about what I had heard of the extent of the regulations, I asked the minister to table an explanatory memorandum on the Forest Management Amendment Regulations (No 2) 1998. The minister on that date did table an explanatory memorandum. My mind was not put to rest by the nature of that explanatory memorandum. It simply said -

An offence is introduced for persons who erect or place a structure on or in the forest estate without written authorisation.

The penalty of \$2,000 is the maximum available under regulations, indicating the potentially serious nature of such an offence.

*Sitting suspended from 6.00 to 7.30 pm*

Hon J.A. COWDELL: "I come to bury Caesar, not to praise him"! In this instance I am, of course, referring to a Department of Conservation and Land Management regulation. As I said before the dinner suspension, I had concerns about this regulation as early as 20 August and became increasingly concerned at the inadequacy of the Government's response and the explanation from the department, commencing with the explanatory memorandum, which explained absolutely nothing in answer. Being diligent I sought a departmental briefing, which I received together with the official view from an officer of the department and a representative of the minister's office. Despite that explanation I was still concerned about the essential content of regulation 137A, the definition included -

- (a) a building;
- (b) a post, pile, stake, pipe, chain, wire or other thing that is fixed to the land or to anything fixed to the land;
- (c) materials, objects, fixtures in the area of a structure; and
- (d) a pontoon or other floating structure.

As I say, I was concerned about the scope of that new regulation. Members need not go past the thirty-fifth report of the Standing Committee on Delegated Legislation, which highlights the inadequacy of the regulation and presents a conclusive case in favour of disallowance. It is an extensive document, but members will be aware of four key points that were made, and I quote -

2.1 The Committee's primary concern centres on two main issues:

- (1) the unduly broad scope of regulation 137A; and
- (2) the necessity for regulation 137A in light of existing legislation which appears to meet its stated objectives.

That is the nub of the concern. The committee went on to point out that the regulation was unnecessarily broad and could be used selectively. There was concern that it could be used to prevent not only dangerous protest but also legitimate protest. The committee summarised it well in 2.8 as follows -

In the Committee's view, the Amended Regulations have been drafted in a manner that is unnecessarily broad resulting in potentially severe restrictions on recreational users of the State forests who are not involved in the conduct referred to by Mr Keene in his evidence to the Committee . . . Based on the evidence of CALM officers it appears that the Department's intention is to selectively enforce regulation 137A. The preferable course would have been for the Department to draft a regulation specifically directed at the conduct which the Department wishes to deal with rather than drafting a wide reaching regulation which will be selectively applied.

That is the key objection. In passing, the Committee also observed in paragraph 2.11 that this was not the best way to achieve the objectives that were set out by the department, and I quote -

After reviewing the relevant legislation, the committee is not satisfied that the Amendment Regulations are the best way to meet the objectives spelled out by CALM in its Consultation Paper. . .

The committee puts forward a conclusive case. In paragraphs 2.20 and 2.21 it points out alternative regulations which are already in place and could be used. This is summarised in 2.24 by the committee as follows -

In the Committee's view, regulation 137A does not advance CALM's powers to prevent unauthorised bush camps in a way that is significantly different to sections 106(3) and 62(1)(d) of the CALM Act, and regulation 128D of the *Forest Management Regulations*.

Indeed, the committee notes that one of the written submissions alleged that some protestors had received many of these camping infringements under section 128D and that one woman had received 12 of them. The reality is that if protestors refuse to pay and CALM wants to enforce the notices, it will have no choice but to enforce them in court. The committee does not see how this situation is altered by regulation 137A. The committee concludes by pointing out in paragraph 2.27 that CALM exaggerates its liabilities and the need for this regulation. It states -

It is the Committee's view that CALM's 'duty of care' is wrongly stated from High Court authority which clearly provides that individuals entering areas of natural beauty in unadulterated conditions assume liability for what are commonly recognised dangers (such as the risk of falling branches). Only sites of hidden danger (such as unstable cliff faces, areas subject to subsidence and the like) pose special requirements of 'duty of care'. It is the Committee's view that it is not appropriate to seek a blanket prohibition on activity on the basis that liability might arise to CALM.

In final paragraph 2.29 the committee recommends that the forest management regulations be redrafted to deal specifically with CALM's concerns. This is the core of the situation. It is an excellent report; my congratulations to the committee. However, I do not know why we are here this evening debating this regulation. I understand that the minister has admitted that it is inadequate, that it will be withdrawn, and that it will come back in an amended form. Therefore, I do not know why the Government is debating this disallowance motion this evening, when the regulation should have been withdrawn. However, it has been the Government's wish to keep this regulation before the House to have it debated.

Hon N.F. Moore: Rubbish. The Democrats wanted to give us an explanation of their concerns.

Hon J.A. COWDELL: So we are here -

Hon N.F. Moore: You are wasting time.

Hon J.A. COWDELL: The minister is bound to accuse us of wasting time. If the Government had withdrawn this regulation, no time would have been devoted this evening to this regulation.

It is the Government's choice that we are here. The Opposition looks forward to a more appropriate regulation that can, in due course, be appropriately reviewed by this Chamber. It is on that basis that the Opposition will support the disallowance.

**HON CHRISTINE SHARP** (South West) [7.40 pm]: I emphatically support the disallowance motion. I will speak out on behalf of some fairly considerable human rights issues which have not been touched on tonight, and the valid role that the protest camps are performing in our south west forests. These regulations seek to prevent members of the Western Australian community from exercising a valid democratic right to protest against unjust, corrupt or unsustainable practices. Through research I have discovered that this right is protected under article 19 of the United Nations International Covenant on Civil and Political Rights to which Australia is a signatory. Article 19 of the ICCPR specifically relates to freedom of expression and reads -

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Peter Bailey's book *Human Rights - Australia in an International Context* refers to article 19. He states -

It was put to the Human Rights Commission that 'freedom of expression' went well beyond speech and that it might cover a wide range of physical actions . . .

He then comments -

The heart of Article 19 is to protect communication between individuals in whatever form may be chosen by the individual.

. . . In itself, the right to freedom of expression is among the most important of human rights. It is arguable that it should be included along with the trilogy suggested by the author - the right to life . . . the right to privacy . . . and the right to an adequate standard of living.

In addition to article 19 of the international covenant, Australia is a signatory to the first Optional Protocol to the ICCPR to which 71 other countries of the 145 nations of the UN which signed the original covenant are signatories. The first Optional Protocol provides individual Western Australians and Australians with the ability to lodge complaints about the violation of human rights to the United Nations Human Rights Committee. If all this sounds rather obscure and far-fetched in arguing about some trees in the south west of our State, I would like to mention that this first Optional Protocol has been used actively in Australia. It was used successfully by Tasmanian gay law reformers to move against Tasmania's sexual discrimination laws. I also mention that, having been involved in forest issues for many years, it was over these Forest Management Regulations that I received my first contact from the international media. There is international interest in what we are doing in our south west forests.

I would like to focus tonight on the fact that the protest camps are standing up for some important principles on behalf of the 87 per cent of Western Australians who do not want to see the remaining old-growth karri forest clear-felled. In the two or three weeks that were open to receive submissions, the Joint Standing Committee on Delegated Legislation received an amazing 92 submissions from the general public. It is a pity that the committee process did not allow adequate time to seek hearings with members of the public and representatives from these protest camps on these new draconian regulations. I am sure that members of the Joint Standing Committee on Delegated Legislation would have been impressed, in the same way as members of the Standing Committee on Ecologically Sustainable Development were impressed when we visited Giblett forest camp some months ago and met with young people and some older people who were camped there, at the level of commitment of these people and the level of articulation of their concerns for our environment and their responsible attitude towards these matters. I am proud to say that my daughter was at Lane block today supporting the camp there, along

with many other constituents from the south west. I believe that these wonderful, articulate young people are holding the line on behalf of the wider community against the unsustainable forest management practices of the Department of Conservation and Land Management.

The real issue is not the protest camps; it is the gross and unsustainable misappropriation of our natural resources by the Department of Conservation and Land Management in order to bolster its own income. It is this conflict of interest which is the real issue, and I am grateful to those people who have camped in Lane block and in other areas through the appalling weather conditions of the winter months in order to protect our heritage and to draw attention to these problems.

Without repeating what other members have already contributed, I point out that sections 103, 106 and 108A of the CALM Act already provide significant ability for that department to prevent damage to vegetation and unwanted structures in the forest and section 82B of the Police Act allows the Department of Conservation and Land Management all the powers that it requires to go about its unsustainable practices. This is dealt with at some length in the committee report.

I was particularly interested in the text on page 4 of the committee report which deals with how the new regulations are not only unnecessary but far too wide in scope. They could scope all sorts of innocent recreational activities in the forest. On page 4 of the committee report, in response to the concerns raised by members of the Committee as to the broad definition of "structure", Mr Hampton, an employee of CALM stated -

I do not believe that the department would ever seek to impose this penalty or have this penalty taken to court for the offence of a tent peg being driven into the ground.

What a relief to hear it! He goes on, generously, to comment on behalf of CALM -

I would not regard a tent peg as being fixed to the land. By its nature, it is designed to go in and come out again. At the most extreme, a draconian department could use this power, but it would be extremely unlikely to do so.

I do not believe the department would ever take action under these recently introduced regulations for tent pegs being driven into the ground. They are to apply to a more permanent fixture to the land or a tree.

The committee then goes on to comment -

In the Committee's view, the Amendment Regulations have been drafted in a manner that is unnecessarily broad resulting in potentially severe restrictions on recreational users of the State forest . . . Based on the evidence of the CALM officers it appears that it is the Department's intention to selectively enforce regulation 137A. The preferable course would have been for the Department to draft a regulation specifically directed at the conduct which the Department wishes to deal with . . .

Given the finding of the thirty-fifth report of the Joint Standing Committee on Delegated Legislation and the contents of a letter from the Minister for the Environment, which I have received and which is dated 23 October, I assume that the Government will support this disallowance motion.

We should get down to the real issues. These regulations aim to deal with the symptoms and not the causes. Until the Government deals with the extremely high level of discontent over CALM's management practices instead of seeking to suppress the expression of this dissatisfaction, these protest camps will continue and I will continue to speak up for their cause.

**HON J.A. SCOTT** (South Metropolitan) [7.52 pm]: I also support the motion to disallow the regulations moved by Hon Norm Kelly. As a member of the committee, I believe it is a shame that the disallowance motion has been moved so soon. Being a reasonably new member, Hon Norm Kelly may not have realised that by moving this motion at this time he has limited the committee's ability to examine the wide range of witnesses who could have given a balanced point of view. The only witnesses who gave evidence to the committee were from the Department of Conservation and Land Management, and I am concerned that some of their comments were unsubstantiated rubbish. For instance, witnesses said that a number of objects were put in the forest to obstruct others going about their lawful duties. CALM officers were particularly concerned about people putting bridge spikes into logs. They said that unless a metal detector is used, they are not picked up until logs go through the saw. They pointed out that it obviously damages the saw but, even more importantly, it can create a hazard for sawmill operators. That is absolute nonsense. It has not happened in this State and certainly not as a result of protest action. The protesters going to those camps are trained in non-violent tactics, not to be antagonistic towards workers and always to be aware of the safety of those workers.

Hon N.F. Moore: Who trains these people?

Hon J.A. SCOTT: Training camps are set up to do that. I have been to one, so I know that that is true, unlike the unsubstantiated claims of Mr Keene, who is happy to shoot his mouth off. That has happened in other places.

Hon N.D. Griffiths: Were you keen to have people who have a contrary point of view appear before the committee so they could be examined to test the statements that you are now raising?

Hon J.A. SCOTT: I wanted to see that happen because I knew that these statements were not true. However, time did not permit those people to appear before the committee to defend themselves against these scurrilous claims.

Mr Keene also stated that the protesters left rubbish. I asked him where that had happened and he replied it had been left at Giblett Block. When I contacted the people concerned, they said that was nonsense. He also suggested that the campers constituted a fire risk in Giblett Block. I know that those involved obtained clearances to be in that area and they never lit fires in unsafe places. When there was any risk, they did not light fires. Mr Keene was happy to throw in many unsubstantiated and untrue statements to suggest that somehow it was dangerous that people were using their civil rights to protest. They are defending those forests for the vast majority of people who do not want to see them unsustainably logged for woodchips by CALM.

The other big lie is the statement that these laws are designed to protect the environment and that these people will somehow damage it by putting in tent pegs or installing a platform in a tree. In fact, the trees in question were going to be felled by the loggers and reduced to chips. Protestors go to areas where the forest is to be destroyed by the woodchippers. It is an absolute farce to suggest that CALM's activities constitute environmental protection measures. It is beyond belief that anyone could make such a statement. It was total codswallop. The Government should be embarrassed about that evidence. It should get real and admit that these forests will be woodchipped.

The CALM witnesses also said that this activity posed a safety risk. I will discuss this in detail because no-one I know can think of an instance of a worker or protester being injured during a protest. The forest industry is a dangerous business and not very well regulated in relation to safety. Statistics on fatalities in the past 50 years show that there have been 77 fatalities in logging operations, and 13 in the past 10 years, of which 10 resulted from the impact of falling objects. There have been 48 feller fatalities, of which 46 were as a result of falling objects. Of those fatalities, three occurred when a free-standing tree was not felled, and as a result it uprooted and fell. In another case, a log rolled after completion of crowning off, and in yet another a falling tree struck the end of a burning log causing it to flip over, crushing the worker. There were 52 sawmilling deaths, and of those killed, 15 were log truck drivers and eight incidents involved winches - the workers were loading off when struck by falling logs; seven were struck by falling logs when releasing the load security devices; 14 landing hookmen were killed by logs rolling on the mill landing; and six benchmen were killed when timber was thrown by a circular saw. There has been one fatality since this report in 1995. There have been a lot more since then; we know one occurred recently. However, that was a 1995 report.

The other matter I wish to raise is that when one considers the list of people who have had orders made against them by WorkSafe or by their own timber industry inspectors, the Department of Conservation and Land Management have had 30 IMPs - improvement notices. I think IMPs are the less serious offences. They had five more serious notices about their practices. If CALM were really serious about safety, this is where it would be addressing the problem, not in regulations against protesters. CALM has its own problems to contend with in the way it is running its operations. When one compares Bunnings with CALM, Bunnings had 44 IMP notices and 10 PROHs - prohibition notices. The point I am trying to make is that if these people protesting are doing anything, they are actually preventing injuries; they are stopping people in a very dangerous industry from being killed - because people are being killed during the operation of felling of trees, unloading trucks and in sawmills.

Hon W.N. Stretch: That is about as relevant as saying if you stay in bed you won't have a road accident.

Hon J.A. SCOTT: Surely if the member is claiming that something is being done for safety reasons and there has never been anyone hurt, let alone killed, in that operation, he is kidding! My point is that these regulations have nothing to do with safety or with protecting the environment, as claimed. They are all about preventing protests.

Hon W.N. Stretch: I was trying to agree with you that if you don't have forests you won't have logging accidents.

Hon J.A. SCOTT: I am sorry, I misheard the member. If we want to ensure the safety of people in the industry, we must look at the industry more closely. I understand that some WorkSafe officers are being investigated for not doing their job properly, which is to prevent workplace injuries in the timber industry and other industries. If we want to have regulations to ensure people's safety, that is the area we should be looking at. If we want to protect the environmental aspects of the forest, surely to goodness we should not be cutting down a jarrah forest at an unsustainable rate and woodchipping vast amounts of this forest. The whole basis of this regulation is nonsense. CALM needs to look at its own Act and the way it administers it if it wants to prevent injuries in the industry.

The PRESIDENT: Order members! It is difficult to hear Hon Jim Scott and that is certainly not his fault. If members want to conduct conversations, especially when they prevent the Hansard reporter from hearing the member with the call, would they please step behind the Chair.

Hon J.A. SCOTT: Thank you, Mr President. The final point I wish to make in agreeing with this disallowance motion is that the committee has clearly pointed out Mr Hampton's comments regarding the tent peg in the ground not being meant to apply to people just casually camping in the forest. Mr Keene thought that it was less of a fire risk to have people kept



in one place in a big clearing where people could easily maintain a watch on the situation. He thought it was less of a risk than people camping their way through the forest in different places every night. I think that is nonsense. However, the main point Mr Hampton is making is not aimed at overnight campers, but at people who are protesting or staying in the same place for a long time. That clearly shows that the regulations were to be applied selectively against a certain group of people. It clearly points to something which is within the committee's purview to move for disallowance. Hon Norm Kelly's motion fits in with that.

Just as an aside about tent pegs, Mr Geoff Fernie, one of the people who provided a written submission, said that the fine for putting a tent peg in the ground was equivalent to somebody bulldozing a road through virgin forest. If that is not exorbitant, I would say nothing is. I support the disallowance motion.

**HON N.D. GRIFFITHS** (East Metropolitan) [8.06 pm]: I do not want to take up much of the time of the House. I regret that we found it necessary to debate the matter at all this evening. The House has had the benefit of reading the report of the Joint Standing Committee on Delegated Legislation. The minister in the other place has made her views known. There is no disagreement on the substantive issue before the House. I digress briefly to say that, considering the matters of great import to the people of Western Australia that are on the Notice Paper, I very much regret that we have taken this time and held up the Government's legislative program to the degree that the House has already. It had to do so to a significant extent because Hon Norm Kelly insisted on speaking, notwithstanding the fact that he, like everybody else, knew where everybody stood. He could have got his message across in a media release if he wanted to. However, there are a couple of matters that must be said about this before I sit down.

There is in the Parliament a committee which deals with delegated legislation. In dealing with its tasks, the committee often has to look at matters of controversy. It is a committee which broadly represents the political views of the Parliament. In doing so, it is not a committee which approaches its task on a party political basis. Its terms of reference deal with the very issues which have given rise to the committee's recommendation which has been accepted by the Government. If the committee's role had been allowed to take its course, the community of Western Australia would have had a greater faith in the way this Parliament operates than it has been allowed to have because of the premature notice of motion given by Hon Norm Kelly. It is his entitlement to give a notice of motion, subject to the standing orders, as soon as a document is tabled. However, if he had waited, the committee would have had sufficient time to consult with and listen to the views of interested people and then publish them for the benefit not just of the members of this Parliament but also the people of Western Australia.

A number of issues could have been aired, perhaps not on the direct point of whether this regulation is right or wrong under the precise terms of reference of the committee; so many points of controversy could have been aired. The people's representatives in this House and in the other place would have been able to listen to them and present them before this House and the other place. People would have been better informed. The people of Western Australia would have had a better chance to reach consensus on what from time to time are very emotive issues.

I do not want to occupy any more time of the House; however, I must ask the House to note my regret that the premature giving of notice of disallowance by Hon Norm Kelly has prevented Parliament from doing as good a job as it is capable of doing.

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [8.10 pm]: I thank Hon Nick Griffiths for his comments. Some years ago, Hon Tom Helm gave much credit to the Joint Standing Committee on Delegated Legislation. During his time on the committee, Hon Tom Helm often went through the motions to speak to the minister to make changes.

The Joint Standing Committee on Delegated Legislation has reported to Parliament on an inquiry into the Forest Management Regulations (No 2). The committee held the view that the regulations were unduly broad in their scope as a result of the wide definition of "structure" and largely unnecessary in light of existing legislation which appears to meet its stated objectives. The minister asked the Department of Conservation and Land Management urgently to review the committee's report. That review will specifically address areas where the committee believes there are grounds for allowance. That is exactly what Hon Nick Griffiths said, just as Hon Tom Helm has said. The minister has had documents prepared to repeal the regulations. If time had been available for an Executive Council to be held yesterday or today - a meeting is not to be held until next Wednesday - it would have been repealed and we would not even be considering the disallowance motion.

I note what Hon Nick Griffiths has said. Delegated legislation exists. It often provides good coverage on some matters - I would not agree with what it does on some subjects, but most of the time there is a balanced view of what is going on. I note the comments of Hon Norm Kelly and Hon Jim Scott, who have a close interest in the matter. Their views back up the points of evidence that were given. Having looked at it, is it really necessary?

**HON NORM KELLY** (East Metropolitan) [8.12 pm]: I appreciate members' comments on the motion. I will make a few short comments. I appreciate what members of the Joint Standing Committee on Delegated Legislation have said, particularly Hon Jim Scott, about the limited time that the committee had to consider the regulations. Hon Nick Griffiths

is either contradictory or totally out of touch with the views of Western Australians. As I stated in moving the motion, the reason for the urgency in giving notice to move the disallowance motion was extreme concern within the community about the regulation having been gazetted and being enforced until a time when it might be disallowed. It is amazing that Hon Nick Griffiths talked about respect for parliamentary processes when he chose to ignore those processes and flouted the standing orders by pre-empting debate on the matter last week. His comments were out of order.

Hon Tom Stephens: That is most unparliamentary and it is a reflection on the Chair.

Hon NORM KELLY: If members read last week's *Hansard*, they will see what really happened.

*Point of Order*

Hon TOM STEPHENS: Hon Norm Kelly reflects on the Chair when he suggests that the Chair has allowed a member to flout the standing orders of this place. It is unparliamentary to reflect on the Chair in that way.

The PRESIDENT: I am pleased that the Leader of the Opposition recognises that point; however, I have tried to keep interjections to the minimum. I did not want the debate to turn into a slanging match between members, and to date it has not done so. Hon Norm Kelly has made his point. I, for instance, will not allow a member knowingly to breach the standing orders. However, if we can move on - Hon Norm Kelly has indicated that he is winding up - we will make progress.

*Debate Resumed*

Hon NORM KELLY: As I said, there is concern about those matters. There was urgency to move the motion. The alternative was that we would have debated the disallowance in March or April next year, because that would have been the normal time frame if the Joint Standing Committee on Delegated Legislation had given notice prior to the expiry of the allowable period.

As I have stated, I appreciate that the disallowance of the regulations was put forward by all three non-government parties when the regulations were gazetted. As I mentioned to certain members prior to the debate, I did not want to speak for too long because I realised that all parties had equally valid reasons to disallow the regulations.

I appreciate the commitment of the Minister for the Environment in the matter. Ideally, the regulations would have been repealed prior to the debate coming up. Unfortunately, that is not the case. Therefore, there is a duty on members to honour the comments by the Minister for the Environment in having the regulations removed from the statute book and to support the disallowance motion. I look forward to those commitments. The Minister for the Environment has undertaken to consult fully with all interested parties such as the Western Australian Forest Alliance and non-government parties to ensure that redrafted regulations that are gazetted have a stronger chance of approval and less chance of disallowance in future. For those reasons, I recommend that members support the disallowance motion.

Question put and passed.

**SELECT COMMITTEE ON NATIVE TITLE RIGHTS IN WESTERN AUSTRALIA**

*Extension of Time*

Hon Tom Stephens (Leader of the Opposition) presented a report of the Select Committee on Native Title Rights in Western Australia seeking a further extension of time in which to report to Thursday, 19 November, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 326.]

**GOVERNMENT RAILWAYS (ACCESS) BILL**

*Committee*

Resumed from 27 October. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon M.J. Criddle (Minister for Transport) in charge of the Bill.

**Clause 1: Short title -**

Progress was reported after the clause had been partly considered.

Hon M.J. CRIDDLE: I move -

Page 2, line 3 - To delete the word "*Government*".

We had quite a deal of debate last night on this clause. I want to round off my remarks on it. The Committee needs to understand that industry itself, including the West Australian Rail Advisory Council, is keen to see the Bill pass through

Parliament. We must focus on the fact that the Bill is about the implementation and enforcement of an effective access regime in Western Australia. It is about control of access in Western Australia without having to go through the process of the Trade Practices Act, the National Competition Council and the Australian Competition and Consumer Commission. The proposed changes are to establish a regulatory environment within which, regardless of who owns Westrail, the rail owner is expected to operate. If there is not an effective state regime, rail operators must use the national rail access regime. No-one favours that option. The proposed changes do not facilitate the sale of Westrail; this is not enabling legislation for that sale. Hon Tom Stephens' proposals do not relate to rail access. After all the debate and the points that I clearly made yesterday, we now have an opportunity to get a decision and perhaps move on.

Amendment put and a division held, with the Chairman casting his vote with the noes -

Ayes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon Greg Smith
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon W.N. Stretch
Hon B.K. Donaldson	Hon Murray Montgomery	Hon B.M. Scott	Hon Muriel Patterson ( <i>Teller</i> )
Hon Max Evans			

Noes (14)

Hon Kim Chance	Hon Tom Helm	Hon J.A. Scott	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon N.D. Griffiths	Hon Norm Kelly	Hon Tom Stephens	Hon E.R.J. Dermer ( <i>Teller</i> )
Hon John Halden	Hon Mark Nevill		

Pairs

Hon Derrick Tomlinson	Hon Cheryl Davenport
Hon Peter Foss	Hon Ljiljanna Ravlich
Hon M.D. Nixon	Hon Bob Thomas

**Amendment thus negated.**

**Clause put and passed.**

**Clause 2 put and passed.**

**Clause 3: Definitions -**

The CHAIRMAN: Members will be aware that we will need to consider any amendment which defines "railway owner" before we deal with any clause that inserts "railway owner" into the Bill.

Hon M.J. CRIDDLE: I move -

Page 3, after line 20 - To insert the following definitions -

**"railway owner"** means —

- (a) in the case of a Government railway that is not leased under section 62 of the *Government Railways Act 1904*, the Commission;
- (b) in the case of a Government railway that is leased under section 62 of the *Government Railways Act 1904*, the lessee; or
- (c) in the case of a railway other than a Government railway, the owner of the railway infrastructure;

**"railways network"** means —

- (a) all the railways that were Government railways when this Act received the Royal Assent; and
- (b) any railway declared under subsection (2) to be a part of the railways network;

Hon NORM KELLY: We have made our position quite clear on matters of railway ownership. What is the extent of the impact of this amendment?

Hon M.J. CRIDDLE: This allows any operator who goes onto the rail system to have access to the rail. That is the crucial point.

Amendment put and a division held, with the Chairman casting his vote with the noes -

## Ayes (13)

Hon M.J. Criddle  
Hon Dexter Davies  
Hon B.K. Donaldson  
Hon Max Evans

Hon Ray Halligan  
Hon Barry House  
Hon Murray Montgomery  
Hon N.F. Moore

Hon Simon O'Brien  
Hon B.M. Scott  
Hon Greg Smith

Hon W.N. Stretch  
Hon Muriel Patterson  
(*Teller*)

## Noes (14)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon N.D. Griffiths  
Hon John Halden

Hon Tom Helm  
Hon Helen Hodgson  
Hon Norm Kelly  
Hon Mark Nevill

Hon J.A. Scott  
Hon Christine Sharp  
Hon Tom Stephens

Hon Ken Travers  
Hon Giz Watson  
Hon B. Thomas (*Teller*)

## Pairs

Hon Derrick Tomlinson  
Hon Peter Foss  
Hon M.D. Nixon

Hon Cheryl Davenport  
Hon Ljiljana Ravlich  
Hon E.R.J. Dermer

**Amendment thus negated.**

Hon M.J. CRIDDLE: That vote changes the impact of the amendments I was proposing to move to change the words "the Commission" to "a railway" and "a railway owner". It is therefore not my intention to move those amendments on the Supplementary Notice Paper apart from those to clause 12, page 8, and clause 43, pages 23 and 24.

**Clause put and passed.****Clauses 4 to 8 put and passed.****Clause 9: Code is subsidiary legislation -**

Hon TOM STEPHENS: My amendment has been on the Supplementary Notice Paper for some time. I move it to ensure that the code is treated as delegated legislation, with the power to be enforced and to be treated seriously, not mere guidelines to be accepted or disregarded at the convenience of the Government of the day. It is a code that is delegated legislation and to be regarded as that pursuant to the statutes that normally govern such subsidiary legislation. I suggest the Interpretation Act provides an opportunity for disallowance by either House of Parliament. I have had the opportunity of speaking with the minister and he has encouraged me to proceed with an amendment that is different from that on the Supplementary Notice Paper.

It would have the effect of putting within this statute the way in which regulations must be dealt with. The minister encourages us, if we are determined as a Committee, to change clause 9. Rather than simply insert after "1984" the words "and is taken to be regulations for the purposes of section 42 of that Act" we will use an alternative process which will lift the paragraphs that generally govern the disallowance of regulations from section 42 of the Interpretation Act, but with some specific changes. Those changes would not be simply to leave in that open-ended provision that exists in another place whereby notice of disallowance can be given. There is no requirement under the standing orders of another place that would guarantee that that motion for disallowance be dealt with. Generally that is of no consequence. Governments generally bring down regulations and can rely on another place not to have successfully carried disallowance motions that would alter government decisions on regulations. Governments in the future may not always be so lucky to have the numbers that this Government has in another place. Therefore, something can be said for putting a more certain process in the statute, rather than simply leaving in the open-ended process that currently exists.

I was encouraged by the minister when he said that we would leave in the requirement that the code be laid before each House of Parliament within six sitting days. That is lifted straight from the existing Interpretation Act. Some consideration may be given to alternative ways of doing that. That is the way things have been done to this point. I will not depart from that on the amendment. I will move that section. I prefer to proceed with the next amendment that would disallow the code - I ask my colleagues Hon Norm Kelly and Hon Jim Scott to listen carefully - and insert after "Code" the words "or any part of the Code". It is also inserted in the next subclause and those would be the only two times that it would need to be mentioned. That would provide the Committee with the opportunity to recognise that it may be a part of the code that we want to disallow rather than be left with the situation in which the code has been amended. It contains important matters which members do not want to disallow, but there is something within the code that members want to focus on. We do not want simply to disallow the whole code. The proposed amendment would leave the Committee free to focus on a part of the code. That is a freedom and a cause for which various members of this place have argued, both inside and outside the Chamber, when they realised the problems of moving to disallow.

I commend this regime as an alternative to that on the supplementary Notice Paper. It has arguments to support it; for example, it is contained within the statute books, it departs from the current arrangement of 14 sitting days. Here we

have a process of 10 sitting days. That is a significant departure which the Government has requested, and I think that is reasonable. In the spirit of that request from the Government, I think that change should be accommodated as a more workable way of dealing with the disallowance procedure. It is bringing the procedures between the two Chambers into the same category, under the same governance. It leaves in place the process we have just seen operate with the notice of motion to disallow the code. As I say, it must be dealt with within 10 sitting days. I move -

Page 7, after line 6 - To insert -

- (2) The Code is to be laid before each House of Parliament within 6 sitting days of that House next following publication of the Code in the *Gazette*.
- (3) Notice of motion to disallow the Code or any part of the Code may be given in either House of Parliament within 10 sitting days of that House after the Code has been laid before it under subsection (2).
- (4) Within 10 sitting days of a House of Parliament after notice of motion has been given in that House under subsection (3), that House may pass a resolution disallowing the Code or any part of the Code.
- (5) If the Code is not laid before both Houses of Parliament under subsection (2), or is disallowed by either House under subsection (4), the Code ceases to have effect, but without affecting the validity or curing the invalidity of anything done or the omission of anything in the meantime.
- (6) If a resolution has been passed under subsection (4), notice to that effect is to be published in the *Gazette* within 21 days.
- (7) In this section -
  - "the Code"** includes -
    - (a) an amendment of the Code; or
    - (b) a Code repealing and replacing the Code.

Without further argument, I commend the amendment to the Chamber.

Hon NORM KELLY: The Australian Democrats support the principle of having the code or the amendments disallowable. However, members may appreciate that this new version of allowing that to occur was given to me in the middle of the previous debate a short time ago, and I have not been able to go through it fully. I appreciate the difference between this Chamber and the other place. On the Notice Paper in the other place under private members' business there is a notice of motion to disallow the metropolitan region scheme amendment 985/33, the one this place disallowed on 1 July this year. I am not too sure why it is on that Notice Paper.

Hon M.J. Criddle: That is the reason for this one.

Hon NORM KELLY: I appreciate that if that were to happen in this case, we would keep the uncertainty for a longer time. Given the different nature of the other place on most occasions, the possibility of that occurring would be minimal. I appreciate that this proposal is to alleviate that situation. The number of sitting days gives a variation -

Hon Tom Stephens: I suggest an example where it would not be unthinkable is if there were a minority government.

Hon NORM KELLY: That is right. As I said, in most cases that would not happen. Once the Democrats get a few seats down there, it is more likely.

Hon Tom Stephens: I was thinking of alternative possibilities.

Hon NORM KELLY: Another concern I have is that it allows 10 sitting days. That is a third number of available sitting days before moving a disallowance. Currently we have 14 days for regulations, 12 days for disallowing amendments to the metropolitan region scheme and now 10 days for this code. In the Bill I have listed on the Notice Paper, I have moved to adjust the MRS disallowance period from 12 to 14 days to achieve some compatibility. I am concerned about consistency. However, we support a disallowance mechanism for the code or parts of it. In what has been proposed by Hon Tom Stephens in subclause (2), it states that -

the Code is to be laid before each House of Parliament within 6 sitting days of that House next following publication of the Code in the *Gazette*.

I wonder whether that is sufficient to allow for the publication of amendments to the code and the entire code and whether amendments would fall under that mechanism.

Hon Tom Stephens: You are saying that the original amendment already has that same requirement by reference to 42(1) of the Interpretation Act of which this is simply a direct lift.

Hon NORM KELLY: I am seeking clarification whether amendments to the code would be covered by this amendment as they are published in the *Gazette*.

Hon Tom Stephens: The answer would be yes by reading subclause (7) as follows -

In this section -

**"the Code"** includes -

- (a) an amendment to the Code;

Hon NORM KELLY: That is fine. We will support the amendment.

Hon TOM HELM: I congratulate the leader on this amendment, which is quite adequate. I remind the Committee that if the code is not a disallowable instrument then we have a danger -

*Point of Order*

Hon B.K. DONALDSON: We are debating an amendment made on the run. No copies have been distributed to members in the House except those who have rattled it off. It is less than professional when that sort of activity is taking place. Amendments are being moved to clauses but they have not been distributed.

The CHAIRMAN: There is no point of order but I will ensure that the amendments are distributed immediately. I thought they were distributed when the Chair received a copy.

*Debate Resumed*

Hon TOM HELM: I detect a change of heart from the conservative benches which is very heartening.

Hon Tom Stephens: You mean they want to know what is going on.

Hon TOM HELM: They do and if they know what is going on, they might make a considered decision. I remind the House that we have a problem with the office of the regulator and who that would be. Another problem is the minister saying that it is in the best interests of the legislation for the code not to be disallowable. I find it a bit surprising that this minister would use an example such as if a railway owner wanted to sell second-hand sleepers and railway tracks, the change to the code would need to come before this House when he knows very well that the code can contain provisions for that to happen. The House would not be so churlish as to disallow the section of the code which would give railway owners the ability to do what is sensible and necessary for the successful completion of that business.

It seems strange that this Government has a growing desire to have transactions transparent, yet it is working towards establishing codes of practice which are not disallowable. A step towards good government is made if elected representatives are allowed to have some influence upon the direction in which a minister or his representative may want to move.

Hon M.J. Criddle: The sale of sleepers has nothing to do with the code.

Hon TOM HELM: That matter was outlined in the minister's response to the second reading debate.

Hon M.J. Criddle: No, I did not say that.

Hon TOM HELM: If I misunderstood the minister, I apologise. It can be done through the code any way. If it were a disallowable instrument, it would be fine. The delegated legislation committee debated that this legislation, like all legislation, does not suddenly appear from heaven; good reason exists for the code to be amended or for a code to be established. However, everyone should be exposed to those reasons. If one does not have a disallowable instrument, it is more likely that government decisions will be made in undesirable ways. Members currently on this side of the Chamber were constantly criticised in government by conservatives on the opposition benches with accusations of hidden business deals and government business. In following the course I suggest, we can prevent that activity somewhat. Therefore, I urge the Chamber to support the amendment before us.

Hon B.K. DONALDSON: This amendment seems to be a convoluted way to achieve what was intended in the first place. Hon Tom Stephens' first amendment - by which this code could be taken to be regulations for the purposes of section 42 of the Interpretation Act - picked up that intent anyway.

Hon Tom Stephens: Do you prefer it in the way it was originally proposed?

Hon B.K. DONALDSON: Obviously the Chamber will do it in the way it sees fit. I ask the minister to explain the

matter. I know some of what has been introduced is part of section 42 of the Interpretation Act anyway, as it deals with regulations. That is what Hon Tom Stephens originally moved.

Hon M.J. CRIDDLE: This amendment differs from section 42 of the Interpretation Act, which refers to 14 sitting days. This provision contains an indefinite period to pass the motion in the lower House. That is the reason for Hon Tom Stephens' amendment. The Government is of the view that we should go with clause 10, which allows the minister to exercise his power on the code. That is the preferred method to administer the code. The minister can give notice, undertake a public consultation process and advertise in a daily newspaper circulated throughout the Commonwealth and the State. The notice should include information on the places from which a copy for any purpose may be obtained; a statement that written submissions on the proposals may be made to the minister by persons in a specified period; and an address to which the submission may be posted. It is about the minister consulting people, both the users and the rail operator, which in this case is Westrail. This would also come under the certification of the NCC, which was put in place as a result of an access code in Western Australia. That is the Government's preferred position. I understand the numbers in this Chamber and that an amendment has been moved by Hon Tom Stephens, but the Government will be voting against this amendment.

Hon NORM KELLY: What is the reason for 10 sitting days? Is that part of the policy?

Hon M.J. CRIDDLE: In our consultation outside the Chamber, we had to come to an arrangement that would be more suitable.

Hon TOM STEPHENS: If the Government will not support the amendment, why should I not just go back to the 14 days? Hon Norm Kelly has raised a good point by indicating that a standard arrangement would be 14 days. I could understand it if Hon Norm Kelly wished to move an amendment on my amendment. I thought I was doing something that would accommodate the Government.

Hon M.J. Criddle: It will.

Hon TOM STEPHENS: However, the minister has indicated that he is about to vote against the amendment. If Hon Norm Kelly were to move to provide an alternative regime along the lines about which he has spoken, in view of the Government's position I would encourage my members to accept that amendment.

Hon NORM KELLY: I did not intend to open up a Pandora's box again. I am happy to support the amendment as it stands. I just wanted to get a simple explanation of the reason behind this amendment and whether it was just a matter of having a time frame whereby it would become definite after 10 sitting days. Discrepancies between different Acts will occur whether this stays at 10 or 14 days. I am happy to support the amendment in its current form.

Hon J.A. SCOTT: I said during the second reading debate that I was very keen that the code be a disallowable instrument in the normal way. I do not propose to argue about a couple of days. The amendment is satisfactory and meets the need for this Parliament to have some input. Quite powerful regulations are being made by people who do not have any public support. Therefore, it is proper that we demand that this Parliament have some scrutiny. I support the amendment.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 10: Public comment on amendment or replacement of Code -**

Hon TOM STEPHENS: I have an amendment on the Supplementary Notice Paper, which is my preferred way of dealing with the Bill. It would ensure that any attempt to sell parts of Westrail's operation would come before the Parliament for approval within six months of such sale. I move -

Page 7, after line 12 - To insert the following subclause -

- (2) In the event that the Commission's track infrastructure is sold, transferred or leased the Minister must carry out a review of the Code and submit the reviewed Code to Parliament for approval within six months of such sale, transfer or lease.

The CHAIRMAN: The amendment is out of order and, therefore, is not before the Chair.

Hon TOM STEPHENS: In that case, I alert members to the reality that this amendment is outside the scope of the Bill. I would prefer the Bill to be withdrawn. Nonetheless, one way of proceeding is by the amendment that has just been circulated relating to clause 12.

Hon M.J. Criddle: Do you mean this scribble?

Hon TOM STEPHENS: Yes, the hand-written note.

Hon N.F. Moore: You have had two months to deal with this.

Hon TOM STEPHENS: If the minister has difficulty reading the amendment, I will read it to him.

Hon N.F. Moore: It has already been to a committee and you drew up that amendment at the last minute.

Hon TOM STEPHENS: I appreciate that the minister may have some difficulty reading my writing.

Hon N.F. Moore: Surely we are entitled to know what you are doing if you want us to vote for it.

Hon TOM STEPHENS: Yes and I will make sure the minister knows exactly what I am doing. I propose in clause 12 to insert a new subclause to the effect that the regulator must carry out a survey of the code where circumstances have arisen since the last review that would have a substantial effect on the operation of the code.

The CHAIRMAN: The Leader of the Opposition should relate this to clause 10.

Hon TOM STEPHENS: I was simply alerting members to the fact I cannot amend clause 10 as I had proposed, because of the standing orders. Therefore, I have circulated another amendment to the effect that if a substantial circumstance arises, the regulator must carry out a review of the code which must come before the Parliament.

**Clause put and passed.**

**Clause 11 put and passed.**

**Clause 12: Three-yearly review of Code -**

Hon M.J. CRIDDLE: In line with the recommendations of the standing committee I move -

Page 8, line 27 - To delete the figure "3" and substitute the figure "5".

**Amendment put and passed.**

Hon TOM STEPHENS: I move -

Page 8, after line 28 - To insert the following subclause -

- (2) The Regulator must carry out a review of the Code where circumstances have arisen since the last review that would have substantial effect on the operation of the Code.

I apologise to members for the fact that the earlier amendment was in my hand written note. I have had the good fortune of sharing the company of members of this place for a number of years. During the entire period I have been here that experience has been no different in many Committees of this House. The good officers of this place have now provided members with a clean, type-written script.

Hon Bill Stretch: With your name on it.

Hon TOM STEPHENS: With my name on it. Hon Bill Stretch, who has been here almost as long as I have, has also shared the experience of members doing their best as legislators. When we explore and take advice on alternatives we do the best we can as legislators. If members have not had sufficient time to consider my alternative I will happily entertain we report progress. If the Committee wants to consider the amendment, although moved at short notice, I will get on with it.

Hon N.F. Moore: You might tell us what "substantial effect" means. You are legislating on the run. You will put something in an Act which will be ridiculous and you know it. That is why you should not do it with three seconds' notice.

Hon TOM STEPHENS: I assure the minister that I have taken advice and explored the ways of ensuring that the Parliament has the best prospect of examining the code from time to time to be in a position of having its say about a matter.

Hon N.F. Moore: You have 12 members and you want to be the Government.

Hon Tom Stephens: The sale of Westrail could have a substantial effect on the operation of the code.

Hon M.J. Criddle: It does not apply under the sale. We do not have that option now anyway.

Hon TOM STEPHENS: Under this amendment the regulator would be faced with the requirement to carry out a review and position that Code before the House with the prospect of the House subjecting the code or part thereof to disallowance. I commend this amendment as an alternative way of tackling the problem, although I would have preferred it were done another way. It is the best I can do to ensure that the Parliament has some way of holding Governments accountable over the disposal of a massive public asset.



Hon N.F. Moore: There is a difference to being accountable and trying to be the Government while in opposition.

Hon TOM STEPHENS: I am sick of the Leader of the Government. I have put up with him for sixteen and a half years.

The CHAIRMAN: Order! The Leader of the Opposition will sit down, and the minister will come to order. That was a disgraceful display by both members, particularly the Leader of the Opposition. I do not want a repeat of it or there will be action.

Hon TOM STEPHENS: I apologise for causing you any inconvenience, Mr Chairman. I hope you will be able to restrain the Leader of the Government from any further interjection during my speech.

Hon N.F. Moore: I hope the Leader of the Opposition will apply the same rule to himself in future.

Hon TOM STEPHENS: Will the Leader of the House restrain himself or will the Chair throw him out?

The CHAIRMAN: Order! The Leader of the Opposition will address the Chair. The conversation across the Chamber will cease and the Leader of the Opposition will speak to his amendment and address the Chair.

Hon TOM STEPHENS: The Government could give us an assurance now that no sale of Westrail will occur without parliamentary approval. The Government could intervene in the debate and assure us that it will hold itself accountable to the Parliament. If that assurance were given I would take this Government at face value. The alternative is to try to ensure that, through this amendment, the regulator must put something back before the Parliament. That is not the ideal response, and if the minister could give us an assurance that he will not proceed to sell off Westrail without parliamentary approval, all of the members of this place can make a decision on any proposal that the Government puts before the Parliament.

Hon M.J. Criddle: If the definition is changed and we are left with the word "commission", other legislation would be necessary. This relates to Westrail.

Hon TOM STEPHENS: The minister can develop that theme a little.

Hon M.J. Criddle: I do not have to, because it is as plain as day. This is relevant to Westrail.

Hon TOM STEPHENS: Is the minister saying that by virtue of the amendments that were unsuccessful in this committee, any sale of Westrail will, of necessity, require parliamentary approval?

Hon M.J. CRIDDLE: That question has nothing to do with this Bill. What we talked about before would have allowed the access Bill to be in place and to make it workable. However, the sale of Westrail has nothing to do with that. We may have to go to the Parliament on the sale of Westrail. If the sale of Westrail occurs, amendments to the Bill will have to be brought into this place. It is as simple as that. This Bill will accommodate an access code in Western Australia.

Hon NORM KELLY: It has been made clear that this Bill is about access to our rail infrastructure and to increase competition. The Government put forward a raft of amendments on the Notice Paper that do not directly impact on access and competition, but perhaps will facilitate the eventual sale of Westrail at a later date. Because this Bill is not about the privatisation of Westrail the Australian Democrats did not support the amendments in which the commission would be deleted and a railway owner substituted. For the same reasons we will not support the amendment proposed by Hon Tom Stephens to introduce a mechanism to ensure that this legislation would have to come back to Parliament. That has already been assured by the rejection of the Government's earlier amendments. As much as I would love to have legislation providing that the sale of this rail infrastructure requires parliamentary approval, that is not the case. I remind members that the railways legislation has been in operation for 94 years. Coalition and Labor Governments over that time have not deemed it fit to include a provision requiring parliamentary approval for the sale of that infrastructure. It is too late to try to introduce an accountability measure by default.

As I said yesterday and today, I would like this Parliament to have a full and proper debate on the sale of Westrail prior to its being allowed by any Government. That is not the case, but it is beyond the parameters of this debate. For those reasons I do not support the amendment.

Hon J.A. SCOTT: I understand what Hon Tom Stephens is trying to achieve and I agree with his aim. I also agree that this is a clumsy way to do it. Altering the code to ensure that it is a disallowable instrument in that way provides enhanced protection in the event of a sale. Any sale could be stymied by refusal to alter the code to allow that to occur without debate in this place, but it does not give us debate on a Bill. The opposition parties in this place can refuse to pass those sections of the code until the Government introduces a Bill, so this amendment is not necessary.

Hon TOM STEPHENS: I appreciate Hon Jim Scott's comments. This is the best we have in the circumstances. I also accept the point made by Hon Norm Kelly - that there is no ideal way of achieving this in the context of this debate. However, this is one way of exposing this Government's actions to parliamentary scrutiny for the community of Western Australia.

The Labor Party has never imagined the propositions that this Government has presented in terms of flogging off the State's public assets. It never occurred to the Labor Party that any Government of Western Australia would so thoroughly renounce its responsibilities to the people of this State as this Government has done in moving so much of the basic infrastructure of the community into the hands of private operators. I imagine the reason that Labor Administrations did not think it necessary to lock within legislation the requirement for parliamentary approval of such an action is a disbelief that a Government would go down the holus-bolus route of privatisation that this Government seems intent on pursuing. In those circumstances, I ask the member to reconsider his initial response. I do that in the knowledge that he is an advocate - as is his party - of holding Governments accountable through the Parliament on issues such as major decision-making processes. I am sure he would have preferred an alternative method of the Government's being required to do that than the amendment I have before the House. I do not have that device; I do not have that artifice. This is the best I can do in the circumstances and I ask members to embrace my best efforts in that regard. It provides by no means a certain obligation on the Government to get back to this place to obtain parliamentary approval, however, it increases the prospect of that obligation happening.

Hon NORM KELLY: I appreciate Hon Tom Stephens' comments. However, we must also consider who the regulator is and what role that regulator could play in determining the viability of a possible sale. If the regulator turns out to be the Director General of Transport, it would not be an adequate response. As I said, I am very hopeful that legislation does have to come before the Parliament to allow for a possible sale of Westrail. If that were to happen, there should be a full and proper parliamentary inquiry to consider that matter which would go beyond the parameters that a regulator would consider. It is something on which we could use the numbers in this place to get this amendment passed; however, I still do not think it is an ideal or responsible way of dealing with this matter.

Hon M.J. CRIDDLE: I am interested to hear the Leader of the Opposition say that selling off Westrail would be the worst possible thing for the State. In fact, it could well and truly be the best possible thing for the State. His words will be noted in future debate; I will refer back to his remarks time and again.

Hon N.D. Griffiths: So will your words.

Hon M.J. CRIDDLE: I am quite happy for that to happen.

Hon N.D. Griffiths: You may not be.

Hon M.J. CRIDDLE: The member must understand that the sale of Westrail will be a business decision as well as a decision for Western Australia generally, and we will need to get all the priorities right for Western Australia.

Hon N.D. Griffiths: Which is your priority?

Hon M.J. CRIDDLE: My priority is to see that the service for industry in Western Australia is the best possible service that we can get with the cheapest freight rates.

Hon N.D. Griffiths: What about farmers?

Hon M.J. CRIDDLE: They are an industry, of course.

Hon N.F. Moore: Yes. In fact, you do not notice that they do in fact use Westrail quite a lot.

Hon M.J. CRIDDLE: They actually use Westrail for 25 per cent of their -

Hon N.D. Griffiths: The farmers are saying that they do use Westrail and I think you should be giving priority to Westrail for that reason.

Hon M.J. CRIDDLE: I know a reasonable amount about farming and about Westrail.

Hon N.D. Griffiths: I know you do. However, I think you should practise what you know.

The CHAIRMAN: Order! The minister has the floor.

Hon M.J. CRIDDLE: Other members in this place would benefit if they listened to what I am saying. We need to go through a process which gives Western Australia a very good asset in the future. If we do not allow Westrail to grow, if we do not give it the opportunity to become a very good railway, we can well and truly be cherry picked from the eastern States under the Trade Practices Act, the national competition regime and the Australian Competition and Consumer Commission. If organisations from the eastern States come over to Western Australia and cherry pick out sections of Westrail, we will lose the profitability that the operation has presently of \$46m - or whatever it was this year. If we lose one of the seven customers it has which provide 75 per cent of its trade, we will have a rail network that is in real trouble. That is what we should all remember. Merely saying that we should not sell Westrail, as some organisations in the country are saying, is a real problem because people need to know those facts. Westrail has some problems in the business sense. We need to make sure for Western Australian industry that we get it right and have a very good service.

Hon N.D. Griffiths: The problem is that you seem to have a predisposition to sell it and you won't allay people's fears in that regard.

Hon N.F. Moore: I think you should listen to what he is saying.

Hon N.D. Griffiths: I have listened and I think you should understand what he said. I understand what he said.

Hon N.F. Moore: I thought you would have understood it.

Hon N.D. Griffiths: I understand what he said. He has a predisposition to sell Westrail. He won't come out and say that.

Hon Ljiljana Ravlich interjected.

The CHAIRMAN: The Minister for Transport has the call. Other members will come to order.

Hon M.J. CRIDDLE: It is operating at a profit of \$46m. The member would not understand that there are other business imperatives besides that.

Hon N.D. Griffiths: Other business imperatives? I hope you are going to tell the people of Western Australia what that means, in detail.

Hon M.J. CRIDDLE: Absolutely. With the sale of Westrail, we repeatedly -

Hon N.D. Griffiths: With the sale of Westrail!

Hon M.J. CRIDDLE: Members refer to the sale of Westrail, and we will need to bring the Bill back to Parliament. I am merely putting the scenario that if Westrail were sold under this Bill, the Bill and the code would have to come back to Parliament for amendment. There would need to be reference back. The only circumstance that Hon Tom Stephens has raised has been the sale of Westrail, but the Bill is not about that. I urge the Committee to vote against the amendment.

Hon TOM STEPHENS: I think that I still have Hon Jim Scott's support on this amendment. Hon Norm Kelly raised two concerns that I wanted to address to determine whether there was any prospect of encouraging him to join me on the amendment.

Hon Simon O'Brien: Why doesn't Hon Norm Kelly just interject and say no?

The CHAIRMAN: The Leader of the Opposition might like to address the Chair.

Hon TOM STEPHENS: Hon Norm Kelly said that, if the regulator is simply the Director General of Transport, what hope does that open up. It is statutory responsibility. It is not good enough for the director general to be directed by the minister. Parliament directs the director general as the regulator, in the event of a substantial effect on the operation of the code, to undertake a review that creates the prospect at least of something coming back before this place about which we can have some say. The best that I can do in the face of limited material before the Committee is to try to protect the prospect of holding the Government accountable.

Hon M.J. Criddle: There is a review through the first three years and then five years after that. That was recommended by a committee.

Hon TOM STEPHENS: Yes, but -

Hon M.J. Criddle: There are no buts about it; that is the case.

Hon TOM STEPHENS: I am sure that when the minister sets his mind to flogging off something, he will do it in double-quick time.

Hon N.F. Moore: Do you think Parliament should make decisions about that? Do you think that Parliament should be the Government?

Hon TOM STEPHENS: The Western Australian community is entitled to have the sale of that asset - the business imperatives, as the minister said - subject to the scrutiny of this place.

Hon N.F. Moore: Scrutiny is fine, but who makes the final decision?

Hon TOM STEPHENS: I refer also to the approval of this place in reference to the sale of Westrail.

Hon W.N. Stretch interjected.

Hon TOM STEPHENS: I am sorry, Hon Bill Stretch interjected.

The CHAIRMAN: Order! The member will not answer interjections. The member will proceed to address the clause before the Chair.

Hon TOM STEPHENS: Hon Norm Kelly said that if there is a sale, we will be able to have a parliamentary inquiry to assess whether it was the best thing. The prospect might then confront Parliament.

*Point of Order*

Hon B.K. DONALDSON: I am sure that there must be a standing order which applies to tedious and repetitious grovelling.

The CHAIRMAN: Order! There is no point of order. Grovelling is not outlawed, according to my understanding of the standing orders.

*Debate Resumed*

Hon TOM STEPHENS: Government members grovel day in and day out. They do it to their front bench regularly.

*Point of Order*

Hon E.R.J. DERMER: Is the term "grovelling" acceptable parliamentary language? I object to the term "grovelling".

The CHAIRMAN: There is no point of order. As it was not applied to the Hon Ed Dermer and the member to whom it might have applied has not objected, there is no point of order. I did say, "It might have applied to". I do not think it applied to any singular person in the way the expression was used.

*Debate Resumed*

Hon TOM STEPHENS: I have a relatively thick skin at times. To get on with my grovelling, I am not grovelling on my own behalf. In the end the Democrats will be held accountable to the community of Western Australia for what they do. This is the best prospect I have of giving the community of Western Australia some prospect.

Hon Simon O'Brien: You have Buckley's.

Hon TOM STEPHENS: I have Buckley's chance of holding the Government accountable on these issues? Business imperatives will be the issue.

*Point of Order*

Hon SIMON O'BRIEN: The member has made the same remarks over and over again. That surely must be tedious repetition. We really need to move on, with respect.

The CHAIRMAN: The member has made his point. There is no point of order.

*Debate Resumed*

Hon TOM STEPHENS: Given the chance I will be very quick now. Members have the opportunity of a retrospective inquiry over the sale of a major community asset, which may satisfy members opposite but it does not satisfy me. I want any such proposal as to whether the sale is to proceed to be absolutely subject to prospective approval on the part of Parliament. This is the best way I have of flagging that. The Government will not get its code allowed for if it has gone and flogged off something without parliamentary approval. That may not be really adequate but it is the best method I have available. I accept that even then the substantial effect would be the sale. We would then be talking about retrospective action as to the disallowance but that hanging over a potential sale surely sends a signal to the Government and to the potential buyer that the Government had better get parliamentary approval before it starts to flog off the assets.

Hon J.A. SCOTT: The Leader of the Opposition has misunderstood where I was coming from. I had not indicated support. I cannot see that the clause, which reads that the regulator must carry out a review, will make a great deal of difference. He might make recommendations in the review, but the clause does not state that any change must come out of the review.

Hon Tom Stephens: The code must come before the Chamber.

Hon J.A. SCOTT: Yes, but the review might say that we do not need to change the code. What will make it come before the Chamber is the fact that if a sale is to go ahead a whole lot of changes must be made to the code. That must come before the Chamber.

Hon M.J. Criddle: And the Bill.

Hon J.A. SCOTT: Yes. It will have to be changed back to the owner, which has been stopped before. It will have to come back here. It will probably not stop the sale, but the debate will occur. The minister has said that, when talking about the advantages of the rail access and the possible sale of Westrail, people did not understand and they needed to

be informed. If the sale is to go ahead, that is a very good reason the debate must occur. I will not support the amendment because I do not think the review will do the job. I believe the Government has a very heavy moral obligation that if such a sale is to go ahead, the stakeholders - the people Western Australia - must be fully informed of the rights and wrongs of that sale. If the feeling in the community and the expressions of interest that come forward from the community show there is big opposition to this, I, for one, will not be supporting it. If it is shown to be beneficial, I will change my position. I cannot see that this review will do the job the Leader of the Opposition is proposing it will do.

Hon NORM KELLY: As Hon Jim Scott has just said, there is nothing in this amendment that would stop a sale going ahead. Under the amendment, the regulator would carry out a review which would be after the fact anyway. For all the reasons I have given before, I do not think that is an effective way of having a rock-solid guarantee that parliamentary approval would be given before a sale were to go ahead. If I understand the minister correctly, he said that this legislation would have to come back and be amended prior to a sale going ahead. This a critical part of the debate. I seek confirmation that this legislation would have to come back before Parliament and be amended prior to a sale going ahead.

Hon M.J. CRIDDLE: With a private operator, the legislation and the code would have to come back to Parliament.

Hon LJILJANNA RAVLICH: I am very concerned at the prospect of the sale of Westrail. The bottom line is that the Government does not have a mandate to sell Westrail. On this occasion, the Australian Democrats want to absolve themselves from supporting the notion of a review. I find that a little hard to understand, particularly given their position on accountability. Some review of the code is better than no review of the code. The truth is that if this clause is not supported, there will be no review whatsoever. I cannot accept the argument that this has nothing to do with the sale of Westrail; it has to do with the track infrastructure being sold. I do not think this Government has the mandate to sell off government assets, particularly one -

*Point of Order*

Hon N.F. MOORE: I do not believe this has anything do with the clause. The member is making a speech about something alien to the amendment that has been moved. She should be asked to speak about the amendment.

The CHAIRMAN: The member started off by addressing the subject of review and the need for review, but I think she may have strayed from that. I ask that she relate her comments to the clause.

*Debate Resumed*

Hon LJILJANNA RAVLICH: I restate my concern; namely, that the amendment contains a mechanism for review, and I see no reason for it not to be supported by Greens (WA) and the Australian Democrats. If negatived, no review provision will be in place and an accountability mechanism will not be provided. I find the Democrats' position on this matter to be particularly disappointing as they have established a political platform based on accountability. There is an opportunity for the Australian Democrats to hold the Government accountable through a review of the code to be submitted to Parliament for approval within six months of such sale, transfer or lease. I place on record my disappointment at the Democrats' backpedal on this issue.

Hon TOM STEPHENS: The minister's assurance given to the Committee a few moments ago was that at some stage legislation must come to Parliament with reference to the sale of Westrail. However, he did not say whether it will be before for after the sale. It may be that the Government would be silly enough to sell off Westrail without parliamentary approval and without change to the rail access provisions. It could then say to Parliament that the Government sold Westrail, and it is now necessary to amend the rail access provisions to reflect that reality. This amendment attempts to flag to any potential buyer that Parliament is serious about any change to the public ownership of Westrail.

Hon M.J. Criddle: A buyer would want to ensure that he would have the rail access. If he cannot use it, he will not buy it.

Hon TOM STEPHENS: In those circumstances, this amendment, while not guaranteeing the result I seek, may send a symbolic message to the buyer. It will outline exactly what will be necessary before entering into that purchase. I commend to the Committee the amendment before the Chamber, in the absence of anything more I can do to achieve that result.

Amendment put and a division held, with the Chairman casting his vote with the ayes -

Ayes (9)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon N.D. Griffiths

Hon John Halden  
Hon Tom Helm  
Hon Mark Nevill

Hon Tom Stephens  
Hon Ken Travers

Hon E.R.J. Dermer (*Teller*)

## Noes (18)

Hon M.J. Criddle  
 Hon Dexter Davies  
 Hon B.K. Donaldson  
 Hon Max Evans  
 Hon Ray Halligan

Hon Helen Hodgson  
 Hon Barry House  
 Hon Norm Kelly  
 Hon Murray Montgomery  
 Hon N.F. Moore

Hon Simon O'Brien  
 Hon B.M. Scott  
 Hon J.A. Scott  
 Hon Greg Smith  
 Hon C. Sharp

Hon W.N. Stretch  
 Hon Giz Watson  
 Hon Muriel Patterson  
 (*Teller*)

## Pairs

Hon Cheryl Davenport  
 Hon Ljiljana Ravlich  
 Hon Bob Thomas

Hon Derrick Tomlinson  
 Hon Peter Foss  
 Hon M.D. Nixon

**Amendment thus negated.**

**Clause, as amended, put and passed.**

**Progress reported.**

[Continued below.]

**SITTINGS OF THE HOUSE - EXTENDED AFTER 10.00 PM**

*Wednesday, 28 October*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [9.47 pm]: I move -

That the House continue to sit beyond 10.00 pm.

I hope that the House will sit beyond 10.00 pm to finish the Government Railways (Access) Bill and for no other government business.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [9.47 pm]: We are most reluctant to have the House sit beyond 10.00 normally, and it would not have been necessary had the Government dealt with the regulation in the way that I had suggested previously. This matter could have been dealt with without the extensive debate that took place. It was an unnecessary device, and it led to a situation where an unnecessary process has now occurred. The House should not get into the habit of sitting beyond 10.00 pm.

Hon N.F. Moore: It is not in the habit.

The PRESIDENT: Order! I will put the motion, and Hon Norman Moore and Hon Tom Stephens can then have a fight.

Question put and passed.

**GOVERNMENT RAILWAYS (ACCESS) BILL**

*Committee*

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon M.J. Criddle (Minister for Transport) in charge of the Bill.

Progress was reported after clause 12, as amended, had been agreed to.

**Clauses 13 to 42 put and passed.**

**Clause 43: Consequential amendments to the *Government Railways Act 1904* -**

Hon M.J. CRIDDLE: I move -

Page 23, after line 18 - To insert the following -

(d) the *Rail Safety Act 1998*.

Page 24, lines 9 and 10 - To delete the words "inserting after "enactment"" and substitute the following words -

deleting "other than the *Rail Safety Act 1998*" and inserting

Page 24, line 11 - To insert after "1998" the following -

, but is subject to the *Rail Safety Act 1998*

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Title put and passed.**

The CHAIRMAN: Earlier in the evening I found it necessary to refer members to Standing Order Nos 116 and 117. As I found it necessary to refer to those standing orders, I thought I should acquaint members with them. The relevant sections of Standing Order No 116 state that if any member persistently and wilfully obstructs the business of the Council; is guilty of disorderly conduct; persistently and wilfully refuses to conform to the standing orders, or any one or more of them; or persistently and wilfully disregards the authority of the Chair, the President may report to the Council that such member has committed an offence. Standing Order No 117 relates that to the Committee of the Whole, and states that if any of the above named offences has been committed by a member in a Committee of the Whole, the Chairman may suspend the proceedings of the Committee and report to the President that an offence has been committed by such member.

On one occasion this evening the proceedings deteriorated to such an extent that I had to look at those standing orders. I hope that members, being aware of that, will take account of their behaviour in future sittings of Committees of the Whole.

**Bill reported, with amendments.**

*House adjourned at 9.56 pm*

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**QUESTIONS ON NOTICE**

Answers to questions are as supplied by the relevant Minister's office.
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**JAXON CONSTRUCTION PTY LTD'S CONTRACT**

104. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Health:

In relation to the contract called for tender by the Department of Contract and Management Services, on behalf of Sir Charles Gairdner Hospital and the successful tenderer, Jaxon Construction Pty Ltd for Sir Charles Gairdner Hospital Renal Dialysis Renovation to the value of \$6 142 683 -

- (1) Was a business case conducted?
- (2) Did it include a comprehensive cost benefit analysis?
- (3) If not, why not?
- (4) If yes, will the Minister for Health table details of the cost benefit analysis and information on any identified inherent risks to the Government?

Hon MAX EVANS replied:

- (1) No.
- (2) Not applicable.
- (3)-(4) The expenditure on the Renal Dialysis Unit was a refurbishment of existing facilities, not a renovation. Sir Charles Gairdner Hospital spent \$1.2 million on the Renal Dialysis refurbishment, not \$6.1 million.

**MR BILL HASSELL**

*Government Consultancy Contracts*

169. Hon KEN TRAVERS to the Leader of the House representing the Premier:

In relation to former Liberal Party MLA Mr Bill Hassell -

- (1) Has Mr Hassell, or any company he is associated with, undertaken any consultancy work for the Government since January 1, 1997?
- (2) If yes to (1) above -
  - (a) what consultancy contracts has Mr Hassell received;
  - (b) what work did the contracts involve;
  - (c) what remuneration did he receive; and
  - (d) what were the terms of employment?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) (a)-(d) I refer the Honourable Member to the Premier's response to the Legislative Assembly of 14 May 1997 to Question Without Notice (of which some notice has been given) 314, which advised that Mr Hassell's services were engaged through Hassell Advisory Services on a limited part time basis to have general overview and supervision of the work of the European Office pending the commencement of the new Agent General. Mr Hassell's services were engaged from 3 February to 31 May 1997. The delivery of these services was primarily from Perth, charged at a rate of \$110 per hour to a maximum of 18 hours per fortnight. \$800 per day was allowed for work undertaken in the UK and Europe. Travel costs and living expenses while overseas were paid at the rate payable to the Agent General. Out of pocket business expenses were reimbursed.

**MR BILL HASSELL**

*Membership of Government Boards*

170. Hon KEN TRAVERS to the Leader of the House representing the Premier:

With regards to former Liberal Party MLA Mr Bill Hassell -



- (1) Is Mr Hassell a member of any Government boards?
- (2) If yes to (1) above -
  - (a) what Government boards is Mr Hassell member of;
  - (b) what positions does he hold;
  - (c) when was he appointed to these boards;
  - (d) when do his appointments cease;
  - (e) what remuneration does he receive for these positions; and
  - (f) what specific skills and background does Mr Hassell possess in relation to each board?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) (a)-(f) Mr Hassell is a member of the Constitutional Centre of Western Australia Advisory Board. His appointment is for 3 years commencing 1 October 1997. He is paid sitting fees in accordance with standard fees laid down for government boards of this nature. Mr Hassell has extensive Government experience as a Minister in various portfolios, he has been both Leader and Deputy Leader of the Opposition, he has represented the constituents of Cottesloe for 13 years and represented Western Australia overseas as Agent General. This experience together with his legal expertise makes him particularly well suited to provide advice in this regard. Membership of this committee was determined in consultation with the Leader of the Opposition.

MR IAN WARNER

*Membership of Government Boards*

175. Hon KEN TRAVERS to the Leader of the House representing the Premier:

With regards to former Liberal Party President Mr Ian Warner -

- (1) Is Mr Warner a member of any Government boards?
- (2) If yes to (1) above -
  - (a) what Government boards is Mr Warner member of;
  - (b) what positions does he hold;
  - (c) when was he appointed to these boards;
  - (d) when do his appointments cease;
  - (e) what remuneration does he receive for these positions; and
  - (f) what specific skills and background does Mr Warner possess in relation to each board?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) (a)-(e) Mr Warner is involved in the following:
 

Director, Western Power Corporation.  
First appointed on 15 December 1994, with the current term due to expire on 31 December 1998.  
No fees paid to Mr Warner. Director's fee of \$34,680 per annum paid to Jackson McDonald as general fee income of the firm.

Member, Public Trust Advisory Board.  
Appointed 14 July 1997.  
No fees paid to Mr Warner. Hourly rate of \$180 paid to Jackson McDonald as general fee income of the firm.

Member, Law Reporting Advisory Board.  
First appointed on 12 October 1987, with the current term due to expire on 23 May 2000. No fees paid.
- (f) Mr Warner has extensive legal expertise, including in relation to the State's energy industry as a former external legal adviser to the SEC; he was a member of the Energy Implementation Group which oversaw the division of the electricity and gas arms of the SEC; he is an experienced company director and has 20 years' experience in the trustee industry. In addition, Mr Warner has an excellent understanding of the operations of government. His appointment to the Law Reporting Advisory Board in 1987 was on the recommendation of the Law Society of WA, and has been subsequently regularly renewed. Mr Warner holds a Master of Laws degree from the University of Western Australia.

MR IAN WARNER

*Government Consultancy Contracts*

176. Hon KEN TRAVERS to the Leader of the House representing the Premier:

In relation to former Liberal Party President Mr Ian Warner -

- (1) Has Mr Warner, or any company he is associated with, undertaken any consultancy work for the Government since June 30, 1996?
- (2) If yes to (1) above -
  - (a) which consultancy contracts has Mr Warner received since June 30, 1996?
  - (b) what work did the contracts involve;
  - (c) what remuneration did he receive; and
  - (d) what were the terms of employment?

Hon N.F. MOORE replied:

- (1)-(2) Mr Warner is a Consultant to the law firm Jackson McDonald. This firm has been involved from time to time in providing advice to government. These are outlined in the Government's "Report to Parliament on Consultants Engaged by Government" tabled in Parliament twice per year.

## HARVEY DAM

365. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) How much land does the Water Corporation intend to purchase to allow for the proposed new Harvey Dam?
- (2) Approximately how much of this land will be -
  - (a) subject to inundation when the dam is built; and
  - (b) for a catchment area surrounding the dam?
- (3) Is it expected that farming practices will continue in the dam's catchment area?

Hon MAX EVANS replied:

- (1) The Water Corporation will require approximately 655 hectares of land to allow for the development of the new Harvey Dam, reservoir body, protection buffer and proposed new Harvey-Quindanning Road.
- (2)
  - (a) Approximately 470 hectares.
  - (b) Approximately 130 hectares for the proposed 30m source protection buffer around the water body.
- (3) Yes.

## VISITING MEDICAL PRACTITIONERS - PAYMENTS

450. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Health:

I refer to the Auditor General's Report "Controls, Compliance and Accountability Audits 1998", regarding the payments to Visiting Medical Practitioners (VMP) and ask -

- (1) What are the four hospitals used as the sample in this report?
- (2) Is the Minister for Health concerned that in some instances VMPs are charging for attendances of patients where there is no documented evidence of any attendance taking place, in particular Hospital 1 of the sample where 29 per cent of charges are in this category?
- (3) What policies and procedures have been implemented to verify the payments of VMPs?
- (4) Will the Minister instruct the Health Department to introduce analysis of payments to VMPs for medical services sufficient to identify trends and exceptions which may be utilised for improved hospital management?

Hon MAX EVANS replied:

- (1) This question should be directed to the Auditor General.
- (2) The findings and recommendations of the Auditor General are currently under review by the Health Department of Western Australia (HDWA) and the Metropolitan Health Service Board (MHSB). This includes both the quantity and quality of documentary evidence.

- (3) Current procedures are designed to assure compliance with the Treasurer's Instructions, in particular those relating to the incurring and certification of expenditure, including payments to VMPs. The Auditor General has highlighted some apparent weaknesses that will be reviewed by the HDWA and the MHSB.
- (4) The MHSB has advised that the type of analysis of payments to VMPs conducted by the Auditor General provides a useful overview of such payments, highlighting areas for detailed investigation. It is the MHSB's intention to consider this for broader application.

### QUESTIONS WITHOUT NOTICE

#### GOODS AND SERVICES TAX - EXEMPTION OF TOURISM

**395. Hon TOM STEPHENS to the Minister for Tourism:**

On 18 August the minister advised that he would be arguing for tourism to be exempted from the goods and services tax.

- (1) What action has the minister taken to ensure tourism is exempted from the GST?
- (2) Will the minister join with the Australian Labor Party and tourism industry groups in calling for a full Senate inquiry to explore ways of ensuring that tourism is exempt from the GST?

**Hon N.F. MOORE replied:**

I am interested to see the actual quote that the member alleged that I made. I do not recall saying that I was opposed to the GST. In fact, I spoke at some length in support of it. Interestingly, the Australian people voted in the Federal Government, which has a policy to bring in a GST. If the member had listened carefully, he would know that I said we should contemplate whether international travel should be GST exempt. That is what I said if my memory serves me correctly. The member cannot expect me to remember everything I said on 18 August. If he could give me a copy, I could tell him whether he is quoting me correctly.

I will look at what the Federal Government puts forward in its GST package when it formalises its position, bearing in mind that a lot of work must be done on the detail of any legislation that might be introduced into the Federal Parliament. If I have a view that it is disadvantageous to some aspects of the industry, and there is no compensation in other parts of the package, I will make my views known very clearly. I have said previously that exempting international travel from the GST would make overseas travel more attractive to Australians rather than travel domestically. I am also advised that every country in the world which has a GST exempts its overseas travel from the GST. If Australia did something different it would be out of step with the rest of the world and other countries might then apply a GST to its travellers who visit Australia, which would make Australia less attractive to overseas travellers. If the member can show me what I am alleged to have said on 18 August, I will look closely at it. I have a responsibility to tourism to ensure that the package does not severely disadvantage that industry.

#### METROBUS REDEPLOYEES

**396. Hon TOM STEPHENS to the Minister for Transport:**

- (1) Has the position of MetroBus redeployees been the subject of a Cabinet deliberation this week?
- (2) If yes, has any decision been made to resolve the position of these employees?
- (3) If so, does the minister have any other plans to deal with the issue of the redeployed drivers?

**Hon M.J. CRIDDLE replied:**

It is not my intention to divulge any of the conversations that may or may not have been carried out in Cabinet. The MetroBus employees are of grave concern to me, as they are still on the government payroll. I will be taking up that issue and trying to further some resolution in the near future.

#### TOURISM - SMOKE FREE POLICY

**397. Hon N.D. GRIFFITHS to the Minister for Tourism:**

- (1) What is the minister's policy on smoke-free accommodation, eating and leisure facilities?
- (2) What steps has the minister taken to ascertain the effect of smoke-free policies on tourism?
- (3) What steps will the minister take?

**Hon N.F. MOORE replied:**

I do not have a formal policy on smoking. As far as accommodation is concerned, what occurs now in reality is a fair and reasonable system. People can request smoke-free accommodation and it can be made available to them. I suspect the marketplace is having a significant impact on the smoke-free rooms which hotels and motels provide. The member is aware of the Government's policy on smoking in eating areas. We hope to find a balance between the needs of those who smoke and those who do not like smoking. The report by Ian Taylor, one of the Opposition's former leaders, is a very balanced report and the Government is seeking to find a way to implement it. Leisure areas must be looked at independently because there are many different leisure areas - some are indoor and some are outdoor. The outdoor areas are less of a concern than the indoor areas. The market is sorting out what the community and the paying public wants and that is the way it should happen. It is providing the facilities that people are prepared to utilise and increasingly there are more non-smoking areas. On one hand, as a person who does not smoke, I appreciate that; I do not enjoy people smoking in an enclosed area. On the other hand, it is important to balance this area; that is, not go down one side of the argument without giving some consideration to the needs of both sides.

## ENVIRONMENTAL PROTECTION - COASTAL WATERS

**398. Hon J.A. SCOTT to the minister representing the Minister for the Environment:**

- (1) Is the minister considering adopting the system proposed by the chairman of the Environmental Protection Authority, Bernard Bowen, who was quoted in the *Fremantle Gazette* on 23 October as saying that the EPA wanted four zones for Perth coastal waters ranging from those of environmental importance and required maximum protection to special purpose zones where the EPA recognises their land use means environmental standards cannot be achieved?
- (2) Has the EPA identified which areas of Cockburn Sound would be zoned "special purpose areas"?
- (3) If so, which areas have been identified?
- (4) How does the EPA intend to prevent toxic plumes from the polluted zones mixing with the waters in environmentally important zones?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) The Environmental Protection Authority has released a discussion paper for public comment until December 18 as part of its public consultation process for the Perth coastal waters. Public comment is sought about environmental values, environmental quality objectives and draft environmental management zones for these waters. The discussion paper proposes four types of classes of environmental quality management zones. Following consideration of the public input, the EPA will prepare a report advising on these issues. The minister awaits the EPA's advice.
- (2)-(3) It is premature for the EPA to determine its position on environmental quality management zones until the consultation process has been completed. The EPA has, however, given examples of proposed special purpose and buffer zones in Cockburn Sound to promote discussion.
- (4) Waste management and pollution prevention is an ongoing, active priority for the EPA and other government agencies. These programs will be further reviewed once the EPA's entire public consultation process has been completed and the EPA has reported to Government.

## PEMBERTON TIMBER MILL - LOG SUPPLY

**399. Hon NORM KELLY to the minister representing the Minister for the Environment:**

- (1) Will the minister table a copy of the reports received on 21 and 23 October that details the log supply situation for the Pemberton mill?
- (2) If not, will the minister explain the current situation for log supply to the Pemberton mill?
- (3) Is the minister aware of stockpiles of sawlogs in forest blocks surrounding Pemberton that could be used by the Pemberton mill?
- (4) Has the Department of Conservation and Land Management supplied the minister with information detailing the quantity of first, second and third-grade sawlogs currently stockpiled in Lane and Crowea blocks and other blocks that service the Pemberton mill?
- (5) Will the minister table that information?

**Hon MAX EVANS replied:**

- (1),(5) I table the reports. [See paper No 325.]
- (2) Not applicable.
- (3) A number of coupes in the southern timber supply area have stockpiles of sawlogs. However, some of the sawlogs which might be suitable for the Pemberton mill are not currently accessible due to wet and unsuitable ground conditions. A further number of accessible coupes have stockpiles of low grade logs not suitable for the Pemberton mill. It should also be noted that the Pemberton mill requires more than one day's stockpile on the mill landing to enable the company to meet its contractual obligations. Five thousand tonnes is regarded as the minimum commercial level for the Pemberton mill.
- (4) The Department of Conservation and Land Management has provided advice on the availability of sawlogs from all alternative karri forest areas for supply to the Pemberton sawmill.

## DO CARE PROGRAM

**400. Hon MURIEL PATTERSON to the minister representing the Minister for Seniors:**

Will the Government's Senior Partners Service, as part of the Do Care program, be extended to regional areas? If so, which non-government organisations will be involved and who will ultimately be responsible for the day-to-day coordination of the program?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question. The program is in its first year of operation and will be reviewed at the end of the 1998-99 financial year. Expansion of other areas and other service delivery options will be considered at this time. Currently, Senior Partners is run by Do Care, a program of the Wesley Mission. If the program were to be expanded, expressions of interest would be sought from relevant non-government organisations. The Senior Partners program employs area coordinators with a good working knowledge of their local region to ensure the needs of both the seniors and the volunteers are being met. The coordinators also conduct the interviews, training and assessment of prospective volunteers.

## DRABBLE, MR ROSS - EMPLOYMENT CONTRACT

**401. Hon LJILJANNA RAVLICH to the Minister for Transport:**

I refer to the employment contract for the Commissioner for Main Roads, Mr Ross Drabble, and ask -

- (1) What is the value of Mr Drabble's contract of employment?
- (2) Was the last contract of employment for Mr Drabble signed in January 1996 in his position as Commissioner for Railways?
- (3) If yes, why has he not had a new contract drawn up for the position of Commissioner for Main Roads?

**Hon M.J. CRIDDLE replied:**

I have no indication of that question.

## ABROLHOS ISLANDS - SEA PLANE OPERATIONS

**402. Hon GIZ WATSON to the Minister for Transport:**

In respect to question without notice 957 of 11 November 1997 and a letter - reference 63062 - from the minister to me -

- (1) Will the minister supply a copy of the strategy to minimise the impact of sea plane operations on local wildlife at the Abrolhos Islands that was reached in agreement between the Department of Transport and the air charter operator in December 1997?
- (2) Has the strategy been implemented?
- (3) Is the strategy working in the manner intended?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1)-(3) The strategy referred to was in the context of an agreement between Fisheries WA and Shine Aviation. Also, it is understood that a management plan for the Abrolhos Islands has been produced by the Abrolhos Islands Management Advisory Committee. It is suggested that the question be directed to the Minister for Fisheries.

## SELF-MANAGED SCHOOLS

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

- (1) Is the Education Department aware of any studies of the operations of self-managed schools as they operate in other jurisdictions?
- (2) If so, will the minister table details of those studies?
- (3) Would a self-managed school be autonomous in respect of -
  - (a) selection of the principal;
  - (b) selection of other teaching staff;
  - (c) financial decisions;
  - (d) the ability to own property, including real property; and
  - (e) the ability to enter into joint ventures to deliver educational programs?
- (4) Will the minister place any restrictions on the functions of school operations ensuring that those functions cannot be delegated to the school council, the school principal or the parents of students at that school?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) Yes.
- (2) No. The body of literature on this subject is substantial and would occupy scarce Education Department time and resources to collate. If the member wishes, a list of references can be prepared. The majority of studies show real benefits from this process.
- (3) In Western Australia, the movement to increased local management will continue to occur within the framework of the government school system. Schools will remain part of the Education Department and staff will continue to be employees of the Education Department. Details on the precise nature of this trial are yet to be established.
  - (a) It is possible that schools would have control within recruitment guidelines over the selection process of principals.
  - (b) Self-managed schools would be likely to have the freedom to select staff within standards and guidelines as this flexibility already exists in some schools.
  - (c) Schools currently have a great deal of self-management over financial decisions. This would also be true of self-managed schools. However, the guidelines applicable to schools and all government agencies will continue to govern financial arrangements.
  - (d) The real property on which schools are located will remain the property of the appropriate government agency or be vested in the Minister for Education.
- (4) Yes. While details on the operation of this trial program are not yet final, self-managed schools will continue to be part of the government school system and be regulated by departmental guidelines and procedures.

## KALGOORLIE WATER PIPELINE

**404. Hon GREG SMITH to the minister representing the Minister for Water Resources:**

- (1) What is the current annual usage of freshwater as supplied by the Kalgoorlie pipeline?
- (2) What is the expected rate of growth in demand for pipeline water?
- (3) What is the current capacity of the pipeline and what options does the Government have to increase this capacity?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) In the 1996-97 financial year the Goldfields and Agriculture Water Supply Scheme supplied 28.3 million kilolitres ex-Mundaring Weir. Of this volume 8.7 million kL were delivered into Kalgoorlie. For the current

year, 1997-98, as a result of the hot dry summer, it is anticipated that pumping ex-Mundaring Weir will be 30.5 million kL.

- (2) The demand on the GAWS system is greatly dependent on climate as well as growth conditions. Pumping ex-Mundaring Weir since 1995-96 and the predicted demand in 1998-99 is -

Year	Pumping ex-Mundaring Weir
1995-96	26.6 million kL
1996-97	28.3 million kL
Anticipated 1997-98	30.5 million kL
Predicted 1998-99	31.1 million kL.

- (3) The pumping capacity of the GAWS system ex-Mundaring Weir is 130 000 kL a day. The pumping capacity into Kalgoorlie is currently 36 000 kL a day. The Water Corporation recently announced a major capital program to spend over \$8m in upgrading the capacity of the GAWS main conduit into Kalgoorlie by up to 14 per cent prior to the 1998-99 summer. Funds will also be provided in future years to upgrade the system to keep pace with demand.

WALKER, MR I.E.

**405. Hon KEN TRAVERS to the Minister for Transport:**

In relation to the former employee of the Department of Transport, Ian Edward Walker -

- (1) On what date did Mr Walker resign from the department?
- (2) Is the minister aware that Mr Walker has set up a company called Transconsult with former Transport minister Eric Charlton?
- (3) Has Transconsult submitted any expression of interest for contracts, or been appointed to carry out any work, with departments within the minister's responsibility?
- (4) Has the former minister or Mr Walker been appointed to any boards or committees under the minister's jurisdiction?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1) Mr Walker retired on 5 June 1998.
- (2) Yes.
- (3)-(4) No, not that I am aware of.

LEEWIN-NATURALISTE NATIONAL PARK FEES

**406. Hon J.A. COWDELL to the minister representing the Minister for the Environment:**

Some notice of this question has been given.

- (1) What were the recommendations of the task force established to consider the issue of fees for accessing beaches in the Leeuwin-Naturaliste National Park?
- (2) Will the minister table its recommendations and/or any report prepared?
- (3) Which group represented on the task force - that is, the Busselton and Augusta-Margaret River Shire Councils, the Leeuwin-Naturaliste National Park Advisory Committee, the Cape Naturaliste Tourism Association, the Augusta-Margaret River Tourism Association, and the Surfriider Foundation - supported the charging of fees?

**Hon MAX EVANS replied:**

I have answers to a number of questions from the member, but not to that one.

ARTS AND DRAMA THEATRE COMPLEX

**407. Hon RAY HALLIGAN to the minister representing the Minister for the Arts:**

Has a final decision been made about the construction of a new arts and drama theatre complex in Perth? If not, what options are currently being considered?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question. No. The report by consultant Graham Walne "Theatre for Perth - An Opportunity for the Arts" was widely circulated throughout the performing arts industry for comment prior to any recommendations being accepted. The response has been very positive and the Ministry for Culture and the Arts will provide analysis and recommendations to the Minister for the Arts in the near future.

## LEWIS, HON RICHARD - WESTERN POWER

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

I refer to the appointment of Hon Richard Lewis as a Western Power Board member.

- (1) On what date was Mr Lewis appointed?
- (2) Who on the Western Power Board was consulted in respect of this appointment?
- (3) On what date was the consultation undertaken in the case of each board member outlined in answer to (2)?
- (4) How many members of the board supported the nomination?
- (5) How many members of the board opposed the nomination?
- (6) How many members were asked and gave no indication of their view?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) 29 July 1998.
- (2) Chairman.
- (3) June 1998.
- (4)-(6) Not applicable.

## ROSELLA HOUSE

**409. Hon KIM CHANCE to the minister representing the Minister for Lands:**

- (1) Is it the intention of the Department of Land Administration to begin charging a commercial rental from January 2000 on the premises known as Rosella House located at 11 Bayly St, Geraldton?
- (2) Is the Minister for Lands aware that Rosella House, a heritage-listed property, provides an essential service to the mid-west community as an alcohol and drug rehabilitation centre?
- (3) Can the minister provide an assurance that the service provided at Rosella House will not be compromised by having to pay a commercial rental?

**Hon MAX EVANS replied:**

- (1) No. The existing lease between DOLA and the Western Australian Alcohol and Drug Authority is current until 31 December 2001. A new lease will need to be negotiated to commence on 1 January 2002.
- (2) Yes.
- (3) The Minister for Lands will ask the department to negotiate with the managing body to determine lease conditions that will not compromise the running of this facility.

## KEMERTON INDUSTRIAL PARK - LIQUID WASTE

**410. Hon BOB THOMAS to the Leader of the House representing the Minister for Resources:**

Some notice of this question has been given.

- (1) What plans does the Government have for the disposal of liquid waste material from industries locating at an expanded Kemerton Industrial Park?
- (2) Will the Government give an assurance that this liquid waste will not be disposed of through a marine outfall?

**Hon N.F. MOORE replied:**

- (1) The Department of Resources Development has recently made available for three months' community comment



a report by Burns Roe Worley reviewing options for the management of liquid waste from industries locating in the Kemerton Industrial Park. This preliminary study has concluded that ocean outfall is the most viable form of liquid waste management. Further technical investigations, in addition to environmental assessment by the Environmental Protection Authority, will be required before a decision is made to proceed with this option.

- (2) No.

#### WHITTAKERS TIMBER GROUP

**411. Hon CHRISTINE SHARP to the minister representing the Minister for the Environment:**

My question relates to the report in *The West Australian* on Saturday, 17 October that the Whittakers timber group had a deficit for the last financial year of \$3.8m and accumulated losses over several years of \$22.5m.

- (1) How much of the \$14.935m owing to the Department of Conservation and Land Management at 30 June, as stated in CALM's annual report, was owed by the various Whittaker companies?
- (2) What is the average value of logs purchased by this group of companies during the last 12 months?
- (3) How much has this group of companies owed CALM at the end of the last four financial years?
- (4) What percentage of the annual royalty has been paid over the last four years?

**Hon MAX EVANS replied:**

To provide the information in the time required is not possible and I request that the member place the question on notice.

#### COMPUTER SPACEFILLER VIRUS

**412. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Commerce and Trade:**

I refer to the statement by the Minister for Commerce and Trade of Friday, 25 September 1998 that computers with either Windows 95 or Windows 98 operating systems would be vulnerable to damage from the W23CIH spacefiller computer virus on the following day, Saturday, 26 September.

- (1) Has the minister received any reports of damage caused by this virus on 26 September 1998?
- (2) What action has the minister taken to find out what damage was caused?
- (3) Why was a warning not given prior to 26 October similar to the warning given prior to 26 September?
- (4) Has the minister received any reports of damage caused by the virus on 26 October?

Hon LJILJANNA RAVLICH: Mr President!

**Hon N.F. MOORE replied:**

I hope Hon Ljiljanna Ravlich has an answer, as I do not have one! I ask that the question be placed on notice.

#### REGIONAL FOREST AGREEMENT- MEETING WITH FEDERAL MINISTER TUCKEY

**413. Hon NORM KELLY to the minister representing the Minister for the Environment:**

- (1) Has the Minister for the Environment met with the new federal minister Wilson Tuckey to discuss the signing of the Regional Forest Agreement?
- (2) If so, when did a meeting take place?
- (3) If not, when is a meeting expected to take place?
- (4) Given timber industry concerns about the long-term security of access to native forests, can the minister indicate when the RFA is expected to be signed?
- (5) If the answer to (4) is as soon as possible, can the minister give a more distinct estimate?

**Hon MAX EVANS replied:**

- (1) No.
- (2) Not applicable.

- (3) A meeting will be arranged in the near future.
- (4) As soon as possible.
- (5) It is impossible to be precise as significant issues must be worked through.

#### EMPLOYMENT OF FORMER SENIOR GOVERNMENT EMPLOYEES

#### **414. Hon TOM STEPHENS to the Minister for Transport:**

- (1) Is the minister aware of any government guidelines governing the relationship that should apply when departments or government agencies consider engaging the services of former senior government employees in any area for which those persons may have previously had responsibility?
- (2) If the minister is aware of such guidelines, will he ensure that all his portfolio areas, departments and agencies have those guidelines drawn to their attention with reference to the engagement of former employees -

Hon N.F. Moore: Or former presidents of the Labor Party.

Hon TOM STEPHENS: - before the minister's department or agencies engage the services of former employees recently retired?

#### **Hon M.J. CRIDDLE replied:**

I am not fully au fait with any guidelines -

Hon Tom Stephens: You should know them. We will make sure you are aware of them.

Hon N.F. Moore: You never abided by them.

The PRESIDENT: Order! The minister is answering the question, and other members want to ask further questions.

Hon M.J. CRIDDLE: I will make myself aware of any guidelines that might relate to the question. I am not aware of any such decisions at this time, but I will make sure that my departments are aware of such matters.

#### PERFORMANCE AGREEMENTS

#### **415. Hon LJILJANNA RAVLICH to the minister representing the Acting Minister for Public Sector Management:**

Some notice of this question has been given. I refer to the minister's response to question without notice 328 regarding the 13 chief executive officers who failed to forward a performance agreement for the second year in a row.

- (1) Will the minister identify the 13 CEOs concerned?
- (2) What action has the minister taken to ensure compliance?
- (3) How many of these CEOs have never had a performance agreement?

The PRESIDENT: Order! Is that not the question asked yesterday; it sounds very much like it to me?

Hon LJILJANNA RAVLICH: The question asked yesterday related to performance assessments. I specifically held back this question because of its potential impact.

The PRESIDENT: I thought there was a difference - I just could not pick up those two words!

#### **Hon MAX EVANS replied:**

I can answer a couple of questions at the same time: Hon John Cowdell did not receive an answer to his earlier question on the environment as it was listed under the name of Hon Ljiljanna Ravlich - ministers cannot answer questions from another member when the person who originally asked the question is also in the House. I ask Hon Ljiljanna Ravlich to place her question on notice.

#### EMPLOYMENT OF FORMER GOVERNMENT MINISTERS OR FORMER SENIOR PUBLIC SERVANTS

#### **416. Hon KEN TRAVERS to the minister representing the acting Minister for Public Sector Management:**

- (1) What policy guidelines exist for former government ministers or former senior public servants seeking or being awarded government contracts or consultancies?
- (2) Will the minister table those guidelines?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question, and ask that it be placed on notice.

GANTHEAUME POINT

**417. Hon MARK NEVILL to the Minister for Tourism:**

Is the minister aware of any proposals for tourist developments on the racecourse or Gantheaume Point tourist development site at Broome; and, if so, by whom have they been made?

**Hon N.F. MOORE replied:**

I am aware that the site is the subject of expressions of interest with respect to development of a tourist facility. It is a very good site for a tourist development. Some discussions have taken place. The Department of Land Administration is the lead agency and has held discussions with some potential developers, together with the local authority and the Broome Turf Club. I understand advertisements have been placed in newspapers seeking expressions of interest to develop the site. It would involve relocation of the racecourse, and would be subject to the proper environmental processes and native title issues that would be addressed before anything happened.

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