WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Tuesday, 8 December 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 3.30 pm, and read prayers.

WEEKLY *HANSARD*, AVAILABILITY

THE PRESIDENT (Hon George Cash): I have the following letter from the Hansard office -

> Dear Mr President,
>
> HANSARD AVAILABILITY
>
> Last Friday we gave priority to reporting the Select Committee on Native Title Legislation. As a result the delivery of last week's *Hansard* will be delayed. It is expected it will be available late Wednesday.
>
> Yours faithfully
> M. Grafton
> Subeditor

SELECT COMMITTEE OF PRIVILEGE

Report on a Failure to Produce Documents under Summons

Hon Bruce Donaldson presented a report from the Select Committee of Privilege on a failure to Produce Documents under Summons, and on his motion it was resolved -

> That the report do lie upon the Table and be printed.

[See paper No 561.]

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

Report on the Overview of Petitions

Hon Murray Nixon presented the thirtieth report of the Standing Committee on Constitutional Affairs on the overview of petitionsfrom March 1997 to August 1998, and on his motion it was resolved -

> That the report do lie upon the Table and be printed.

[See paper No 562.]

MINISTER FOR TRANSPORT, PERFORMANCE

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me -

> Dear Mr President
>
> At today's sitting, it is my intention to move an Urgency Motion under SO 72 that the House at its rising adjourn until 9.00am on 24th December 1998 for the purpose of discussing the performance of the Minister of Transport in the handling of his portfolio responsibilities.
>
> Yours sincerely
>
> Tom Stephens, MLC
> Leader of the Opposition in the Legislative Council
>
> 8th December 1998

Before this motion may be dealt with, it is necessary for at least four members to stand in their places to indicate their support.

[At least four members rose in their places.]

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.36 pm]: I move -

> That the House at its rising adjourn until 9.00 am on Thursday, 24 December.

I move this motion with some regret because, as members will know, it was only a few short months ago in this place that I was singing the praises of the possibilities that were on offer to the people of Western Australia by virtue of a transition from one Minister for Transport to another. Regrettably, we have seen not so much a discontinuity but more of the same

excesses, and in some cases worse excesses. This urgency motion is moved because of the grave disquiet that is growing within Western Australia over the way that this Transport minister is handling his portfolio areas. If time permits, at least three opposition speakers will want to tackle various aspects of this minister's handling of his portfolio.

I will begin with a recent Western Australian report that has come to my attention entitled "Position Paper: Ten Year Contracting Strategy: Road Maintenance". Evidenced in this report, as well as within the general Main Roads portfolio, is a display by this minister, in active collaboration with his Main Roads commissioner, aimed at dismantling the road construction and maintenance role carried out previously by Main Roads. We are seeing on display an attempt to slash the work force of Main Roads by more than a half. We are seeing on display a real commitment to the contracting out of the road maintenance work to private contractors in various parts of this country, not just simply -

Hon Peter Foss: Is there a law against this behaviour?

Hon TOM STEPHENS: I hope that the Attorney General will not put on display in this debate his own ignorance, even of the Main Roads portfolio, any more than that to which he has subjected this House up to the present.

This is a display by Main Roads, driven by the Minister for Transport's blind ideology. He is driving the Main Roads department into a policy that is fraught with danger. It is fraught with danger not just in fiscal terms to Main Roads but also in the prospects of maintaining safety for the road infrastructure of Western Australia. We know, by virtue of this position paper, that it is the plan of the Government to implement a new contracting regime for Western Australia in December 1999. We know that to do that, the Government will effect a change in the work force, so that the work force that existed at July 1997 of some 1 540 personnel will be slashed to between 600 and 800 by the end of next year. In effect, more than half the previous Main Roads' work force will be forced out within the remaining 12 months until that target date.

The Minister for Transport follows in the dark shadow that was cast upon the Transport portfolio by his predecessor. The minister continues to wreak havoc upon the portfolio, particularly in respect of Main Roads. He increases uncertainty for Main Roads' employees who fall within his portfolio responsibilities. He is aided and abetted by the Commissioner of Main Roads, Mr Drabble, in the slashing and burning of that path of destruction across many of his portfolio areas. The minister, not content with doing damage to the Westrail portfolio, and to the infrastructure of the ports in Western Australia, is wreaking havoc on MetroBus and now decimating Main Roads in a single-minded assault upon that important aspect of social and community infrastructure of Western Australia. Where are the benefits for Western Australia in the carnage that the Minister for Transport seems to want to unleash upon the people of Western Australia? It is carnage indeed.

Hon Derrick Tomlinson: Carnage on the roads!

Several members interjected.

The PRESIDENT: Order! The Leader of the Opposition has the floor. There is more noise coming from my right than from the Leader of the Opposition.

Hon TOM STEPHENS: Government members have got the word right - carnage indeed. With the ideologically driven reorganisation of the portfolio, there is no attention to the road safety needs of the Western Australian community. Government members expose road users of this State to the carnage about which Hon Derrick Tomlinson has interjected. Indeed, safety on our roads is inevitably compromised by the strategies that are being unleashed by the minister. The position paper states that some loss of expertise is an inevitable result of the contracting strategy - expertise that until now was available within Main Roads which protected the infrastructure and safety of our roads. How will Main Roads effectively supervise and monitor the road maintenance programs and the safety strategies that previously were in place to protect the road-using public of this State?

Those concerns were raised, as we all know now, by the Main Roads' designer, Mr Cliff Matson. We know that they were the subject of his concerns as were expressed in the leaked report - a report that was leaked by, presumably, a well-intentioned servant of the people of Western Australia, as he blew the whistle upon the strategies that were wreaking havoc upon the safety needs of the community of Western Australia. Two ministers responded to that leak - first minister Charlton and then minister Criddle, who maintained a witch-hunt that cost $770 000 aimed at finding out who the whistleblower was, with scant regard to the substance of the report that says that that strategy causes damage to the safety needs that are protected by Main Roads. Mr Matson indicated that he was concerned that road safety would be compromised if the department axed 1 000 jobs and gave construction and maintenance contracts to private contractors. The minister has rejected the recommendations with the same bull-headed approach that was adopted by his blinkered predecessor. He has chosen to ignore the warnings.

The minister's attitude to safety is alarming. He has rejected the recommendations of one of his chief designers and forged ahead with the strategies that were unleashed by his predecessor with a plan to slash the Main Roads' work force being implemented as I speak - from the north to the south of the State of Western Australia, Main Roads' establishments that previously operated to maintain the needs of safety in this State are being laid low, decimated and, in effect, put in mothballs. So much of my electorate is left with an absolutely skeletal workforce in Main Roads. This has been caused by the policies

that this minister and his predecessor have driven. Members on the other side of the House boast of this policy. At least there has been a consistent approach by the minister. Where was this minister when the Fremantle Port Authority was screaming out its concern about the safety needs at Victoria Quay when the Premier unleashed his plans for the proposed maritime museum at Victoria Quay? Silence is the answer. Then documents were eventually uncovered by way of an application under the Freedom of Information Act which enabled those documents to be released. This Minister for Transport was silent in response to the safety concerns of the Fremantle Port Authority, which pointed out rightly that there would be considerable safety hazards indeed by pursuing the strategies unleashed by the Premier for the proposed maritime museum at Victoria Quay.

We now know that the monitoring and supervisory procedures for the 10-year contracts are very weak indeed. These contracts are to be evaluated annually by so-called independent experts who will communicate the results to senior Main Roads personnel. Limited supervision does not leave anyone in Western Australia feeling that the supervision adequately protects the safety needs or covers the financial monitoring that should be carried out by a fully fledged Main Roads department as it previously existed. Without the relevant skills and the inevitable loss of expertise that are now haemorrhaging from Main Roads, we are quite rightly concerned that roads will not be maintained at the same high level of safety and standards that we have come to expect Governments to deliver across our vast State. It is not a reassuring prospect at all to see the strategies outlined in the position paper. This minister has lost control of his portfolio to the point where he is out of touch with public concern in so much of this State. It would be laughable if it were not of so great a concern. This minister has become a very accomplished role player of the minister in *Yes Minister*. He says yes to the ideological drive of his Commissioner of Main Roads. The minister says yes to the plans of his Government to sell off Westrail's freight business, even though the people so adversely affected are in the National Party's constituencies. The minister says yes to the decisions of his predecessor on the Narrows Bridge, without any knowledge at all of the precise nature of the construction program involved. This minister's input has been shown to be largely superfluous to the decisions that are being made for him, initially by his predecessor, subsequently by his cabinet colleagues and now by the Commissioner of Main Roads. Insofar as he is having any input, it seems to be going along compliantly - certainly with complicity - with the decisions that are being made and that are so disadvantaging the people of Western Australia.

To refer again to the 10-year contracting out plan, I note that the position paper has used New South Wales as an example for this type of contract maintenance. However, the paper fails to point out, as I hope the minister will at least concede, that even in New South Wales, there has been a very limited, modified effort to allocate such a program to an area of roughly one-third of Sydney's roads. No attempt has been made to implement a statewide strategy in that State. Those involved in New South Wales are setting up a pilot project to see whether the strategy works. Members should compare that with the Western Australian scenario. We have an infinitely larger road network and are not blessed with the good fortune of having a minister who can see the disadvantage of pursuing the strategy documented in the position paper to which I have referred. Even Tasmania has had the good sense to adopt contracting out strategies different from those implemented by this minister. The minister should sit back and listen because opposition members will raise other issues which we would like him to address.

HON LJILJANNA RAVLICH (East Metropolitan) [3.53 pm]: The Western Australian public is asking who controls whom in Main Roads: Does Ross Drabble pull the minister's strings or does the minister pull Ross Drabble's strings? One of the things that absolutely appals me is the fact that irrespective of the number of times members on this side have asked in this place and in the committee system for information about contracts, we have never received the information.

Hon M.J. Criddle: How many questions have you not had answered?

Hon LJILJANNA RAVLICH: Hundreds; the minister should look at the questions I have asked about cost benefit analysis and due diligence.

Hon M.J. Criddle interjected.

Hon LJILJANNA RAVLICH: I am happy to bring them to the House.

Hon M.J. Criddle: I would like to see them.

Hon LJILJANNA RAVLICH: Irrespective of what the minister says, he knows that I am telling the truth. He knows that his department has not been forthcoming. That is why he is squirming in his seat.

The PRESIDENT: Order! If Hon Ljiljanna Ravlich were to address me, I would be most obliged.

Hon LJILJANNA RAVLICH: I am gravely concerned on behalf of Western Australian taxpayers about the content of this document.

Hon M.J. Criddle: You have never come to me about that.

Hon LJILJANNA RAVLICH: We are talking about the establishment of eight contracts, all of which cover 10 years. They will be partly funded by the State Government and partly funded by the Federal Government. However, we have no knowledge of the State's percentage commitment versus that of the Federal Government.

Hon M.J. Criddle: Have you ever asked a question about that?

Hon LJILJANNA RAVLICH: This report came to my notice only a few days ago. It is inconsistent with the findings of the Deloitte and Touche Consulting Group presented in November 1997 as part of the roads redefinition project. The report warned the minister of the difficulties, for example, with contracting out technical services as follows -

> . . . there are some areas in which the industry is mature and well able to deliver a quality product, eg road design and non timber bridge design, but in other areas such as materials, pavements and surfacing, the industry does not have the same level of maturity.

The report warns that there may not be sufficiently skilled manpower in this State to take on the contracting workload expected by the Government. It refers to the need to package work into small lots so that small business and regional business can tender.

Hon M.J. Criddle: Exactly.

Hon LJILJANNA RAVLICH: An agreement covering 10 years is not a small contract. I am very interested to know how small business and regional business will be able to participate. The minister knows that a large operator will be able to achieve the economies of scale that no small operator will be able to achieve. I will be waiting with bated breath for the minister to tell me how small and regional businesses will benefit from this. I will go to the heart of this report to some of the key issues and the recommended positions because I think the minister has some explaining to do.

The first issue that the report identifies is that the procurement of policies applied to this proposed contracting strategy is consistent with state government policies and guidelines. Clearly the Government's own buying wisely policy states that work should be broken up into small components, and chief executive officers should ensure that small and regional businesses are actively encouraged to compete for government work. In particular, they should ensure that contract opportunities are appropriately packaged or tailored, where possible, to actively encourage bids from small and regional businesses. I would be happy to know how this will work - eight contracts over a period of 10 years! How will small and regional businesses get a bite of the cherry?

The next issue the report identifies is that Main Roads is moving to a 100 per cent competitive tendering process of road maintenance, which fits within the Government's policy, as it believes the capacity within the private sector does exist or can be developed. The main focus should be on asset ownership. The report produced by Deloitte's in 1997 would not support the key findings or the key issues and recommendations outlined in the Main Roads position paper. Deloitte's report indicated that the industry was immature and that it would be very difficult to find an appropriate labour supply across all areas.

Hon M.J. Criddle: Are you saying that contractors in country areas cannot deliver the service?

Hon LJILJANNA RAVLICH: I am not saying that.

Hon M.J. Criddle: What are you saying?

Hon LJILJANNA RAVLICH: I am saying that sufficient labour may not be available to undertake the work. I want to know what assessment the minister and his department have done. I want to know where the cost benefit analysis on these 10 contracts is. I want him to table the information. I want to know how the minister will achieve the savings of 15 to 35 per cent. Deloitte's report claimed savings of 20 per cent across the board. When the minister's commissioner fronted before an upper House inquiry, his response to the question of how he had achieved that 20 per cent saving across the board and how the cost benefit analysis was derived was that every government department on average achieves a 20 per cent saving, and that is how he estimated his savings. The minister has just put on record in this report that this project will generate a saving of between 15 and 35 per cent. The Western Australian public wants to know, as I want to know, how he has arrived at that estimate.

The critical issue - I came across it when I was reading this documentation - is the high cost of putting together tender documents. Main Roads obviously has recognised this as an issue and it will reimburse tendering costs up to $100 000 per contract per unsuccessful tenderer. Where else across the public sector are unsuccessful tenderers to be paid up to $100 000 if their tenders are unsuccessful? That position is absolutely laughable. Most people would assume that the preparation of a tender is part of the risk-taking of business. The Government is stating that it recognises that the cost of tendering is very high. Main Roads, which apparently has money to burn, does not know what to do. Perhaps it might consider delivering a social dividend instead of reimbursing tendering costs of up to $100 000 per unsuccessful tenderer. What would happen in the event that, say, 60 tenderers from within Western Australia, Australia or perhaps overseas were unsuccessful? What is the potential cost of this policy that the minister is introducing as part of this 10-year contracting out strategy on road maintenance? As Opposition spokesperson for public sector management, I am interested in whether he will apply this policy to other areas of his portfolio responsibility and the whole of the state public sector.

Hon Murray Criddle interjected.

Hon LJILJANNA RAVLICH: I have not seen it done anywhere else. The minister must be kidding if it is policy to pay $100 000 compensation for unsuccessful tenderers on Main Roads projects.

Hon M.J. Criddle: Where does it say that?

Hon LJILJANNA RAVLICH: At page 12 of the document. I am sure the mums and dads in the community will want to know who will pay for it and how it has become the priority of this Government. As the responsible minister, he will have to cop responsibility. I await the minister's response with bated breath.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [4.03 pm]: I welcome the opportunity to talk about my responsibilities right across the Transport portfolio.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! The minister has not even started and Hon Ljiljanna Ravlich has started to interject.

Hon M.J. CRIDDLE: As the motion suggests, the member has focused on the term network contracts. I am amazed at Hon Tom Stephens' comments about safety. When this Government took office, the funds available for road works was $320m. This year we will spend about $668m on the road network, much of it in his area. He will see some amazing upgrades. The road from Wiluna to Meekatharra will be a major advance. The Mt Keith to Wiluna project linking the north west will proceed. I am surprised Hon Tom Stephens does not recognise that as a positive step. The Mt Magnet to Leinster road in his electorate will also proceed. Work will also be done in the Tanami Desert. We will examine the Wyndham spur, and the amount of $25m has been put aside for the Ord No 2 project.

All these major initiatives are possible as a result of the funding that we have made available and on which people throughout Western Australia have insisted. The Government has met the challenge of bringing the roads up to scratch. That will be beneficial to our export earnings across the State. Local governments will welcome the opportunity of receiving 25 per cent of the funding in their area. That will be a major benefit. The regional road groups will also benefit as a result of roads being built in their area. It is in some way a seed fund so they will be able to undertake developments.

Regarding the 10-year term network contract, when I first took over the portfolio I insisted that the issues in the country be addressed - I am very interested in Hon Ljiljanna Ravlich talking about the country because she probably knows nothing at all about it -

Hon Ljiljanna Ravlich: I spent seven years in the country.

Hon M.J. CRIDDLE: Whacko; and she has not learnt a thing! Much of the work will be delivered out of the local area. That aspect will be audited every year to ensure that the contractor is delivering from the local area. The compact that Hon Ljiljanna Ravlich identified will be used by the local people to take advantage of the 10 per cent.

Hon Ljiljanna Ravlich: You do not audit contracts anywhere else and you know it.

Hon M.J. CRIDDLE: Hon Ljiljanna Ravlich does not know how to deliver things. The savings from that will go back into local roads. One of the main benefits will be that local people will still be able to perform the work.

With regard to other areas of my portfolio, the Transform package is being implemented. I refer to the contract which will cover the area from Thomas Street to Safety Bay Road. That will be a major advantage to the people in that area of the State. I am sure that people in that area will gain some real benefit from that. That contract will be let in the near future. When the tunnel is built, motorists will have a seamless run, without a set of lights, through to the south and towards Mandurah. The bridges will go across the freeway and lights will be taken away. People will recognise that as a real advantage. Costs will be saved in commuting to that area, and travel time will be reduced by 10 or 15 minutes.

Hon Simon O'Brien: People have been screaming for that for years.

Hon M.J. CRIDDLE: I think all the people in that area will benefit from it, and it will be a real advantage to those people.

Hon Ken Travers: Wait until we get onto what you are not doing.

Hon M.J. CRIDDLE: What I am not doing has absolutely nothing to do with it. The point is that I am doing a lot of positive things for Western Australians, and Western Australians want to see these things happen. People in Western Australia will be involved in the building of these structures. Every $100m that is spent on roads produces 4 000 jobs. Has the member thought of that point? Does the member think roads get built without people doing the work? Of course it produces jobs.

Hon Ljiljanna Ravlich: All your calculations are rubbery.

Hon M.J. CRIDDLE: If work worth another $300m a year is done, obviously more jobs will be created. Is the Opposition saying it does not want more jobs?

Hon Ljiljanna Ravlich: Show us your analysis.

Hon M.J. CRIDDLE: It is a simple, commonsense analysis.

Hon Ljiljanna Ravlich: Table it in Parliament.

The PRESIDENT: Order! Will the minister direct his comments to me. I happen to be in the Chair, and I do not know who is speaking to whom, but no-one seems to be speaking to the Chair.

Hon M.J. CRIDDLE: I touched on the extension south of the Kwinana Freeway. The bus link that will go up the middle of the freeway will be constructed. The transit way from South Street into Perth will bring people to Perth by bus. That is a real advantage.

Hon Tom Stephens: What about the train to Mandurah? Where is that?

The PRESIDENT: Order!

Hon M.J. CRIDDLE: That is one of the visions for the future. The master plan will be released early next year. The Government will decide whether that will go ahead, or how it will approach that issue.

Hon Ken Travers: The Government is not committed to a railway to Rockingham.

Hon M.J. CRIDDLE: I said I would wait until the master plan was released.

The PRESIDENT: Order! Obviously, Hon Ken Travers does not want to speak in this debate. He seems to be wanting to address these issues by interjection.

Hon M.J. CRIDDLE: The final northward construction that will proceed on the Kwinana Freeway will be the Narrows Bridge. Those tenders will close in the near future. I am keen to see that go ahead. Anybody who travels over the Narrows Bridge in peak times will know that traffic almost stops - sometimes it does stop - every time they travel over the bridge. When that construction is completed in late 2000, all Western Australians will see the benefits of that and appreciate its completion. They are only a couple of the things that will be put in place through the Transform WA package.

The Transperth buses are running as well as they ever have.

Hon Ljiljanna Ravlich: That is a disaster in itself.

Hon M.J. CRIDDLE: Of course, the member would not know, because she was not here during the time of MetroBus. There have been real advantages in that area. Only last week the Government announced the upgrade of the Canning bus routes. There will be an increase in services of approximately 50 per cent in that area, substantially more on weekends and public holidays. That will be a real benefit to the people in that area. A commitment to going ahead with the contracting out of the Transperth buses has been of real benefit to people in Perth. I think the first new bus comes on stream early in January. The new bus fleet comprises 848 buses, of which 133 will commence in January. Five of those will be gas-powered buses. One of the first places they will travel to is the extension of the transit way from Rockingham to Fremantle, which we hope to launch in July of next year with the new buses. That will be of real benefit to people in that area. I am sure people in Rockingham will welcome that with open arms.

That is just part of the upgrade. A new System 21 will come on stream to help bring people from the suburbs directly into Perth and complement the circle route we are developing to link the universities and hospitals. A service from Fremantle to Oats Street currently operates, and this will link into the rail system. Positive developments are evident in the Perth bus services. Many people are carried on the northern suburbs rail system. It is anticipated that five new two-car rail sets will come on line late this year or early next year to alleviate some problems with overcrowding on those routes.

I also touch on some other issues, such as the increased efficiency we hope to achieve in Western Australian ports soon with trade facilitation developments. Hon Tom Stephens is familiar with the regional airports development scheme and the airport upgrade in his region. We deal constantly with the road safety campaign, and good roads complement the road safety campaign, resulting in fewer deaths on our roads.

HON B.K. DONALDSON (Agricultural) [4.11 pm]: I feel it is my duty to speak in this debate. The Leader of the Opposition has been around for long enough to realise that an urgency motion moved in this place can come back and bite. I do not know whether a filibuster was on the Leader of the Opposition's agenda today. However, he has been punished for his actions. He has now learnt of the advances made by this Government and this minister. The Minister for Transport has outlined all the good things the Government is doing, and those matters can be debated, identified and spelt out in this House. I hope the media picks up some of the points the minister raised. I will add a few more matters as I like to consider the benefits to flow to country people in the Mining and Pastoral and Agricultural Regions.

When I left local government in 1993, the local road funding grant from the state transport trust fund was about $34m - members should remember that figure. The local road network accounts for 82 per cent of the total road link. The minister may confirm whether the contribution was around $134m this year to local roads.

Hon M.J. Criddle: It was a little more.

Hon B.K. DONALDSON: Over the last five years, local authorities have been able to access this badly needed increased funding to upgrade some of their roads and construct new ones. The previous Minister for Transport commenced the lime sand road project, which has had a huge benefit to production in grain crops in agricultural areas. The lime sand network has tremendous benefits which flow to the entire community through increased agricultural production and better returns for the State from exports.

The Government has also been working on completing the coast road from Dongara to Lancelin, which has been an ongoing development. No-one has walked away from that project. The minister has been very keen to ensure that it is completed by 2002 all the way from Jurien to Lancelin. The Leader of the Opposition would well know of road developments within the mining areas he represents. Significant developments have occurred in road networks through these areas. Hon Mark Nevill would agree.

Hon Mark Nevill: I am still waiting for the Lake Grace crossing, which has been announced about five times.

Hon B.K. DONALDSON: The member should speak to the minister about that project.

Hon Mark Nevill: You may have more influence than I do!

Hon B.K. DONALDSON: The minister also spoke about marine projects; he mentioned better boating facilities, such as ramps for boat launches and improved marinas from which professional fishermen operate. He has been leading the field. I was amused to see Hon Ljiljanna Ravlich and the Leader of the Opposition being punished for their stupidity in introducing such a ridiculous urgency motion. I am surprised at the Leader of the Opposition. I am sure the motion was not put up with serious intent considering the cheeky grin the Leader of the Opposition wears when he is enjoying life.

Hon Tom Stephens: I did not realise I still smiled.

Hon B.K. DONALDSON: It is pleasing that he does. I wonder about the depth of the Leader of the Opposition's sincerity when he raised this issue. I stand by my colleague, the Minister for Transport. His performance as Transport minister has been outstanding. He has picked up a huge raft of new projects which were in the melting pot.

Several members interjected.

The PRESIDENT: Order! Hon Bruce Donaldson has the floor. The interjections are baseless and worthless because the member is not responding to them. I understand why he is not responding.

Hon B.K. DONALDSON: I am speaking to you, Mr President, and ignoring the interjections. This raft of new projects in the transport arena will help Western Australia from the metropolitan area to the country and regional areas of the State. The minister is performing very well. If he had taken over a ministerial position in 1991 or 1992 he would have been bereft of ideas because nothing was happening. Things are happening now and he must sort out projects and prioritise. The minister is under huge pressure to complete some of these projects and establish his own initiatives to help and benefit all Western Australians.

HON KEN TRAVERS (North Metropolitan) [4.16 pm]: When the minister took over the portfolio, I had high hopes of seeing a change from the ideological path followed by a number of ministers of the current Government in the Transport portfolio and a range of agencies. I particularly hoped to see a change from the way the previous Minister for Transport conducted this portfolio. Unfortunately, this minister has followed the path laid by the former Minister for Transport. He has added a few new things along the way but has generally followed the old path. This ideological path was demonstrated in the minister's comments today. All we heard about was roads, nothing about public transport.

Hon M.J. Criddle: I did not. Where were you?

Hon KEN TRAVERS: The minister could not even make a commitment about a southern suburbs railway line; he is still waiting for the master plan. The minister is happy to build an extra bridge across the Swan River at the Narrows but is he prepared to give a commitment to build a public transport system to the southern suburbs which would negate the need for that bridge and have environmental and economic benefits for this State? No. That is what we heard all the way through the minister's response.

Hon B.K. DONALDSON: Where are your figures to prove that?

Hon KEN TRAVERS: I am happy to give them to the Government. Hon Bruce Donaldson stood up and gave another example of ideological bias in evaluating the way the minister handles this portfolio. He did not make one mention of what is happening in the metropolitan region - everything was about the bush. Hon Bruce Donaldson did not betray his constituency but if members opposite mention a road project in the metropolitan area, it is always the central business district; the Premier's favourite part of Perth and the only part of Perth he knows exists. I have outlined on a number of occasions what has happened in this portfolio area with the extension of the freeway to the north. I am happy to talk about the extension of the railway line to the north but it appears to have been completely forgotten by this Government.

Hon N.F. Moore: Why don't you talk about the freeway south which you ignored completely?

Hon Tom Stephens: Why don't you get on the freeway south and just keep going?

Hon N.F. Moore: With a speech like this I am tempted to do that.

Hon KEN TRAVERS: I ask the Leader of the House - not in the Chamber - when was the last time that the Government paid for any extensions on the Mitchell Freeway north. The Australian Labor Party has been involved in virtually every one of those extensions.

Hon N.F. Moore: Because you spent every cent on the northern suburbs.

The PRESIDENT: Order! The Leader of the House will have an opportunity shortly.

Hon KEN TRAVERS: At the last election on 13 November 1996, the Premier promised that the Government would extend the Mitchell Freeway to Hodges Drive which was already needed at that stage. The Premier promised that it would take 12 months for planning and 12 to 15 months after that for construction, which means that the extension of the northern suburbs freeway should be just about through to Hodges Drive as we speak. However, it has not even commenced. On 25 March 1997, the former Minister for Transport told us that tenders would be called in March 1998 and that 18 months after the contract was awarded, the construction would be completed. On 14 August 1997, the former Minister for Transport said that the extension would definitely go ahead, the High Court decision had not affected it, tenders would be called in the next few weeks and construction would begin by the middle of 1998. None of that has been done. What is more damning of this minister is that he had six months to find out whether any government promises had been made and ensure that they were acted upon. We have not seen anything happen. Last week I asked the minister whether the contracts had been let for this important project and they still had not been let. Based on questions which I have asked in this place, it is clear that the minister did not receive proper briefings from his department about what commitments had been made and what were the obligations of this Government. As a result of that, numerous projects have fallen over.

In the past couple of days, another issue has been raised; that is, the booze buses. Any Minister for Transport, who has responsibility for the Road Safety Council, should want a "please explain" to find out why the Police Service in this State suddenly wants to announce the location of the random booze buses. Even if we accepted the argument that there would be some benefit from the announcements of the random booze buses - I cannot see how telling people where the booze bus is will help anyone - why is it restricted to two commercial outlets, Channel Nine television station and radio station 96 FM? If the Government is promoting random breath tests, the information should be given to Channel Seven, ABC Television, Channel 10 and any radio station which is prepared to run it. However, this Government is prepared to give it to only two outlets. The Minister for Transport should be up in arms over that issue. I have not heard a peep in the media or anywhere else about his comments. It is a shame that he has already spoken in this debate because I would like to know whether he has raised the issue in Cabinet.

Hon Ray Halligan: You are scraping the bottom of the barrel now. You have nothing better to put forward.

Hon KEN TRAVERS: I can put forward a long list of matters indicating where this Transport portfolio has been let down by the Government. This minister has not been able to pick up these matters and get them right.

The buses have been mentioned. To this day, I still receive regular complaints from my constituents about the buses. At a function yesterday, two or three people told me that they still had to give bus drivers directions. The anecdotal evidence is clear that people feel that buses are far more unreliable now and are far dirtier - they are not being cleaned.

Hon M.J. Criddle: Would you like to present some of that anecdotal evidence that the buses are worse?

Hon KEN TRAVERS: If members talk to the public, they should be well aware of the complaints. Almost on a weekly basis someone will make a comment to me about the poor performance of the privatisation of the bus service in this State.

Hon Tom Stephens: Buses on fire. I saw it on the front page of the paper.

Hon KEN TRAVERS: It never happened when I was a bus driver.

The PRESIDENT: Let Hon Ken Travers present his argument. The Leader of the Opposition and the Minister for Transport want to cut the member off.

Hon KEN TRAVERS: The Minister for Transport is allowing Main Roads Western Australia to careen down the path followed by a number of other government agencies, which gives me cause for concern. I listened to the concerns expressed by Hon Ljiljanna Ravlich about contracting out. I followed closely the progress of the Water Corporation in this State following contracting out. I have seen no benefits in that area, and I am concerned that the Minister for Transport is allowing Main Roads to go down the same ideological path that has proved to be an absolute failure elsewhere. Jobs in the Water Corporation are not going to country regions. The Minister for Transport has spent time in Geraldton, so I am surprised he is not aware of the concerns of local construction companies. Those companies are not being awarded the work which is available as a result of the privatisation of the Water Corporation. That work is going to metropolitan-based companies.

An issue that is related to contracting out is the number of contractors who are falling over or facing bankruptcy because the Government is not properly managing outside contracts, although I suspect the Government could not run the contracts in-house either. The Government has made a complete mess of contracting out right across portfolios. A number of companies which undertook Water Corporation contracts have gone under, and the Water Corporation must take some responsibility for that. The Minister for Transport will allow the same situation to occur in the Department of Transport. I have no doubt that in a couple of years we will have the same debate about what is happening in Transport.

The Government has either not delivered on its promises or it is behind schedule. The Government has no commitment to public transport.

HON B.M. SCOTT (South Metropolitan) [4.27 pm]: I call the attention of the Chamber to the cowardly attack by the Opposition on the current Minister for Transport, to the point of becoming totally sidetracked and criticising the Premier, and talking about contracting out. The Opposition could have, at least, given the House more notice of the motion and focused on the motion that members were given.

As the member for South Metropolitan Region I inform Hon Ken Travers, and those members opposite who never venture from the northern side of the river, of what the Minister for Transport has committed himself to in the southern region. Rockingham-Kwinana is the fastest growing region in Australia currently. It is predicted that Rockingham's population will grow to in excess of 400 000 in the next 10 years. The Government has planned a consolidated rail link to Rockingham and onto Mandurah.

Hon Ken Travers: That is not what the minister said. He has not given a final decision on the railway.

Hon B.M. SCOTT: Hon Ken Travers shows his ignorance if he is not aware of the planned Kenwick to Mandurah rail link. The transit bus that is serving the area is extremely efficient. Hon Ken Travers is talking nonsense when he claims that bus drivers do not know where to go. Perhaps the Opposition has not heard that passengers can say to the driver, "I live on this street, do you mind stopping?" From the perspective of women and young people travelling home late at night that is a good initiative. Hon Ken Travers wants to live in the past and to stay with the same old bus stops that have been in existence for the past 20 years, and not move with the times.

I remind the Opposition that the transit lane, the fast bus link, the proposed rail link and the road link to the South Metropolitan Region will, as the minister has said, link large masses of population and service students who are in dire immediate need of transport to universities and technical and further education colleges. In addition, I remind the Opposition that in Rockingham a large university campus, which is an arm of Murdoch University, has been established by this Government. It has been an enormous educational boost for the people in that region, and people must travel to and from it. Obviously, anyone living in the northern suburbs will not be aware of the current hold-up on the Narrows Bridge. The extension to that bridge will be extremely good.

Motion lapsed, pursuant to standing orders.

WESTERN AUSTRALIAN LAND AUTHORITY AMENDMENT BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and returned to the Assembly with amendments.

MUTUAL RECOGNITION (WESTERN AUSTRALIA) AMENDMENT BILL

Second Reading

Resumed from 12 November.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.32 pm]: The Opposition supports this Bill.

HON J.A. SCOTT (South Metropolitan) [4.33 pm]: The Greens (WA) also support this Bill. I note that the Bill provides for a two-year extension until the review information is known. That is a wiser move than moving ahead without that information; therefore, we support the Bill.

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [4.34 pm]: I thank the Leader of the Opposition for the best speech he has made in this House since I have been a member of this House! I also thank the Greens (WA) for its support of the Bill. I commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and passed.

REVENUE LAWS AMENDMENT (ASSESSMENT) BILL (No 2)

Second Reading

Resumed from 12 November.

HON MARK NEVILL (Mining and Pastoral) [4.34 pm]: The Opposition supports the Revenue Laws Amendment (Assessment) Bill (No 2), which amends the Fuel Suppliers Licensing and Diesel Subsidies Act and the Stamp Act. The amendment to the Fuel Suppliers Licensing and Diesel Subsidies Act would remove certain disclosure requirements imposed upon a diesel fuel distributor. The Act currently requires authorised distributors of off-road diesel to provide their suppliers with records of their customers' transactions. Those records include the names and addresses of their customers and the price and quantity of diesel supplied to them. The requirements were placed in the Act to make the audit trail clear. The Opposition understands that the current disclosure requirements have caused the industry concern, mainly because distributors are required to disclose commercially sensitive information that may be used to solicit their clients. The proposed amendment removes the requirement for providing suppliers with names and addresses of customers and the price of diesel paid. The State Revenue Department has assured us that the amendments will not affect the audit trail and expose subsidy arrangements to possible exploitation. It is on that basis that we support the amendment.

The second amendment to the Fuel Suppliers Licensing and Diesel Subsidies Act proposes to extend the qualifying usage for off-road diesel certificate holders to include the exclusive economic zone of Australia. Under the current Act, if marine diesel users consume diesel outside Western Australia's territorial limit, they are not entitled to receive a supply of diesel at the subsidised price. Examples of marine diesel users that may be affected by that diesel use condition include shore-based fishing operations, off-shore oil and gas supply operations and recreational boating activities. The Opposition understands that the proposed amendment would restore the position that existed prior to the High Court decision which invalidated franchise fees. Therefore we support the amendment on those grounds.

Part 3 amends the Stamp Act. The first amendment ensures that stamp duty continues to apply to share buybacks. Hon Helen Hodgson has assured me that she will give a full and detailed account of her knowledge of stamp duty on share buybacks. She might even read one of the lectures that she gives on that matter. I will leave the detail to her.

Hon Max Evans: Finish quickly and you might beat her.

Hon MARK NEVILL: I mentioned her name so that she has the cue to follow.

The Opposition understands that a recent Victoria Supreme Court decision found that a share buyback is not a transfer in the legal sense and that therefore stamp duty would not apply as it is charged only on transfers. The amendment as proposed would restore the position that existed prior to the Victoria Supreme Court decision and ensure that stamp duty continued to apply to share buybacks.

The last amendment restores stamp duty exemptions for certain crown land dealings which were inadvertently removed by the Acts Amendment (Land Administration) Act. It restores stamp duty exemptions to contractual obligations entered into by the Department of Land Administration before the stamp duty exemption was removed and the transactions that were entered into by respective parties in good faith and with the expectation that they would be free from stamp duty. It also restores stamp duty exemptions to the grant of mining tenements and to crown land that was offered in exchange for private land that has been compulsorily acquired, taken or purchased by the Crown for public purposes.

We have been provided with further information by the State Revenue Department following the provision of information that had been sought. I will not bore members with all the details but I will go through some aspects. We were advised that the Department of Minerals and Energy has granted approximately 670 mining leases since 30 March 1998. The exemption proposed in the Bill will have a retrospective application to 30 March, otherwise the department would have to pursue the owner of every mining tenement that had been granted since that date to ensure the stamp duty had been paid. That has been left in abeyance in the hope that the Government will again receive good cooperation from the opposition parties in fixing up the occasional trouble in which it finds itself with these administrative matters.

The contractual obligations entered into by the Department of Land Administration, to which I referred earlier, which would not qualify for stamp duty exemption because of its removal, include a number of categories of land. Given the recent Miriuwung-Gajerrong decision, I suppose the Government will be looking very closely at what it does with leases. Some of the areas that would not qualify for stamp duty exemption are crown land that was offered in exchange for land that had been acquired by the Crown; crown land that is subject to a conditional purchase lease that was granted for special settlement lands; and crown land that was vested in a person whose property adjoined the crown land to compensate that person for land taken by the Crown to construct a road, to dispose of surplus crown land that was reserved for a rabbit proof fence, to dispose of surplus crown land that resulted from the closure or deviation of a railway line or to dispose of crown land that was unsuitable for retention by the Crown. Under the Miriuwung-Gajerrong decision possibly native title would be revived on disposed land. Since the memorandum was written on 25 November, we might get a very different version of it today. With those comments, I indicate that the Opposition supports the Bill.

HON HELEN HODGSON (North Metropolitan) [4.44 pm]: Once again at this time of the year we are faced with a revenue laws amendment Bill. The Minister for Finance introduces these Bills a couple of times a year to tidy up anomalies that may have been brought to his attention during the year. Although I congratulate the minister on his foresight in doing this periodically instead of introducing a separate Bill every time, it is unfortunate that it seems to hit the House in the middle of a long list of urgent Bills. It very often means that it is not easy to do the amount of work members would like to do on some of these issues.

Putting that to one side, I have had an opportunity to look at the provisions of the Bill. It is one of the simpler of the revenue laws amendment Bills that I have seen in this place. It basically covers three issues: The Fuel Suppliers Licensing and Diesel Subsidies Act, stamp duty implications of share buy-backs, and stamp duty implications with some amendments in respect of the transfer of crown land. The Fuel Suppliers Licensing and Diesel Subsidies Bill was passed last year as a consequence of the Hammond decision and the restructuring required in respect of collection of excise on diesel fuel supplies. Issues were raised at that time concerning the problems involved in being able to comply with the extent of regulation. Although we addressed some of those issues, it has obviously taken some time for the shakedown to take place and for people to identify other problems not identified when we debated the Bill, even though at that time we tried to address the concerns brought to our attention by people affected by the legislation.

The first amendment relates to the extent of record keeping required and deletes the requirement to keep the name and address of the user and the price at which the fuel was supplied. I recognise that it is often very difficult to put appropriate record keeping systems in place when dealing with relatively small transactions. The legislation has been given some time to operate to establish whether it works in practice and this has been raised as a difficulty. It is therefore appropriate for the Parliament to respond by ensuring that an undue burden is not placed on people in that respect.

The other change to the Fuel Suppliers Licensing and Diesel Subsidies Act relates to definitions and ensures that offshore operators are still covered by the provisions of the state legislation. I gather that as the legislation was originally drafted, it did not apply to people operating in coastal waters. That is an issue when dealing with the petroleum and gas industries in particular, and offshore exploration and petrol usage by those enterprises. I support those amendments because they deal with an anomaly in the original legislation.

Part 3 of the legislation deals with share buybacks. This is a little more interesting because it deals with a problem that arose as a consequence of a Victorian Supreme Court case. I tried to find that court case on the Internet, but Victorian Supreme Court cases have gone onto the Internet only recently. I understand this relates to the definition of a transfer. The problem with share buybacks is determining whether there is a transfer of property. In this case, a company is repurchasing its own shares. In the early 1990s, share buybacks were not permitted under Australian corporate law. That caused a problem when companies wanted to restructure and found that they were not able to repurchase their own capital. They simply wanted to reduce the issued capital in the marketplace. The Corporations Law was amended at the federal level to ensure that if a company met certain requirements it was able to buy back its own shares either on or off the market.

The rules, which are in the Corporations Law, are complex. A very useful table indicates the steps a company must take to buy back its own shares, including whether it must have an ordinary resolution or a special unanimous resolution; whether it must lodge documents with the Australian Securities Commission; the period of notice required; the cancellation of shares and the notification provisions. The rules are designed to protect the interests of shareholders and creditors by addressing the risk of buyback activity leading to a company's insolvency, seeking to ensure fairness between company shareholders and requiring the company to disclose all material information.

Hon Norm Kelly interjected.

Hon HELEN HODGSON: Hon Norm Kelly asks whether it is likely that it can be used as a tax dodge mechanism. That could lead us into a totally different area. I wrote an academic paper on the tax provisions that had to be introduced to deal with the corporate buyback provisions and the complementary legislation that had to be developed at a federal level. I must admit it was interesting because it is one of those sections in the Income Tax Assessment Act that is shoved in the middle. I was trying to write about section 159GZZZ(g) and my spell checker kept spitting out GZZZ(g) and GZZZ(o). Provisions exist in the Income Tax Assessment Act to deal with it, so I believe it is unlikely to be used in that way. These amendments will address any possibility that it would be used in that way. There is an interesting corollary to the legislative movement that has taken place in this area in the past few years. It is relatively unusual for a company to engage in extensive buyback activity. I tried to obtain some figures from the Perth Stock Exchange but, as part of the restructuring and the modern communications world, I was required to phone the Sydney Stock Exchange, which had already closed before I telephoned, so I did not obtain that information.

Hon Max Evans interjected.

Hon HELEN HODGSON: A couple of companies do it, but it does not have the widespread implications that may have been predicted when this legislation was first introduced. A small amount of on-market share buyback activity always takes place when the company is buying back a small parcel of shares for whatever reason, but it is relatively unregulated anyway.

However, once the regulated level of buyback is reached, which is at a 10 per cent threshold in 12 months, it is a relatively rare step for a company to restructure by buying back its issued capital.

Hon Mark Nevill interjected.

Hon HELEN HODGSON: Special provisions deal with the buyback of employee share acquisition schemes which are all separately regulated. When the major policy decision was made to allow it to happen, many tax loopholes were plugged to ensure that it looked after the interests of the shareholders and creditors.

Hon Max Evans: Employees' shares would not be a bad idea.

Hon HELEN HODGSON: It is dealing with a situation in which directors receive employee shares as a part of a remuneration package. It is not an ideal situation for a managing director who has been asked to leave the company because of various disagreements, to have a significant share of the voting capital. A requirement can be made for a buyback in that sort of situation with a former employee.

The issue for the purposes of stamp duty relates to whether a transfer occurs when a company buys back its own properties. When a company is buying back its own properties, the argument is that a transfer has not taken place. That is an issue with which I am familiar because the capital gains tax provisions of the Income Tax Assessment Act were specifically constructed to deal with it. It is an indication of the limited use of share buybacks that it has taken several years for it to be addressed in the state stamp duty legislation as well. With an understanding of the reasons that this legislation had to be introduced, all this amendment does is ensure that a share buyback will be included as a transfer, and therefore the same provisions will apply as if it were a third party sale on the Stock Exchange.

The third legislative area addressed in this amendment Bill relates to transfer of crown land. Restructuring has occurred of the way in which an exemption is available with respect to crown land. I understand that a general exemption is presently available for the transfer of crown land in many instances. This amendment will replace the general exemption with exemptions in specific situations. That will occur through reference to the schedule of the Land Administration Act. I have no problem with that in principle because it will implement the basic principle that stamp duty is payable on the purchase of land whether it be from the Crown or a third party. However, I will be interested to hear the minister's comments about how the Department of Land Administration and LandCorp feel about this provision.

Hon Max Evans: It is stamp duty.

Hon HELEN HODGSON: I regard stamp duty as a tax. As a result of the purchaser having to pay tax, the competitive edge that LandCorp may have had will be removed. That is not a bad thing except that LandCorp already works under a statutory framework that gives it a number of commercial disadvantages.

Hon Max Evans interjected.

Hon HELEN HODGSON: For example, what will be the impact of native title when trying to buy crown land through LandCorp. Will this stamp duty impact on LandCorp's operations in a negative way? Did consultation occur with LandCorp on that issue? However, in principle I have no problems with land transactions being taxed irrespective of whether it is from a government statutory authority or from a third party on an arm's length basis. With those few comments, the Democrats support the Bill. Most of the provisions are unexceptional. I would like the minister to respond to that one issue. Given that, I hope we can conclude this matter today.

HON J.A. SCOTT (South Metropolitan) [4.57 pm]: I refer to part 2 of the Bill which seeks to amend the Fuel Suppliers Licensing and Diesel Subsidies Act. I was opposed to the Fuel Suppliers Licensing and Diesel Subsidies Bill on environmental grounds because the Greens (WA) believed the rebate on diesel fuel would mean a greater use of diesel fuel. It has been estimated that approximately $600m worth of extra diesel fuel will be used compared with the amount of gas that will be used in this State. This Bill does not deal with that.

Hon Max Evans interjected.

Hon J.A. SCOTT: They are producing such vehicles. Through other off-road uses we could be encouraging less use of diesel fuel. Making it cheaper is not satisfactory. However, I am not opposed to that part of this Bill because clearly we cannot be running offshore vessels with LPG or natural gas; it would be too dangerous. The gas could build up in the bilge -

The PRESIDENT: Order! There is too much noise in the Chamber. We have fans on, and a speaker who, as I have said before, occupies the worst position in the House from the point of view of being able to hear him. It is my job to see that Hansard can accurately record what is being said. Members will probably realise that not too many members were talking. However, with these fans operating today we are up against it.

[Questions without notice taken.]

Hon J.A. SCOTT: I have said that I favour off-road fuel excise also being passed on to vessels that are outside state waters. There are a couple of reasons for that. Firstly, it would be almost impossible to tell whether vessels were inside or outside

state waters; and, secondly, what is important is the use to which the fuel is put rather than exactly where a vessel is on the sea. Certainly, there is no reason that it should not be extended to vessels in a certain area. My concern about the amendment to the Stamp Act was answered by Hon Helen Hodgson in regard to whether it could be used for tax-dodging. I was concerned that companies might use the measure rather extensively if proper safeguards were not in place. However, I am assured that proper safeguards are in place. As to crown land exemptions, like Hon Mark Nevill I am not sure what the implications will be for native title land, but otherwise I have no concerns about that part of the Bill. Accordingly, I support the Bill.

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.38 pm]: I thank members for their strong support for the legislation. We try to bring legislation up to date to correct problems. Before I became a minister, I knew from my professional life that many legislative anomalies had not been rectified. I have tried to keep on top of them and provide information. Sometimes amendments cost us money and sometimes they bring in money, but they are essential to iron out anomalies. Hon Jim Scott and Hon Mark Nevill referred to the High Court native title case. We will need to wait for appeals and so on to be resolved before we try to answer such hypothetical questions.

On share buybacks, Hon Helen Hodgson is obviously better versed on the subject than I am. However, before she became a member of Parliament, a similar matter arose when Westpac took over the Challenge Bank. The scheme was to cancel all the shares in Challenge Bank and issue new shares in Westpac, and there would be no transfer. That was brought to our notice about a week before the meeting at which approval of the scheme arrangement was to be obtained. The day before the scheme arrangement was brought in we put out a release stating that we would amend the legislation. If we had not done that, knowing that people were avoiding tax, we would have been favouring them. The sum involved was $1.9m. The managers who spoke to us later accepted they had been caught by a fair cop. Having caught them out, that solved that problem. However, something new is always coming along. There have been recent cases in Victoria, and Western Australia has some coming on in the new year. Hon Helen Hodgson commented on share buyback. I was looking forward to more of her comments on income tax and company tax.

Hon Helen Hodgson interjected.

Hon MAX EVANS: I might do that. With regard to share buyback, I remember that 20 years ago we were trying to get share buyback in under state Corporations Law and trying to approve it. We did not have the same tax problem in those days, although we now have capital gains tax. For some reason, Governments have always been loath to tackle this. Only in recent years have Governments allowed it to happen. The process could have been used very well some years ago to buy back shares. What happens is that companies may be awash with millions of dollars - some hundreds of millions of dollars. They cannot earn much by the way of interest and they are not in the business of buying and selling shares, so they end up making takeover bids. Half the trouble in the 1980s was that because some companies had all those financial resources, they took over other companies. These days companies are far better off with share buyback. It is better for their shareholders if they reduce capital, so that they get a portion of the capital back. The companies will therefore get a better return on the moneys left in them.

That is the main reason for share buyback. As I say, we wanted to do it years ago but it was never allowed. A couple of very large companies were involved in this recently. I think that one was one of the mutual providence companies which wanted to undertake a large reduction of capital because it had just too much and a very big cash flow. I warn any members who try to win the lottery today that they will have a lot of trouble finding where to invest the $15m they will receive this weekend. It is not an easy job to put money out and know that one will get a growth factor and not a loss factor where one will not get a lot of money to put in the bank. That is why those companies have been making those changes.

Hon Helen Hodgson commented on smaller deals. Transfer fees would not be very much on those. Hon Peter Foss and I were talking about one of the problems involved with legislation; that is, that when we make legislation someone finds a loophole in the legislation and then we have to change the legislation. We would sometimes be better off if there were no legislation in the first place. Legislation was designed years ago for the payment of stamp duty on the transfer of land. Someone works out a way of there being no technical transfer of land because he does not want to pay his stamp duty, and then we have to change the whole legislation to cope with that.

As to the Department of Land Administration, LandCorp and the general exemption, the measures proposed to the Stamp Act in respect of crown land grants are consistent with the policy intent of those that the Minister for Lands previously introduced into the Parliament. I am not aware of the extent to which LandCorp is happy or otherwise but I do know that the Minister for Lands and the Department of Land Administration are happy with the relevant provisions in this Bill. As I said last week with regard to the Western Australian Land Authority Amendment Bill, when this matter came before the House in 1992 we believed then that because LandCorp was in the commercial business of developing land and had taken over from the Industrial Land Development Authority, it should at least pay land tax to put it on a more even basis with the private sector. Now under the tax equivalent regime, it will pay all the necessary taxes to the Government for the equivalent of council rates, water rates, land tax and stamp duty, with which the member agrees. It will put LandCorp on a more even basis. I might force it to pay interest on the amount, but the Government will think about that sometime later. When we

came to government it started off with $209m worth of land. It pays no holding costs on that land and nothing for the equity, which is really the Government's money.

Hon Jim Scott had no special points that he wanted to raise. He brought up the point on whether we should have rebated the $600m on diesel fuel. He said that now they have the rebate they will spend that much more on diesel fuel. He missed the point that the volume would be the same; there would be a $600m impost on those very important industries. Originally they were free of tax; the tax was imposed later, and some were left out. That is why the Government omitted the words "subsidy" and "rebate" from its legislation.

I thank the three parties for their support of the legislation. I thought we had ironed out all the issues, but this problem arose. We should have known there would be a problem offshore, but we have now fixed it. I commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

GAS PIPELINES ACCESS (WESTERN AUSTRALIA) BILL

Committee

The Deputy Chairman of Committees (Hon W.N. Stretch) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Clause 1: Short title -

Hon MARK NEVILL: I take the opportunity of debating the short title to canvass some of the issues that have been discussed in this Bill, and to refer to the comments of the minister when replying to the second reading debate. The minister was challenged to tell the House of the unique conditions in Western Australia that would warrant having a local regulator for transmission pipelines. His reply was unconvincing. He said Western Australia does not have any pipelines which cross state borders. That may be the case currently, but we have the largest gas reserves in Australia and it is inevitable, probably in 10 to 15 years' time, that a transmission pipeline will connect into the interstate grid. I pointed out to him that the Northern Territory has the ACCC as its regulator for transmission pipelines, but does not have a local regulator. The minister said that the Northern Territory anticipates a gas transmission pipeline from the Timor Sea into northern Queensland. That appears to run contrary to the argument that he was expressing. We already have a pipeline to Mt Isa and Duchess near Cloncurry from the gas basins on the Queensland-South Australian border which ships gas into that area. By his own statement, it would appear that the minister feels that the Northern Territory will soon have a pipeline crossing not one border, but probably two if we look at the boundary of Western Australia and the Northern Territory where the waters are concerned. It will cross from northern Western Australia into Queensland, traversing the Northern Territory. The minister said that the resources sector in Western Australia consumes 96 per cent of all the gas. I say so what? I would have thought that was a manageable situation; that is, 96 per cent of the gas being used by the resource sector and 4 per cent being used by others including domestic users. Why is a local regulator needed to handle such a unique situation?

The minister says that Queensland consumes only one sixth the amount of gas Western Australian industry consumes. By his own admission, Queensland may have a transmission pipeline coming from the Northern Territory. There are also advanced plans for the United States consortium and others to ship gas from Papua New Guinea to Queensland. I imagine that will increase gas use in Queensland and New South Wales dramatically. That is still a significant amount of gas. It is used for a variety of sources to generate power, I think, in the Gladstone area and for other industrial and domestic purposes in Queensland. It has the whole array of uses that we have in Western Australia. Queensland, as we all know, is blessed with large deposits of easily-won coal to compete with gas. I do not see anything unique in that situation that cannot be managed. The truth is that variations occur from State to State, but they are all within the capacity of the Australian Competition and Consumer Commission to regulate without fear or favour and, I hope, without undue influence from local special pleading. The local case must be put. However, at the end of the day it is a commercial investment. There is a commercial risk and the State should not be in the business of ensuring that the companies receive the return they would like.

Schedule 5 of the Gas Corporation Act, which is being removed as a result of this legislation, is headed "Access to, and pricing for, gas transmission capacity". Under section 3(5) of the schedule, the Gas Corporation, on its transmission pipeline, which is the Dampier to Bunbury natural gas pipeline, had to keep information on accounts and pricing objectives and maintain transparency to ensure accountability. The corporation had to keep all income, expenditure, assets and liabilities records relating to the gas transmission system. It had to prepare numerous other accounts and records, annual profit and loss statements and balance sheets that give a true and fair view of the state of affairs relating solely to the gas transmission system. It also had to provide to any person copies of that profit and loss statement and balance sheet on payment to the corporation by that person of a prescribed fee. The regime in place for that transmission pipeline was completely transparent. I am not sure that anyone has sought that information. It would be interesting to see whether it gave a true and fair view of the gas transmission system.

The most interesting part of this schedule is subclause (2), which reads -

> The corporation must adopt pricing methods which have as their objective the recovery within a reasonable time from shippers of -
>
> (a) the costs of maintaining and providing gas transmission capacity;
>
> (b) the capital investment in the gas transmission system; and
>
> (c) a reasonable rate of return on that capital investment.

All of that was required for the AlintaGas transmission pipeline when this Act was passed in 1994. We do not see any of that accountability in the Goldfields Gas Pipeline Agreement Act; it is completely lacking. The Gas Pipelines Access (Western Australia) Bill talks about access, and it deletes the word "pricing". The South Australian Bill talks about access and price. The whole concept of pricing has been deleted from the words in the Gas Pipelines Access (Western Australia) Bill. One wonders how objective this group is in ensuring that people who are using our gas transmission pipelines are getting a fair deal, and that the owners of those gas transmission pipelines are not making grossly more than what might be a fair and reasonable return on what is a monopoly investment.

Sitting suspended from 6.01 to 7.30 pm

Hon MARK NEVILL: The Bill in its current form gives me no confidence that it will ensure independence, particularly with the local regulator. I explained before dinner the contrast between schedule 5 of the Gas Corporation Act, which ensures transparency on transmission lines, and contains a requirement for a reasonable rate of return on the investment in those transmission lines, and the goldfields gas pipeline, where there is no transparency, we do not know whether the rates are fair and reasonable, where, in my view, there is no capacity to enforce any review finding that may recommend that those rates be lowered, and where the pipeline owners have been able to take very large profits out of that pipeline. I explained during the second reading debate that the pipeline owners have made a profit of at least $90m from the sale of the pipeline and another $37m from the cashing in of the infrastructure bond benefits, a total of $127m. In most developed countries, the regulator of a monopoly pipeline would say that the benefits should be shared between the pipeline owner and the pipeline users; and in this case, most of the benefits would probably have gone to the users in the form of lower tariffs. There is no sound reason why that sort of profit should be pocketed, because a reasonable rate of return on that pipeline is certainly not $127m on an investment of $350m over that time; and in making that fairly low estimate, I am not taking into account the other aspects.

The poor regulation of the goldfields gas pipeline has led to the loss of great opportunities. Had the operator of that pipeline been aggressive, Esperance would have access to gas supplies today, and AlintaGas customers in Kalgoorlie-Boulder would not be paying prices that are between 4 per cent and 6 per cent higher than metropolitan gas prices. That has been decided quite arbitrarily; no independent regulator has made that decision. The same company in Kalgoorlie that is selling the gas owns the distribution or reticulation system. That is another nice little monopoly that allows it to charge higher prices than in the metropolitan area. This situation has arisen because this State has not had an independent regulator. In fact, the Energy Coordination Amendment Bill turned the Office of Energy into a full-blown regulator. A person who had problems with the Office of Energy had to appeal to the minister, who is the same person whom the Office of Energy advises; and a person who did not like the minister's decision had no avenue for judicial review, unless he took out a prerogative writ.

The whole history of gas legislation in this State has been one of cozy arrangements without any objective, independent regulation. This Bill derogates from the national code by establishing a regulation system for transmission pipelines controlled by the State. In response to a comment I made about an opportunity being lost in allowing Epic Energy Pty Ltd to loop the existing pipeline, effectively allowing it to build the second pipeline, the minister said the State Government is proceeding with a registration of interest proposal to build another pipeline from the Pilbara to the south west. The Australian Competition and Consumer Commission should have had something to say about the Epic expansion and there should have been some public debate about whether the looping of the existing pipeline was the way to engender competition in this State. I believe a second pipeline had a better chance of developing competition in this State.

Until now we have had confusion in this area. We have a legislative mess particularly with the goldfields gas pipeline. We have secrecy, we have no idea whether the tariffs are fair or reasonable and neither do the third-party proponents. The arrangement between the proponents of that pipeline, the Office of Energy, the minister and the Department of Resources Development is not transparent; it almost appears to be cozy. I am not suggesting that anything illegal has happened but these people being able to take out the level of profits on such a monopoly without passing some of the benefit on to consumers suggests poor regulation. I am not against people making a good rate of return. If a pipeline is built and the operator develops efficiencies, the savings should partly be kept by the operator and partly benefit the people shipping the gas. One must have incentives for everyone. I am not suggesting that the rate of return be fixed and locked forever. The rate of return should increase as the operators expand the gas market and the pipeline becomes more efficient.

The CHAIRMAN: Order! I remind members that at this stage their comments should be about the interrelatedness of the different clauses.

Hon MARK NEVILL: Absolutely. I was just interrelating the comments of the minister about the Chamber of Mines and the Chamber of Commerce and Industry of Western Australia. My understanding is that they both support the Australian Competition and Consumer Commission on the transmission pipelines. If that is the view of the Government, there is a lack of consultation in this process which was one of the causes of the problems with the Energy Coordination Amendment Bill. The job before us during the committee stage is to ensure that the community of Western Australia is confident that the regulators of the gas supply system are objective and that industry and the people of Western Australia are receiving a fair share of the cake, especially when there are monopoly operators and no real competition.

Hon N.F. MOORE: I do not propose to enter into another second reading debate on this matter. The member has raised a number of issues on this clause which he raised during the second reading debate. I endeavoured to explain the Government's position on those matters to the member. We will deal with who should be the regulator shortly. It is the strong view of the Government that the local regulator proposed within the Bill is the appropriate way to go for Western Australia. It is as much a requirement for the member to argue that the ACCC is better than the regulator as it is important for me to argue that the local regulator is better than the ACCC. We answered a number of issues about the Western Australian gas market and the way in which gas operates in Western Australia.

The member and I will agree to disagree on whether it is unique or different. The Western Australian gas industry, if members take into account the production, transmission and consumption of gas in Western Australia, is quite different from the other States. We argue that, in that context, it is preferable to have a local regulator who understands the local industry and can make decisions based on a reasonable understanding of the situation in Western Australia. I do not propose to argue the point any longer other than to say that the member raised these issues during the second reading debate. We have reached the situation in which it is a question of who do we believe. The member suggested that the industry groups do not support a local regulator and my advice is that they do. I do not know who is right and who is not; I can only follow the advice which I have received.

I have been given some information from the Minister for Energy who would like me to put into *Hansard* his attitude on whether we should have a local regulator or the ACCC. It is an indication of what the Government is prepared to do in the event that the industry changes in the future. It is the minister's intention that, in the event a licence is granted for a pipeline to be built which crosses from Western Australia to either the Northern Territory or South Australia, the Government will move to have that pipeline regulated by the ACCC and, if we agree ultimately to review the Act on or before 7 November 2002 or the dates of the granting of the pipeline licence for the cross-jurisdictional pipeline - which is an amendment proposed for later in the committee stage - the Government will address the option of all the gas transmission pipelines in Western Australia that are covered by the code being regulated by the ACCC or continuing to be regulated by the state-based regulator in light of the experience gained to that date. In other words, in the event that a pipeline which crosses state borders is built within Western Australia, we will ensure that that pipeline is regulated by the ACCC. In the event that the Chamber agrees to the review clause, the Government will review the success or otherwise of the state-based regulator, and if, prior to the review, there is a need for a cross-jurisdictional pipeline licence, it will review that at the same time. The Government is prepared to be flexible when the regime is in place, and to see what turns out between now and the proposed review. I hope that gives Hon Mark Nevill some comfort. I indicate strongly that the Government does not support having the Australian Competition and Consumer Commission as regulator, and will oppose the amendments that the member seeks to introduce to provide for that. However, the Government is prepared to support a review and a change in regard to the regulation of a cross-border gas pipeline - if one should be built - to come within the jurisdiction of the ACCC.

Hon HELEN HODGSON: I have had difficulty in making a decision on the issue of the ACCC versus a local regulator, because I can genuinely see the merit in both arguments. I can see the arguments that favour a national regulator, and I know that the industry favours a national regulator. On the other hand, it is easier for a local regulator to take into consideration circumstances within the State. I can understand the argument that tariff pricing will be more transparent if it is done by the ACCC. I can also understand the argument that WA might be bound by a tariff regime that is designed for the other States.

I have carefully examined both sides of the argument. One of the three points I consider important to make the regulation regime work is the proper, independent appointment of a regulator. Whether it be a local regulator or the ACCC, the goal is independence, transparency and the ability to make sure the regulator acts independently. The second point is the need for national consistency in the event of an interstate pipeline. In that event, it will be important to ensure the regime on this side of the border is not different from the regime on the other side of the border. The third point relates to the fact that this is a new area. I take on board the recommendation of the Standing Committee on Constitutional Affairs for a local regulator. As it is a new area, we must ensure a proper review of the regulation of these major infrastructure issues. The review must consider whether the industry is being served properly by the regulatory regime that is put in place. It must ensure that industry in Western Australia is not unduly penalised if the regime is different from that in the other States.

Having weighed all that up, I was not satisfied with the Bill. However, I notice that the Supplementary Notice Paper has a number of amendments dealing with each of those issues. There are amendments relating to the appointment of the regulator to ensure an independent selection and appointment process, and relating to the review clause. We have just heard an assurance from the minister that the ACCC will be involved should an interstate pipeline be licensed. We have also been

assured that the review will take into account whether the ACCC can more effectively perform the functions that the Bill places on the local regulator.

I have given a deal of thought to the arguments from both sides on this issue. It is not an easy issue to resolve, as indicated by the fact that the committee in its report did not make a recommendation except that the clause should be fully debated in the House. Given the assurances that have been read into the record by the minister, my concerns will be satisfied with the provisions that apply for a local regulator, provided that some of the amendments on the Notice Paper that deal with the independence of the regulator and the review clause are passed by this place.

Hon MARK NEVILL: I do not want to talk about clauses that we have not yet reached on the Notice Paper; however, the minister mentioned the Australian Competition and Consumer Commission being involved in a cross-jurisdictional pipeline. Is it correct that the minister is only considering that or will the commission definitely be involved?

Hon N.F. Moore: It will be involved definitely.

Hon MARK NEVILL: It does not say that on the amendments that we will be discussing.

Hon N.F. MOORE: No. It is a commitment by the Minister for Energy that in the event that a cross-jurisdictional pipeline is built connecting Western Australia to the Northern Territory or South Australia, that pipeline will come under the jurisdiction of the ACCC as the regulator.

Clause put and passed.

Clauses 2 to 7 put and passed.

Clause 8: Extension of the Law and the Regulations to certain pipelines reticulating gas other than natural gas -

Hon MARK NEVILL: I ask the minister why there is any need in the Bill to differentiate between liquefied petroleum gas and natural gas? Natural gas is natural gas and although the lower fractions of methane and ethane are generally considered to be natural gas, is this distinction academic for the purposes of the Bill and unnecessarily complicating it?

Hon N.F. MOORE: I understand that natural gas under the national code does not include LPG. Presumably, in Western Australia LPG is being reticulated in Albany, for example. It is necessary to refer to that as a separate item otherwise it would not be covered by the code.

Clause put and passed.

Clauses 9 to 11 put and passed.

Clause 12: General regulation-making power for Gas Pipelines Access Law -

Hon MARK NEVILL: Subclause 12(3) reads -

> The provisions of the *Interpretation Act 1984* do not apply for the purposes of regulations under this Part but instead those of Appendix 1 to Schedule 1 apply.

It is strange that this Parliament is making laws which are not covered by its own Interpretation Act. Presumably, other people will decide what is covered by our laws in respect of disallowance, so there should be a better form of agreement or administration rather than this Parliament conceding those powers to someone else.

Hon J.A. SCOTT: I share Hon Mark Nevill's concerns. I do not like the way in which this is being done.

Hon HELEN HODGSON: I raised the issue in the second reading debate because I am concerned about it. I sought some advice on whether we are able to amend the schedule to incorporate section 42 of the Interpretation Act. Unfortunately, I was told that one consequence is that once a piece of uniform legislation is dealt with by consent of all ministers, it is contrary to the intention of uniform legislation to import the provisions of a State's disallowance mechanisms. If the minister's advice is contrary to that, I would be happy to move an amendment to incorporate Western Australia's disallowance provisions. I share the concerns that were voiced by Hon Mark Nevill and Hon Jim Scott. As I said in the second reading debate, I had been led to believe that the matter is not rectifiable by this committee, but I would be happy to receive a ruling on the matter.

Hon N.F. MOORE: It is a fairly complicated little clause. As Hon Helen Hodgson explained, with uniform legislation it is necessary for all jurisdictions in Australia to have the same law. If we provide for this Parliament to disallow regulations that have been made, we could finish up with a very different law from that of other jurisdictions that are part of the uniform legislative arrangements.

Hon Mark Nevill: You are becoming centralist in your old age.

Hon N.F. MOORE: I am doing my best not to. Much of this stuff is potentially highly unnecessary, but that is another story.

That is the explanation I have and that is why the clause has been written in that way. Off the top of my head I can understand why that is, but I would like to think about it some more.

Hon J.A. SCOTT: I would have thought that the purpose of the uniform legislation is not necessarily that it is precisely the same but that it is compatible. I would have thought also that there was room for Parliament to make a variation upon a theme and that there was capacity for each Parliament to fit in with the uniform legislation regulation by making sure that it is compatible but not necessarily the same.

Clause put and passed.

Clause 13: Civil penalty provisions of the Gas Pipelines Access Law -

Hon MARK NEVILL: Under clause 13(2) there is a penalty for a breach of a civil penalty provision of $100 000 a day plus a daily amount not exceeding $20 000. Are those two amounts similar to the amounts in other state jurisdictions or is the daily amount not exceeding $20 000 unique to Western Australia? If so, why has it been placed in the Bill?

Hon N.F. MOORE: The $100 000 is common to all the arrangements in other States. The daily amount of $20 000 is for Western Australia. I understand it is to deal with breaches which can involve very significant sums of money. It is considered that sort of penalty is appropriate in the context of what might happen in Western Australia.

Hon MARK NEVILL: Do these daily amounts come under net appropriations or go to the consolidated fund?

Hon N.F. Moore: They go to the consolidated fund, but I am working on it!

Clause put and passed.

Clauses 14 to 17 put and passed.

Clause 18: Code Registrar and conferral of functions -

Hon MARK NEVILL: Subclause (4) reads -

> The Code Registrar may delegate to any person any of the functions conferred on the Code Registrar by this section, other than this power of delegation.

I have two questions: First, what functions is the Government contemplating conferring on the registrar under this subclause; and second, why are functions and powers not separated in this clause, and why are they not separated in the Bill?

Hon N.F. MOORE: The answer to the second question is that under the Interpretation Act, the definition of "functions" includes power. They are not separated because that is the drafting style used in Western Australia. The functions that can be delegated are not listed. The functions are scattered throughout the Bill and the code. There is no specific clause listing the functions to which the member refers. I do not have the capacity now to go through them, but I assure the member that that will be done in due course and the information will be made available.

Hon MARK NEVILL: It was always a glaring weakness of the Energy Coordination Act that one could never work out the functions of the Coordinator of Energy. Here we have another piece of legislation in which the functions of a position are not clear. Most of our legislation clearly sets out the functions of different bodies or persons and their powers. Functions and powers are different. One has the power to resume land, to deal with money and so on. It is disappointing to see a vacuous concept of functions in another energy Bill. Those functions should be spelt out.

Hon N.F. MOORE: This is exactly the same as the South Australian legislation, but that does not make it right. I will endeavour to establish the functions for the member and provide the information.

Clause put and passed.

Clause 19: Functions conferred on Western Australian Minister, Regulator, arbitrator, and appeals body -

Hon MARK NEVILL: Clause 19(b) refers to -

> the person holding or acting in the office of the Western Australian Independent Gas Pipelines Access Regulator . . .

The South Australian legislation refers to the gas pipelines access and pricing regulator. Why does this Bill omit the word "pricing"? Is it a dirty word? It is important because pipelines involve two aspects: Firstly, third party access; and, secondly, pricing, especially in respect of a monopoly. Why has the other half of the equation been left out; that is, the pricing role, particularly where monopolies are concerned?

Hon N.F. MOORE: I am advised that perhaps the South Australians made a mistake by including the word "pricing". Pricing is what a person who owns a pipeline does when selling to customers. The more appropriate word is "tariffs", which

are set by regulators. The South Australian provision perhaps should not include the word "pricing" because it is not used in the code.

Hon MARK NEVILL: I take the minister's point; "tariffs" would be an appropriate word. Schedule 5 of the Gas Corporation Act refers to access to and the pricing of gas transmission capacity - the words are used interchangeably. I accept that "tariffs" is okay. Tariffs are important. A large operator at Kalgoorlie would be interested in accessing the pipeline if it wanted gas from the North West Shelf.

The other thing is the tariff or the price that one is paying for that access. I think that should have been spelt out in the Bill to make it clear.

Hon N.F. MOORE: The member has been arguing about the price of gas in Kalgoorlie for a long time.

Hon Mark Nevill: And I am still not satisfied.

Hon N.F. MOORE: That is fair enough. We can all argue these things. There is no suggestion on anybody's part that the regulator will ignore the question of tariffs. It clearly will be part of his role to ensure that, if a monopoly exists, a proper tariff is put in place. The fact that the word is not used in no way suggests it will be ignored. Tariffs are an important part of what the regulator must take into account.

Clause put and passed.

Clauses 20 to 22 put and passed.

Clause 23: Exemption from taxes -

Hon HELEN HODGSON: I move -

> Page 17, after line 18 - To insert the following subclause -
>
> > (3) In making a decision under section 4.15 of the Code, the Relevant Regulator may treat any tax liability arising from an exempt matter as an administrative cost referred to in section 4.15(a)(ii) or (b) of the Code.

I discussed this at some length in my second reading contribution. I saw the eyes of some members not intimately involved in this area glaze over during the discussion. The issue has been raised of whether the necessary corporate restructuring will impose a tax obligation. The tax obligation I referred to specifically at the second reading stage was capital gains tax, but since then I have been reminded that it applies also to other esoteric taxes, such as the petroleum rent resource tax and possibly some foreign tax liabilities under the withholding tax regimes and so on. My amendment is designed specifically to allow the regulator to take into account the impact of these taxes in considering whether any part of the requirements for the ring fencing of a certain pipeline owner can be waived. It is drafted specifically to state that this matter is within the regulator's powers, and that then brings it within the normal appeal provisions of the legislation. If the company makes its case, and the case is not accepted, it has the opportunity to follow the procedures laid down in the legislation to ensure it has a fair hearing. It is necessary to include taxes as an administrative cost because under the ordinary meaning of the word, an administrative cost would not include a tax. Since originally putting this amendment forward, I have had the opportunity to run the drafting past the Australian Petroleum Production and Exploration Association. The association is happy that it will meet its needs in allowing it to put the case forward. I recognise that all the jurisdictions that this legislation affects have agreed that the intention is not to have any tax impact. The practical problem is that the amending of some of the specific pieces of legislation is lagging behind the introduction of the code. This is merely to allow companies that are possibly caught by a technical exposure to a tax the opportunity to put their case forward and to have the regulator take it into account.

Hon MARK NEVILL: I will not move the amendment in my name. It is the same as an amendment that was moved some months ago in another place to address this issue raised by Tap Oil. Hon Helen Hodgson's amendment is a better way of dealing with the issue. I notice that she has now restricted her amendment to "any tax liability". It was previously more specific. I hope this fixes the problem. It has taken the efforts of the ALP and the Democrats to focus the Government's mind on this issue. I hope this amendment solves the problem. What efforts were made by the Government to address the problem this small Western Australian company, Tap Oil NL, has in incurring a fairly significant capital gains tax? It must ring fence its pipeline in a separate wholly-owned company. It seems to me that some of the big players are always able to have their problems addressed while the juniors do not necessarily receive the same attention.

Hon N.F. MOORE: As members will understand, capital gains tax is a commonwealth matter. I understand that the state minister, Colin Barnett, has raised the matter of Tap Oil with the Commonwealth. I am not sure what has come from that. He is probably awaiting a reply. The Government does not believe the amendment is necessary. However, it is a bit of a belts and braces matter so the Government is prepared to accept it.

Hon HELEN HODGSON: Although this issue was raised with me by Tap Oil, that company came to see me about a number

of issues. It is my understanding that APPEA has corresponded with the Federal Government on this matter for some time. This matter has a broader application beyond this one company. Although it may have taken one company to bring it to my attention and from there to provoke discussion in this place and an amendment, it is an amendment of which the industry as a whole is supportive. It will affect more than that one company. It is not a response to a single company and its concerns; it is a response to an industry concern that one company brought to my attention.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 24 to 26 put and passed.

Clause 27: Western Australian Independent Gas Pipelines Access Regulator -

Hon HELEN HODGSON: An amendment was put on the Supplementary Notice Paper to address the appointment of a regulator. It was crafted in a fairly hurried manner, given the time constraints. I believe the Government took away this concept over the weekend and came back with another amendment that will achieve the same result. As that will come up later in the Committee I will not move my amendment, and will address the issue at that later stage.

Clause put and passed.

Clauses 28 to 34 put and passed.

Clause 35: Functions and powers -

Hon MARK NEVILL: I raise again the functions and powers of the regulator. Again, they are not spelt out in this clause in any specific way. If one reads the clause, one is none the wiser as to what the regulator's functions and powers are.

Hon N.F. MOORE: I take on board the member's criticism. It may well be valid. I do not know. As I said earlier, we will seek to itemise what the functions are, because they are spread throughout the legislation. We will provide the member with a list when that is available.

Clause put and passed.

Clause 36: Independence of Regulator -

Hon N.F. MOORE: I move -

> Page 25, lines 13 to 15 - To delete the lines and substitute the following lines -
>
> > (5) Within 14 days after a direction is given under subsection (2), the Regulator is to send to the Code Registrar a copy of the direction and cause the text of the direction to be published in the *Gazette*.

This amendment has been moved to meet concerns raised by the Australian Democrats during discussions. I commend it to the Committee.

Hon HELEN HODGSON: I indicated in the second reading debate that one of my concerns was that, being based on the South Australian code, a great deal of information was circulated by way of the South Australian *Government Gazette* and a major daily newspaper. I felt it was inappropriate for us to be adopting the *Gazette* of another State as the main vehicle for distribution of information in this State. I gather that the amendment which has just been moved will deal with that by ensuring that it is circulated in Western Australia in the form which industry has come to expect. That, however, is not inconsistent with my own amendment to clause 36, which I will move in a moment.

Hon MARK NEVILL: Am I to understand that Hon Helen Hodgson will move her amendment to clause 36?

Hon Helen Hodgson: Yes.

Amendment put and passed.

Hon HELEN HODGSON: I have had some discussions with the minister on the need for the amendment to clause 36 as printed on the Supplementary Notice Paper in my name. I firmly believe that even if ministerial directions are circulated in the *Government Gazette*, it is appropriate to have them tabled in the Houses of Parliament as well. It does not impose any great administrative duty on the minister and the minister's officers to ensure that that tabling is carried out. It is part of our policy that there should be transparent and open government. As such, information should be accessible in the places where people would expect to find it. However, one outcome of the discussions that I had with the minister has resulted in a minor change to the amendment. Therefore, I move -

> Page 25, line 16 - To insert after the words "is to be" the following -
>
> > tabled in both Houses of Parliament not later than 14 sitting days of the day on which the direction was given and

My proposed amendment is now changed from 7 to 14 days. I understand that the Government is willing to accept, rather than enthusiastically support, the amendment as it now reads.

Hon N.F. MOORE: As Hon Helen Hodgson indicated, the Government will support this amendment, but with no great enthusiasm.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 37 to 44 put and passed.

Clause 45: Borrowing from Treasurer -

Hon MARK NEVILL: Why does the regulator need this power to borrow from the Treasurer? Is the office to be self-funded? What purpose is contemplated by this provision?

Hon N.F. MOORE: I understand that it is to give the regulator the capacity to borrow in order to meet a deficit at any time, which will require appropriation from the consolidated fund. He will have the capacity to borrow if he needs additional funds to manage his cash flow. It seems that Treasury has considered this to be how he should appropriately manage his affairs.

Hon MARK NEVILL: Is the minister saying that it depends on the degree of regulation with which he is involved; that is, he will be able to borrow money from Treasury which will be recovered by way of fees collected from the parties to whatever matter he is regulating?

Hon N.F. MOORE: That is not quite what is in mind. The regulator will have a cash flow arrangement by which fees will be paid based on regulations to be enacted under the legislation. Bearing in mind that revenue will come in at varying times, and expenses may exceed revenue at certain times, this provision provides the capacity to borrow to manage cash flow requirements. He will not use the borrowings to pay for a particular purpose, as I believe the member is suggesting.

Hon MARK NEVILL: Would that not be covered by a Treasurer's Advance under the normal scheme of operation?

Hon N.F. MOORE: I can see where the member is coming from, and I am not clear in my own mind why the regulator needs a borrowing power as opposed to some other means of obtaining money, whether by a Treasurer's Advance or otherwise. However, I am advised that Treasury has requested that it be drafted in this way to allow the regulator to borrow funds to manage his cash flow.

Hon MARK NEVILL: I suggest that the Government wants industry to pay for the regulation, and also to pay the interest on any money that is used for the regulation.

Hon N.F. Moore: I do not think so.

Clause put and passed.

Clause 46: Application of *Financial Administration and Audit Act 1985* -

Hon MARK NEVILL: Under subclause (2), the regulator is not required to prepare performance indicators with regard to the functions conferred on him under Western Australian law and the functions conferred on him under the National Gas Agreement. What is the reason for that exception?

Hon N.F. MOORE: I understand that if the regulator had to meet set performance indicators that were prepared in advance, his independence might be compromised.

Clause put and passed.

Clauses 47 to 60 put and passed.

Clause 61: Western Australian Gas Disputes Arbitrator -

Hon HELEN HODGSON: I do not intend to move the amendment that stands in my name on the Supplementary Notice Paper, because, as I indicated during the debate on clause 27, this amendment has been redrafted over the weekend, and a new clause has been proposed which deals with my concerns.

Clause put and passed.

Clauses 62 to 72 put and passed.

Clause 73: Independence of arbitrator -

Hon N.F. MOORE: I move -

Page 44, lines 19 to 21 - To delete the lines and insert the following lines -

(4) If a direction is given under subsection (2), the arbitrator is to cause the text of the direction to be published in the *Gazette* within 14 days after the direction is given and, within 14 days after any person asks the arbitrator to give to the person a copy of the direction, the arbitrator is to comply with the request.

That is in line with the previous amendments to ensure everything is "transparent". Decisions will be published in the Western Australian *Government Gazette* and the member can read it at her leisure.

Amendment put and passed.

Hon HELEN HODGSON: As with clause 36, I wish to make a minor change to the amendment standing in my name on the Supplementary Notice Paper and change the figure "7" to the figure "14". I move -

Page 44, line 22 - To insert after the words"is to be" the following words -

tabled in both Houses of Parliament not later than 14 sitting days of the day on which the direction was given and

I move this amendment for the same reasons I enunciated on the previous amendment. It requires tabling in Parliament as well as circulation in the *Government Gazette*.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 74 to 86 put and passed.

Clause 87: Protection of certain existing arrangements -

Hon MARK NEVILL: As I read it, clause 87 is an anticompetition clause. It means that no new pipeline will be built in the Shire of Kalgoorlie-Boulder until 1 July 2002 except to supply contestable customers. This protection is not necessary. I cannot see why the Government must mollycoddle companies like AlintaGas by saying that a person is not permitted to do certain acts. Under subclause (2) a person does not have to be permitted to construct a pipeline before 1 July 2002 in the Kalgoorlie-Boulder area. The "Kalgoorlie-Boulder area" means the Kalgoorlie-Boulder local government district, which goes right to the border; it is not just the townsite - it is a massive area. That person does not have to be permitted to build a pipeline in the mid-west or south west area before 1 July 2002. We are over-regulating some of these areas and I will develop that theme when we debate clause 88. It continues the anticompetitive theme in the Government's policies. This is not part of the access arrangements as such; they are transitional arrangements to accommodate our current anticompetitive situation.

Hon N.F. MOORE: The member is making his point of view well known. He does not miss an opportunity to talk about this matter. Incidentally, AlintaGas won the tender for Kalgoorlie in an open-tendering process. The member referred to AlintaGas in disparaging terms, but it is in a competitive world and it made a submission, put in a tender and won it. The drafting of this clause is slightly confusing. That clause could have been made clearer. Clause 87 states that the Government can allow the construction of pipelines in those areas, but this legislation does not place any obligation on the Government to do anything before that point in time.

Clause put and passed.

Clause 88: Meaning of contestable customer -

Hon MARK NEVILL: Clause 88 states -

"contestable customer" means a person who is to take delivery of the gas at a single metered connection . . .

A situation might arise in which all the hoteliers in Kalgoorlie-Boulder want to pool their gas requirements and offer that contract for all the hotels to a gas provider on the North West Shelf. I know they cannot do that because AlintaGas has the exclusive contract to sell and has the exclusive contract for the pipelines. By this definition, the Government is not allowing people to aggregate their gas demands into one contract to obtain a cheaper gas price. They are only considered as single metered connections. That is another anticompetitive aspect of the Government's policy. Anywhere else in the world demands can be grouped together to obtain a better price. That is how it should be - real competition.

Hon N.F. MOORE: I am advised that, under the deregulation schedule that has been put in place by the minister, no aggregation is permitted until 1 July 2002. Beyond that it will be open to the market fully, and if there is some benefit in aggregation, people will seek to access that at that time.

Clause put and passed.

Clauses 89 and 90 put and passed.

Clause 91: Temporary exemption of Gas Corporation's distribution system from section 4 of the Code -

Hon MARK NEVILL: As this applies to Kalgoorlie, should the clause not read "1 July 2002"?

Hon N.F. MOORE: The Gas Corporation distribution system in clause 91 refers to the south west of Western Australia and not Kalgoorlie-Boulder. I will provide the member with information on Kalgoorlie-Boulder in due course. That is not referred to in here, because legislation in the other place must be changed, and I am not yet sure how we will do that.

Clause put and passed.

Clauses 92 to 94 put and passed.

New clause 28 -

Hon N.F. MOORE: This amendment is a response to concerns raised by the Australian Democrats and Hon Mark Nevill that the Bill be more specific. I move -

Page 20, after line 22 - To insert the following new clause -

Appointment of Regulator

28. (1) When there is a vacancy or impending vacancy in the office of Regulator, the Minister is required to -

(a) inform the Commissioner of that vacancy or impending vacancy; and

(b) request the Commissioner to act under this section to enable the filling of that vacancy or impending vacancy.

(2) On receiving the request, the Commissioner is to invite the Minister to inform the Commissioner of any matters that the Minister wishes the Commissioner to take into account in nominating a person or persons suitable for appointment to the office of Regulator.

(3) The Commissioner is to notify the vacancy or impending vacancy in such manner as the Commissioner thinks sufficient to enable suitably qualified persons to apply for appointment.

(4) The Commissioner is to cause applicants to be examined, but nothing in this section requires the examination of all applicants.

(5) To assist in the examination of applicants, the Commissioner is to form a selection panel that is to be chaired by the Coordinator of Energy and is to include at least 2 other persons chosen by the Commissioner.

(6) The Commissioner may seek advice from such sources as the Commissioner considers relevant and may invite such other persons as the Commissioner thinks fit to assist him or her to decide on the person or persons suitable for appointment to the office of Regulator, and any person so invited may sit on the selection panel when it is examining applicants and may take part in the deliberations of the Commissioner on the matter.

(7) If the Commissioner decides on a person or persons suitable for appointment to the office of Regulator, the Commissioner is to nominate that person or those persons and forward to the Minister the name or names of the person or persons nominated, together with full particulars of the qualifications of that person or those persons.

(8) If the Minister accepts the person, or one of the persons, nominated by the Commissioner, the Minister is to recommend to the Governor that the person accepted be appointed.

(9) If the Minister rejects the person, or both or all of the persons, nominated by the Commissioner, the Minister may request the nomination of another person by the Commissioner and is to deal with any further nomination as if it were made under subsection (7).

(10) If the Commissioner does not nominate any person suitable for appointment or a nomination or further nomination by the Commissioner is rejected, the Minister -

(a) may recommend to the Governor that -

(i) in the absence of a nomination by the Commissioner, a named person; or

(ii) a named person other than a person nominated by the Commissioner,

as the case requires, be appointed to the office of Regulator; and

(b) is to cause notice of the making of that recommendation, together with the reasons for recommending the named person, to be published in the *Gazette* as soon as practicable.

(11) In this section -

"Commissioner" means the Commissioner for Public Sector Standards under the *Public Sector Management Act 1994;*

"Coordinator of Energy" means the Coordinator of Energy appointed as required by the *Energy Coordination Act 1994.*

Hon HELEN HODGSON: Originally I had proposed that an appointment selection process should be conducted in accordance with the provisions of the Public Sector Management Act. The original response I received from our drafter to that suggestion was that that could not be done because the Public Sector Management Act is specifically excluded from having application in this Bill . Therefore, we produced a form of words which was on the Notice Paper previously as nearly as may be in accordance with section 45 of the PSMA. I appreciate that that is probably clumsy drafting; with a little extra time the minister has been able to produce a form of words which specifies the requirements. I have compared that with the requirements of section 45 of the PSMA and there are only two significant differences. One is the PSMA allows a chief executive officer to be transferred into the position on an acting basis. That has been omitted in this Bill. I agree that that is appropriate because the regulator would have specific functions and powers that would require someone with a specific expertise to fill the position. It is inappropriate because there may be a case in which, for example, someone was being moved sideways for whatever reason, such as a former WorkSafe commissioner looking for a new position to occupy. Therefore, it is inappropriate to have the possibility of sideways movement in this instance. The second difference is found in new subclause (5), which specifies a form of selection panel.

I contacted the Office of the Public Sector Standards Commissioner this afternoon to discuss that new subclause. Essentially, I was informed that although it is not in legislation, the normal procedure is to convene a selection panel of at least three people of whom one, the chair, is a CEO with expertise in the area. Therefore, this proposed subclause is in accordance with that process. I asked specifically whether the chair had any additional voting powers that would give more weight to the vote. I was informed that that is not the case, that the chair's role is primarily to convene the meeting and ensure that the procedures are followed. Given that that is the way in which the commissioner deals with the matter and it is the commissioner who will be responsible for administering this new section, even though the reference to the Coordinator of Energy made me question whether the independence was truly being achieved, I accept that that is in fact the way the Commissioner for Public Sector Standards operates. On that basis, I accept that this amendment fulfils the intent of what I previously proposed.

Hon MARK NEVILL: I did not move the many amendments in my name on the Supplementary Notice Paper to appoint the Australian Competition and Consumer Commission as the regulator of transmission pipelines. Therefore, I will take the liberty of restating the Australian Labor Party's position on this aspect of the regulator. As it stands, the clause is fine, to appoint a local regulator to deal with distribution and reticulation pipelines and other matters relating to gas regulation. The ALP still believes that the preferable way to go for gas transmission pipelines is with the ACCC as the regulator. There will be a very limited number of people in Western Australia to choose from for this position and the ACCC is already in existence. It has the capabilityto rigorously apply the code. This regulator will have to follow the protocols that the ACCC established on those gas transmission pipelines. I cannot imagine the local regulator going off on a different tangent; he will have to follow whatever processes exist under the ACCC. The interstate pipelines issue is a red herring. It will be probably 10 years before there is an interstate pipeline, so that trigger will not happen within at least five years. The powers and responsibilities of the Minister for Energy are clearly set out in the legislation. As the regulator for transmission pipelines the ACCC would certainly not detract from those powers and responsibilities. The Labor Party failed to obtain the Democrats' support for the measure. The Greens supported the ACCC being the regulator for transmission pipelines. Like the Government, we must accept the numbers occasionally, but it will be interesting to see how the debate unfolds.

I would like to ask a couple of questions with respect to the appointment of a regulator. I assume that the process will be used for the appointment of the first regulator. Under clause 28, the regulator is eligible for reappointment after a three- year or five-year term. I presume that that will be regarded as an impending vacancy as well as the appointment of a new regulator.

Hon N.F. MOORE: Hon Helen Hodgson is quite right; the Government was not happy to go through the normal process of appointing a chief executive officer because it provided for transfers from one CEO position to another and the transfer process might not have been appropriate in respect of a regulator. The legislation reserves capacity for an acting regulator, if there needs to be one, but there are to be no transfers to a permanent position as regulator. From the point of view of the matters raised by Hon Mark Nevill, the Government is prepared to accept the review clause which, although it is in my name, is as a result of discussions between the Minister for Energy and Hon Helen Hodgson. I have already indicated that the

minister will assess the performance of the local regulator between now and 2002, when the review is to be held, or alternatively, in the event that there is an inter-jurisdictional pipeline, the Government will then consider whether it is the most appropriate process of regulation.

New clause 28 outlines the way in which the regulator is to be appointed. In respect of the first regulator I understand that the process has already been put in place to appoint that person. It will be necessary for us to discuss this with the Commissioner for Public Sector Standards to ensure that what is being done or has been done so far will comply with what is required. I am not absolutely certain that the process so far is strictly in accordance with the amendment, but we will need to see whether it fits in with the intent and whether the Commissioner for Public Sector Standards is satisfied that it has been done in an appropriate way. Hon Mark Nevill asked another question.

Hon Mark Nevill: Does this process take place upon reappointment of the first regulator? Clause 28 states that the regulator is to be appointed for a term of not less than three years and not more than five, and is then eligible for reappointment.

Hon N.F. MOORE: The regulator must go through the same process for reappointment.

Hon Mark Nevill interjected.

Hon N.F. MOORE: My advice is that any reappointment would require the same process to be undertaken.

Hon MARK NEVILL: The amendment is an improvement. Looking at subclause (5), I see that the Commissioner for Public Sector Standards would choose two other persons. I looked at amending that clause and after "the Coordinator of Energy" adding "the Commissioner for Public Sector Standards", Don Saunders, who operated in Western Power for a number of years. I have a great deal of respect for his ability. I have not had too much to do with him since he left Western Power. Obviously, the Commissioner for Public Sector Standards will change from time to time. The next one might be a social worker, so I had better be careful about making an amendment like that! I hope, and it is implied in the Bill, that the Commissioner for Public Sector Standards will consult industry as part of the exercise. I ask the minister to encourage the Commissioner for Public Sector Standards to consult with industry, because that particular person would have good contacts through industry, to ensure that the first regulator whom we appoint is really up to the job and will deliver objective and independent results. This is an extremely important position for our state economy. It is extremely important that we get competition. It will take a lot of strength to stand up to the vested interests that will be pleading their special positions. I hope that the Commissioner for Public Sector Standards consults with industry. The two other persons chosen by the commissioner obviously do not have to come from Government. Will the minister assure me that those people do not necessarily have to come from Government?

Hon HELEN HODGSON: Firstly, in relation to the minister's comment about what would happen to confirm the first regulator, if there is a time lag in getting the appointment made according to these processes, I suggest that the minister consider using the acting provision to have the legislation up and running while the selection process is going on if the time frame does not allow the appointment process to be fully followed. I suggest that if the minister were prepared to agree to that, it would set at rest any possible concerns about the appointment of the first regulator. Secondly, to pick up on the point made by Hon Mark Nevill on involvement of industry, subclause (6) specifically states that the commissioner may seek advice from such sources as the commissioner considers relevant. I understand that the processes that the commissioner uses under the Public Sector Management Act involve going to industry sources when the commissioner considers it relevant for the position in question. I agree with the member that it is implied in that subclause at least that industry would be consulted, but I am interested to hear the minister's opinion on that.

Hon MARK NEVILL: I sympathise with and chastise the minister because these four pages of amendments were provided during the dinner break. I am supporting them without consulting my colleagues, and I hope I am doing the right thing. The Government has had this Bill in the Parliament since June and it has known the Labor Party's position on the Australian Competition and Consumer Commission for some months. It is leaving it to the death knock to come up with this alternative during the committee stage, when members cannot consult and check it. The regime proposed is far better than that in the Bill, with the caveat that the Labor Party would still prefer the ACCC for transmission pipelines.

Hon N.F. MOORE: I readily accept and acknowledge the criticism levied at this process; the member is correct. However, at this stage of the session we must make progress. Because I have given undertakings to the management committee of this place that I will not change the order of the Notice Paper unless it is vital to do so, I am stuck with the process and the order in which we are dealing with Bills. I am often not aware of the negotiations going on behind the Chair between members and the minister responsible for a Bill in another place. I proceed in here with every intent that we will deal with a Bill and suddenly discover that the negotiations have not finished.

Hon Mark Nevill: Or have not started.

Hon N.F. MOORE: I am obliged to deal with the Bill because that is what is to happen next. I accept the criticism; it is valid. I will endeavour in the future to ensure that it does not happen. If this were not the last week, I would have deferred the debate until members had had an opportunity to consider these amendments. I apologise.

Having the first regulator acting in that capacity may be a good idea. I will confer with the minister. It is not my decision to make, but that may solve the problem to which members have alluded.

Hon Helen Hodgson referred to subclause (6), which refers to seeking advice from other persons. That might cover Hon Mark Nevill's concerns. Subclause (5) provides that the two other persons are not required to be public sector employees. I have no doubt the Minister for Energy will take that into account very seriously. He will be just as interested as is the member to ensure that the public sector and the industry have a role in determining who might be the regulator.

New clause put and passed.

New clause 62 -

Hon N.F. MOORE: Page 39, after line 3 - To insert the following new clause -

Appointment of arbitrator

62. (1) When there is a vacancy or impending vacancy in the office of arbitrator, the Minister is required to -

(a) inform the Commissioner of that vacancy or impending vacancy; and

(b) request the Commissioner to act under this section to enable the filling of that vacancy or impending vacancy.

(2) On receiving the request, the Commissioner is to invite the Minister to inform the Commissioner of any matters that the Minister wishes the Commissioner to take into account in nominating a person or persons suitable for appointment to the office of arbitrator.

(3) The Commissioner is to notify the vacancy or impending vacancy in such manner as the Commissioner thinks sufficient to enable suitably qualified persons to apply for appointment.

(4) The Commissioner is to cause applicants to be examined, but nothing in this section requires the examination of all applicants.

(5) To assist in the examination of applicants, the Commissioner is to form a selection panel that is to be chaired by the Coordinator of Energy and is to include at least 2 other persons chosen by the Commissioner.

(6) The Commissioner may seek advice from such sources as the Commissioner considers relevant and may invite such other persons as the Commissioner thinks fit to assist him or her to decide on the person or persons suitable for appointment to the office of arbitrator, and any person so invited may sit on the selection panel when it is examining applicants and may take part in the deliberations of the Commissioner on the matter.

(7) If the Commissioner decides on a person or persons suitable for appointment to the office of arbitrator, the Commissioner is to nominate that person or those persons and forward to the Minister the name or names of the person or persons nominated, together with full particulars of the qualifications of that person or those persons.

(8) If the Minister accepts the person, or one of the persons, nominated by the Commissioner, the Minister is to recommend to the Governor that the person accepted be appointed.

(9) If the Minister rejects the person, or both or all of the persons, nominated by the Commissioner, the Minister may request the nomination of another person by the Commissioner and is to deal with any further nomination as if it were made under subsection (7).

(10) If the Commissioner does not nominate any person suitable for appointment or a nomination or further nomination by the Commissioner is rejected, the Minister -

(a) may recommend to the Governor that -

(i) in the absence of a nomination by the Commissioner, a named person; or

(ii) a named person other than a person nominated by the Commissioner,

as the case requires, be appointed to the office of arbitrator; and

(b) is to cause notice of the making of that recommendation, together with the reasons for recommending the named person, to be published in the *Gazette* as soon as practicable.

(11) In this section -

"Commissioner" means the Commissioner for Public Sector Standards under the *Public Sector Management Act 1994;*

"Coordinator of Energy" means the Coordinator of Energy appointed as required by the *Energy Coordination Act 1994.*

This amendment is again the result of concerns expressed by the Democrats and the Labor Party about the process of appointing an arbitrator.

Hon MARK NEVILL: I do not want to be pedantic, but a Clerk's amendment might be required to this amendment and the previous amendment. Should the "office of the arbitrator" and the "office of the regulator" be capitalised? If not, they could be construed as relating to any vacancy in what might be known as the office of either of those two persons.

Hon N.F. MOORE: I think it should be a capital on this one and the previous one.

The CHAIRMAN: It will be a Clerk's amendment.

New clause put and passed.

New clause 86 -

Hon N.F. MOORE: I move -

Page 51, after clause 85 - To insert the following new clause -

Review of Act

86. (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the review day described in subsection (3) and in the course of that review the Minister is to consider and have regard to -

(a) the effectiveness of the operations of the Western Australian Independent Gas Pipelines Access Regulator, the Western Australian Gas Review Board, and the Western Australian Gas Disputes Arbitrator; and

(b) such other matters as appear to the Minister to be relevant to the operation and effectiveness of this Act.

(2) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared (and in any event not more than 12 months after the review day), cause it to be laid before each House of Parliament.

(3) The review day is 7 November 2002 or, if before that day a licence is granted under the *Petroleum Pipelines Act 1969* for a pipeline that is to be a cross-jurisdiction pipeline, the day on which the licence is granted.

(4) In subsection (3) -

"cross-jurisdiction pipeline" means a pipeline that is partly in the jurisdictional area of this State and partly in the jurisdictional area of the Northern Territory or South Australia.

This amendment again results from negotiations with Hon Helen Hodgson. The Government accepts the proposal for a review of the Act, and the review date is to be 7 November 2002 or, if before that day a licence is granted under the Petroleum Pipelines Act for a pipeline that is to be a cross-jurisdiction pipeline, the day on which the licence is granted. In effect, the review will take place in the event that a cross-jurisdiction pipeline is put in place. If there is not one between now and 7 November 2002, that date is when the review will be undertaken. The Government thinks it an appropriate way to assess the effectiveness of the legislation and to make changes if they are deemed necessary.

New clause put and passed.

Schedule 1 -

Hon HELEN HODGSON: I have an amendment on the Supplementary Notice Paper, but before I formally move it, I seek clarification of a couple of issues. The first is to do with the definition of "pipeline" and the issue I raised in the second reading stage about offshore pipelines, and what is and is not covered by the code. I seek clarification of the four categories of the definition of "pipeline". My recollection of the second reading debate is that in his response the minister indicated that an upstream processing pipeline would not be caught by the legislation. It is probably a consequence of my lack of

technical expertise in the area of gas transmission, but I think it would assist other people who are in the same position as I am to have some explanation of these definitions on the record. I am seeking an explanation of what would be covered by paragraphs (a), (b) and (c) of the definition of "pipeline", which excludes certain upstream processing plant and equipment.

Hon N.F. MOORE: I am having some trouble trying to understand Hon Helen Hodgson's concerns.

Hon HELEN HODGSON: During the second reading debate I referred to an offshore processing plant delivering gas to the transmission line and inquired what would be the classification of that pipeline. I appreciate that it is a one-off situation now concerning a specific pipeline. However, I believe my concerns will be addressed in the definition of the exclusions in this section and I will be happy to take that on board. The other day when I was discussing this with the minister's staff, I indicated I would seek some explanation on this clause.

Progress reported.

LOCAL GOVERNMENT AMENDMENT BILL (No 2)

Second Reading

Resumed from 11 November.

HON NORM KELLY (East Metropolitan) [9.23 pm]: The Australian Democrats support this Bill. I will try to be as brief as possible on this matter even though it is important and its objectives are extensive. In a general sense it represents an efficient tidying up of the Local Government Act of 1995. When that Act was passed it was readily acknowledged that it would be in need of some amendments after a few years to iron out unintended discrepancies.

There are some matters of principle with which the Democrats do not agree, such as lack of compulsory voting for local government elections. However, the Australian Democrats will not take this opportunity to push that position beyond the current parameters of the Bill.

However, on the matter of voting in local government elections, it is pleasing to see an increasing number of councils moving towards postal elections. In response to a question I asked in this place a couple of weeks ago, I was told that at least 30 of the 145 local government bodies in this State will be conducting postal elections next May, with the possibility of a few more also coming aboard. I am sure all members are aware that the provision of postal voting for local government elections has resulted in a dramatic increase in voter turnout. I am not sure of the exact figures. However, in a general sense, postal voting can increase the voter turnout from about 10 per cent up to about 50 per cent. It would be pleasing to see this figure increase further, because in the case of compulsory voting, voter turnouts are around the mid-90 per cent mark. We should value local government by giving it the enforcement procedures that apply to state and federal elections. We should strongly support local government. It is very much that tier of government which is closest to the people. The legitimacy of elected local government bodies increases as the percentage of voter turnout increases. It is equally important that we support local government by providing strong legislation, not only through the Local Government Act, but also in other planning, environment and traffic statutes.

An increasing burden is placed on local government bodies these days. Increasingly, they are required to take on work that has traditionally been the role of the State Government. They are collecting more and more state taxes, such as the recently introduced waste levy, which is basically a state tax which is collected, and the administrative costs are borne, by those local government bodies. Another area which has traditionally been the role of the State Government is security. The State Government is divesting its responsibility to provide adequate security patrols to local government. Some financial support is provided. I think it was about $4m in the last state budget. However, increasingly this traditional integrated network of security patrols which was provided by the Western Australia Police Service is being split into small portions whereby private security companies must try to implement some form of integration. This is impossible in areas with small local government boundaries.

It is possible that in the near future environmental health officers, who are funded and provided by local government bodies, will be required to accept increased responsibility, such as supervising antismoking legislation. At this stage it appears that the Government is not willing to help out financially, beyond giving some type of educational training and the like through the Health Department. It seems to be typical that the local government body must pick up any shortfall.

It is important to respect the role of local government in this State. In my own region of East Metropolitan, there are 12 local government bodies. I am sure members in the country regions deal with many more than that, and the local government bodies would be much smaller.

The Democrats support many aspects of the Bill, such as providing for new regulations to allow for video and telephone conferences. We must make the most of new technology so that members can participate in meetings without extensive travel, and this good move is being supported by the Government. The Bill also provides that a vexatious local government proposal can be struck out by the minister, which is a ministerial responsibility and power supported by the Democrats.

Another provision allows for the chief executive officer of a local government authority to determine applications for enrolment over a more realistic period. The Australian Democrats have concerns regarding clauses 6, 7, 17 and 18 and the possibility that a reduction in advertising may result in the public being less well informed. Some voting and enrolment entitlements and electoral matters are covered with which we do not agree 100 per cent. Also, some animal welfare provisions give the Democrats concern. However, I will concentrate on these matters in the committee stage.

Most interest appears to be centred around clause 19, which seeks to amend section 43 of the Local Government Act, which requires that the establishment of a newly elected local government body be completed within 12 months of such election. This period is to be extended to two years by this Bill. This will enable the Commissioners for the City of Joondalup and the Shire of Wanneroo to carry out their task. I will not go into the history of the split of the City of Wanneroo into two bodies. However, I appreciate that significant debate has ensued in not only the local community, but also other areas, about allowing non-elected people to run a local government body, especially given recent history. People can understand why the local people are concerned that, if the Government had its way, they will not have elected representatives for another 12 months beyond the current provision.

As I said before, the legitimacy of a local government body is reflected in the support it receives in voter turnout. The areas of the City of Joondalup and the Shire of Wanneroo have performed poorly in this regard in recent years in voting for the previous local government body. In the last four elections for the Wanneroo City Council the voter turnout in 1993 was 7.4 per cent; in 1994, 5.8 per cent; in 1995, 6.49 per cent; and in 1996, a lowly 5.81 per cent, which was the second lowest turnout in the metropolitan area for 1996. It is partially for these reasons that the Lawrence inquiry made its recommendations. Page 53 of the Lawrence report has a recommendation that the city take immediate steps to introduce postal voting for council elections.

I asked a question on 26 November on whether the City of Joondalup and the Shire of Wanneroo had indicated their preference for attendance or postal ballot voting for the 1999 election. The answer was no, which causes serious concern that the commissioners are not doing their job adequately in the face of a clear recommendation from the Lawrence inquiry. It is now about nine months since that report was compiled, yet there does not appear to be a clear indication that that recommendation to move to postal elections will be adopted. If that is otherwise, I would like to receive some confirmation that there will be postal ballots for the City of Joondalup and the Shire of Wanneroo next year. It is particularly important, given the history, that newly elected councillors come into council with as much legitimacy as possible. The provision of postal elections is one of the best ways of providing that legitimacy.

I am concerned also that the commissioners may be misleading the local people about the length of time for which they will not have elected councils. A booklet entitled "A Directory of Council Services" contains a message from the Chairman of Commissioners, Campbell Ansell, which states that -

> Over the next 12 months, we will be dividing the assets of the old City carefully and equitably.

The Act states that a 12-month period is required to perform that task. However, that is not the time frame under which the commissioners are working. The rudimentary bar charts which indicate how they are preparing for the two new councils controlled by elected councillors indicate that the time frame is the middle of 2000. Given that this is in total contradiction with the current Act, the commissioners or the Government, or both, have been quite negligent in not putting to the Parliament at this late stage a proposal to extend the time. Had there been multi-partisan support for such an extension, it would have been a different matter; the minister would have had perfect justification for stating that the intention was to have a two-year time frame. However, without that multi-partisan support, the minister has been negligent or irresponsible in putting out that time frame. Therefore, we will be confronted with whether to adopt that two-year period or stick with the current 12-month period, or even something in between. Given that the commissioners are midway through their term, we must decide whether to give those commissioners a longer time in which to complete their statutory task and highlight their inefficiency in being unable to perform that task, or whether to get rid of those commissioners and get people who can do the task in the required time, as provided for in the statute. However, with less than seven months to go before that time limit expires, we are caught between the devil and the deep blue sea in deciding which way to go. I will go into this matter in more detail in committee. The Democrats support the general principles of this Bill.

HON TOM HELM (Mining and Pastoral) [9.39 pm]: The Australian Labor Party welcomes this Bill and congratulates the minister and the Government for showing at least some regard for the work of local authorities. This Bill is a welcome tool in showing the worth of local authorities and helping them to better represent the people in their areas. I do not understand how people can look down their noses at local authorities and what they do, when the importance of the State Government and the role it plays in the activities of local authorities is obvious. At the end of the day, the minister has the power to do many things and that holds back people who would like to play a role in local authorities. I spent some time as a member of the Shire of Roebourne council and have the highest regard for councillors of whatever political persuasion and the officers who serve these councils. The Labor Party has not shown enough regard for these officers and councillors in the past but it is slowly moving towards showing due respect and giving the necessary assistance. As was mentioned by Hon Norm Kelly, the importance of local authorities cannot be undermined because they are the bodies which should have

the ear of the local community and can best represent those people. They represent local concerns better than I can, and better than members in the lower House and politicians in the federal arena can. They deserve every accolade that can be given to them.

My electorate office is in Newman, in the Shire of East Pilbara. The Shire of East Pilbara is said to be the biggest shire in the world. I know the area covered but it has escaped me.

Hon Simon O'Brien: It is big.

Hon TOM HELM: Yes, it is pretty big. The provisions in this Bill relating to how councillors communicate with each other and how shire meetings are held are important. A cyclone off the coast last week disrupted any plans people might have had to hold meetings in the north west. The Shire of East Pilbara council is obliged to meet in Marble Bar, Newman and other places to demonstrate its regard for the various parts of the area. The travelling expenses are huge and the inconvenience limits the ability for representatives to travel. I welcome the provisions allowing teleconferencing and the use of high-tech facilities to accommodate that communication.

The Labor Party is strongly opposed to clause 19 of the Bill which allows commissioners to be remain in place for two years. We cannot espouse the democratic rights of councillors to represent their constituents and then say that the minister or his advisers - the dispute panel or whatever it is called - will know better than the local electors who represent them. The Labor Party has some problems with that and it will be interested to hear what the minister has to say about the matter. I know it goes to the whole thrust of the City of Wanneroo and what happened there, but I must plead ignorance of that matter because it is far too complicated for someone like me from the bush. I will not comment on that except to say that the ability to appoint commissioners is one thing - and people may not agree with it - but the Labor Party strongly opposes extending the period for which the commissioners can be appointed.

That leads me to the other part of the Bill with which the Labor Party has major concerns. We cannot agree with the proposal to treat voters differently by any stretch of the imagination. We are opposed to the proposal in the Bill to treat landlords and tenants or residents differently in terms of their registration. We have proposed that everyone be registered after four years or that no-one be registered. It reminds me of when the troubles first started in Northern Ireland in about 1969. Members may recall, as I do because I spent some time in Belfast, that the beginning of those troubles involved civil rights and representation. At that time, in Belfast and Londonderry particularly, there was a provision in local government laws that the people who owned houses had as many votes as they had houses, but people who lived in those houses did not have a vote or could vote only once. That was in one shire. That was a position in which some people had a more valuable franchise than others. The reason that sticks in my head is because it was the era that produced people like Bernadette Devlin, who then became a member of Parliament and is famous for crossing the floor of the House of Commons to punch a Tory minister in the chin. She had strongly held views. John Hume, who has just been presented with the Nobel Peace Prize and is a member of the Social Democratic and Labour Party in Northern Ireland, also became active through the civil rights marches in 1969. The proposal in this Bill is not far different from those circumstances in Northern Ireland where people had more than one vote, because they were wealthy or were fortunate enough to own more than one property. As a consequence, one group of people dominated the local authority. At that time, the House of Commons had no ability to change those votes and rules; they were made by the local authority under its own authority and that worried me. The demonstrations were able to highlight that to the world. An attempt was made to change it so there was universal franchise.

The Labor Party also had some concerns about the clause in the Bill granting gratuities to people retiring from local authorities. All members would have been exposed to rumours and innuendos about chief executive officers, health surveyors and other senior people within the offices of the shire receiving gratuities when they resigned or retired from that shire. However, no-one would know for sure - not even the councillors - the extent of gratuities that were given to members of the council who resigned or retired. That caused a problem for members of the Labor Party because we thought that those positions were reasonably secure and that if a person wanted to show his gratitude to people who were about to leave, there should be a limit on it. The amendment proposed by the minister is better than the amendment proposed by the Labor Party. The minister is now moving an amendment to allow the amount of the gratuity to be published in the *Government Gazette* by regulation. There will be a transparent view of how senior officers - but not just senior officers - are treated when they leave the employment in which they may have been for some time. The Labor Party welcomes the amendment proposed by the Government. The Labor Party is also aware of senior officers in various shires who have resigned before the expiration of their contract, and have bought out their contracts. As very few people knew what the contract price was, the shires were suspected of looking after their mates. The Government's amendment will receive the Opposition's support.

The Labor Party has major concerns about changing the requirement for councillors to declare a gift or monetary support received during an election campaign. For instance, if the matter before the council involved a printer, and that printer had produced leaflets for a candidate, the councillor must declare the support he or she received from the printer. However, the Bill proposes that the councillor would no longer be required to declare the assistance. The Labor Party believes that that support and assistance should be recognised, and it should be public and transparent forever. Candidates are allowed to obtain support and assistance, and it should not be a secret. People should always declare such an interest. I was a member

of the Shire of Roebourne and also of the Karratha Recreation Club, which was a beneficiary of some grants from the shire. I believed it was my duty to declare an interest when matters concerning the club were raised, particularly during budget time. One could not get away from the fact that in a roundabout way I would be a beneficiary of the financial assistance provided by the shire, and that would last as long as I was a member of the club. People should be proud to ask the community for support, and should not hide that support from their fellow councillors. They should declare their interest publicly to avoid any conflict of interest.

The Opposition welcomes the amendments relating to animals in the keeping of local authorities. We recognise the important role that rangers play. The poor old ranger certainly gets some stick, particularly in relation to dogs in remote Aboriginal communities. It is important that the ranger be able to deal with animals that are sick, injured or in distress, and if necessary to put those animals down. Nonetheless, lost animals should be held in the pound for a reasonable period. It is in the interests of the ratepayers and the shire that an animal is not put down before an owner, who may have had only one lapse, has had a chance to recover it, whether it be a dog, an elephant or whatever. There should be a facility for those animals to be looked after and we should take some responsibility in that sense.

In heaping this praise on our Minister for Local Government, I would be remiss if I was not to give some praise, at least in passing, to Steve Tweedie, the minister's adviser. He played a significant role in explaining some matters in the Bill that we were not sure about. He played a significant role in demonstrating where the minister has seen some value in what we have had to say. His ability to liaise between all the parties, at least on this side of the House, and his role in putting together a coherent set of amendments for a useful Bill cannot be underplayed.

Having given the accolades, I now have a brickbat to serve. Mr President, you will be aware that there will be moves afoot down the track to amend the Local Government Act to reflect uniform legislation. In other words, the Local Government Act will be amended so that, in large part, local governments throughout Australia will have similar sets of rules under which to work. That is not a bad thing and the Australian Labor Party welcomes that. However, Labor members are concerned - and it is reflected in the amendments on the Supplementary Notice Paper - that there is one amendment to the Act that has been gazetted and is causing concern, particularly in the bush; that is, the significant change to the requirements within the local authorities for workers to become health surveyors. I hope that commonsense will prevail and we will not pursue this matter. However, it is, firstly, a reflection of giving help and praise to local authorities; and, secondly, a requirement of the Parliament to demonstrate its authority through the minister to change the role carried out by local governments and the way they behave. We will obviously have more to say when the Bill is in the committee stage. With those few words I am proud to support this Bill on behalf of the Australian Labor Party.

HON KEN TRAVERS (North Metropolitan) [9.57 pm]: As Hon Tom Helm pointed out, the vast majority of the issues contained in this Bill are supported by the Labor Party. I believe there will be amendments forthcoming to tighten up the Bill. However, there are two areas with which the Australian Labor Party has concern. One is the provision changing the enrolment procedures. The second, which I want to talk about tonight, relates to the terms of commissioners in local authorities. For the past 12 months I have been watching the commissioners in the City of Joondalup and Shire of Wanneroo. It is fair to say that much of the debate around the section of the Bill dealing with extension of commissioners' terms will relate to what is happening in the Shire of Wanneroo and the City of Joondalup. Disquiet has been growing in the communities in both those local authorities about the role of commissioners. I am increasingly receiving views from the communities that they would like to see their elected representatives running the councils as early as possible. A record number of electors meetings have taken place as the local electors continually find themselves being frustrated. To get an electors meeting up and running takes considerable effort in collecting signatures; that has occurred on a few occasions now throughout both those local authorities. That is a sign of the frustration that people feel. I have talked to the commissioners. They try as hard as they can to consult people. As I have said to the commissioners, people must have the final recourse of being able to say, "I will see you at the ballot box; I will throw you out at the next available opportunity." Our democratic system is based on that. If we make decisions that the majority of people do not like, they have the opportunity to throw us out.

Debate adjourned, on motion by Hon E.R.J. Dermer.

SENTENCE ADMINISTRATION BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon N.F. Moore (Leader of the House), read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.00 pm]: I move -

That the Bill be now read a second time.

The Sentencing Legislation Amendment and Repeal Bill and the Sentence Administration Bill together make a comprehensive change to the sentencing regime in Western Australia. When the Sentencing Act 1995 and the Sentence

Administration Act 1995 were introduced, they made a comprehensive statement of all the then current provisions empowering a court to pass sentence and all the matters dealing with the administration of sentence. Some of those were statutory and some were enunciated judicially.

In part, that consolidation and clarification pointed out the problems and has made possible the current amendments which are intended to resolve them. The system was reviewed by a committee which the Attorney General commissioned in 1996 under the chairmanship of the Chief Judge of the District Court, His Honour Judge Hammond - the Hammond report. As was stated when introducing the Sentencing Legislation Amendment and Repeal Bill, many of the recommendations of that report have been taken up in this legislation, and certainly the report has been relied upon as a source even where the recommendations have not been followed or have not been followed exactly.

It is intended by these two pieces of legislation to -

provide a clear, consistent sentencing regime that the public will be able to understand;

make the courts more accountable and consistent in sentencing; and

give Parliament more control over the sentences that will be imposed, particularly for offences seen as of especial aggravation to the community.

The Bill will replace the Sentence Administration Act and play a similar role to that Act. At the same time it will establish a new regime for parole and remission which I believe will be clearer as well as make other changes that improve clarity. The Sentencing Legislation Amendment and Repeal Bill makes numerous amendments to the Sentencing Act, while at the same time effecting amendments to a range of other legislation and repealing the Sentence Administration Act.

Problems with understanding sentences: Under the Act to be repealed, offenders received what had become an almost automatic remission of one-third of the sentence. Although originally intended as a management tool to encourage good behaviour, it has not been effective as a management tool and there are many more effective management processes available.

Parole eligibility was assumed to remove a further one-third of the sentence. Thus, on hearing that a sentence had been imposed, the public and media immediately assumed that the offender would serve only one-third of it. Although in many cases that was right, there were also many exceptions. For sentences under 12 months, there was no eligibility for parole and an offender served two-thirds of the sentence. That led to the rather peculiar circumstance that a person who was sentenced to 12 months served eight, whereas the person sentenced to 15 months served only five. What sounded like a more severe sentence worked out to be less severe. For sentences more than six years, the non-parole period was two-thirds of the sentence less 24 months. That made a significant difference when the sentence was quite long. Thus a 15-year sentence meant that the accused spent eight years in jail rather than the five that the public would assume.

Furthermore, the court did not need to enunciate the actual period that would be spent in jail as a result of a particular sentence or series of sentences - where some sentences would be cumulative and some concurrent. Those wishing to understand the consequences were left to their own devices in seeking to understand it. It was also true that even the parole period did not necessarily constitute the entire remaining period. It was usually a maximum period of two years, and after that the offender was free of any obligation. It is no wonder that members of the public were either ignorant of the consequences of a sentence or, if it was explained to them, confused. The system proposed by this Bill will be consistent throughout, no matter what the length of sentence.

Comparison of old and new remission and parole: The Bill effects a number of changes to the system. Those are mainly contained in parts 3 and 4. Part 3 effectively combines the existing provisions of parts 3 and 6 of the Sentence Administration Act.

Remission: As the Attorney General will mention when introducing the Sentencing Legislation Amendment and Repeal Bill, the one-third automatic remission will be abolished. Better management techniques are in place under the Prisons Act, which are based mainly on graded privileges which can be withdrawn for misbehaviour. This was recommended by the Hammond report.

Parole: Unlike remission, parole does serve a useful purpose. For many, it does serve to keep an offender from further offending and it also has a useful role to play in reintegrating an offender into society after a period in jail, which can lead to institutionalisation. Parole, when given, will be for 50 per cent of the sentence. It will be of two types - supervised and non-supervised. For sentences up to 12 months, it will be unsupervised. For sentences over 12 months, the offender will be under supervision for up to a maximum of two years. Any remaining parole period will be unsupervised.

All parole puts prisoners at risk of being returned to jail to serve the remainder of their sentence. An offender who is imprisoned for an offence he committed while on parole will have his parole automatically cancelled. The consequences of this are that the offender is liable to serve the balance of the original sentence and, in the case of an indictable offence, the offender will lose the right to be re-released on parole by the Parole Board. Parole now becomes a "one chance" system

for offenders. Either way, the community is satisfied: It either has the satisfaction of seeing an offender not offend whilst on parole - an excellent result if it occurs - or else it knows that if the offender does offend seriously, he will go back into jail for the rest of the term. With the clarity of the amount of time that an offender must serve in jail and of the consequences of being on parole, we will truly have "truth in sentencing".

Parole Considerations: One of the specific recommendations arising from the review of remission and parole was a need to provide greater understanding and clarity of the matters taken into account when considering release on parole. Whereas, by section 18, the Sentence Administration Act provides only that "the person exercising the power shall give paramount consideration to the protection and interest of the community", the Bill sets out a range of factors to be considered by the Parole Board. These include the circumstances and seriousness of the offence for which the sentence was imposed; the behaviour of the prisoner when in custody; program participation and performance; the likelihood of re-offending when on parole; and the degree of risk posed by the offender. The inclusion in the Bill of these factors represents not only the provision of greater statutory guidance to the Parole Board but, importantly, it provides for the community generally, and for offenders and victims specifically, to benefit from greater transparency in decision making by the Parole Board.

Other Changes: Because some form of supervision after release is thought worthwhile, even those prisoners not eligible for parole will have a period of community supervision after release. These are called release program orders and are dealt with in part 4. Because the prisoner has already served the full jail sentence, failure to observe this period will not lead to further imprisonment, but can attract fines of up to $3 000.

Part 6 of the Act dealt with early release orders. The only form of early release order will be a parole order. Home detention and work release will be abolished - although section 94-type releases will remain under the Prisons Act. Although these programs are to be abolished, which will therefore impact upon offenders sentenced under the new regime, offenders already serving imprisonment when the new laws are enacted will continue to be considered for inclusion in these programs in accordance with existing criteria.

Other than these substantive changes, much of the remainder of the Bill is consistent with the current provisions of the Sentence Administration Act. Part 2 of the Bill largely replicates the provisions of part 2 of the Sentence Administration Act in making provision for offenders in custody; including provisions for the determination of the order in which terms of imprisonment are to be served; and in allowing for reports to the minister on prisoners who are held in custody.

Part 5 of the Bill largely replicates the provisions of part 7 of the Sentence Administration Act, which sets out the offenders' obligations while serving community corrections orders in the community. The principal difference between the corresponding parts of the Bill and the Act is that the only form of early release order provided for in the Bill is a parole order. This is because both work release and home detention, respectively dealt with by parts 4 and 5 of the Sentence Administration Act, are proposed to be abolished.

Part 6 of the Bill replicates part 8 of the Sentence Administration Act, which provides for the establishment and management of community corrections centres, and part 7 of the Bill replicates part 9 of the Sentence Administration Act, which provides for the appointment of staff and powers of delegation. Part 8 of the Bill replicates part 10 of the Sentence Administration Act dealing with the powers of the Parole Board, and part 9 of the Bill replicates part 11 of the Sentence Administration Act, which gathers together a range of miscellaneous provisions, including matters relating to secrecy provisions and protection from liability for wrongdoing. Finally, the existing schedule to the Sentence Administration Act, dealing with particular provisions applicable to the Parole Board, is replicated in the Bill.

Conclusion: This Bill provides for a regime where there is a much clearer and consistent relationship between a sentence and what then happens to an offender. Its principal intent is consistency and clarity as well as appropriateness of response if an offender does not honour the commitment given. In concluding, I refer the attention of the House to the recently introduced Bail Amendment Bill, which, taken together with this sentencing package, provides for law and order reforms which establish a tougher approach at all stages of the criminal justice system for those offenders who choose to disregard the law. I therefore urge members to read this Bill with the Sentencing Legislation Amendment and Repeal Bill to determine the whole schema. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

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) [10.10 pm]: I move -

That the Bill be now read a second time.

This Bill seeks to appropriate from the consolidated fund the sum of $199 688 450.05 for recurrent payments made during the financial year ended 30 June 1997, for purposes and services detailed in schedule 1 of the Bill. The payments, which were of an extraordinary and unforeseen nature, were made under authority of the Treasurer's Advance Authorisation Act and charged to the consolidated fund under authority of section 28 of the Financial Administration and Audit Act. These payments reflect excess expenditures against 1996-97 appropriations and expenditures for which there were no appropriations during 1996-97.

Recurrent expenditure transactions amounted to $6 427.8m, a net increase of $162m from the 1996-97 budget estimate of $6 265.8m. The unforeseen expenditure appropriation of $199.6m sought in this Bill and additional expenditure of $57.4m authorised by other statutes was offset by underspendings of $95m against other votes. As underspendings against other votes cannot be netted against excesses or new items approved under the Treasurer's Advance Authorisation Act, parliamentary authorisation is required for each vote when expenditure exceeds appropriation or for a new item. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 4)

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) [10.12 pm]: I move -

That the Bill be now read a second time.

This Bill seeks to appropriate from the consolidated fund the sum of $19 277 873.88 for capital payments made during the financial year ended 30 June 1997, for purposes and services detailed in schedule 1 of the Bill. The payments, which were of an extraordinary and unforeseen nature, were made under authority of the Treasurer's Advance Authorisation Act and charged to the consolidated fund under authority of section 28 of the Financial Administration and Audit Act. These payments reflect excess expenditures against 1996-97 appropriations and expenditures for which there were no appropriations during 1996-97.

Recurrent expenditure transactions amounted to $559.7m, a net decrease of $100.2m from the 1996-97 budget estimate of $659.9m. The unforeseen expenditure appropriation of $19.3m sought in this Bill and lower expenditure of $59.6m authorised by other statutes was offset by underspendings of $59.9m against other votes. As underspendings against other votes cannot be netted against excesses or new items approved under the Treasurer's Advance Authorisation Act, parliamentary authorisation is required for each vote when expenditure exceeds appropriation or for a new item. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

SENTENCING LEGISLATION AMENDMENT AND REPEAL BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon N.F. Moore (Leader of the House), read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.15 pm]: I move -

That the Bill be now read a second time.

This Bill, together with the Sentence Administration Bill of 1995, makes a comprehensive change to the sentencing regime in Western Australia. It is intended by these two pieces of legislation to provide a clear, consistent sentencing regime that the public will be able to understand; make the courts more accountable and consistent in sentencing; and give Parliament more control over the sentences that will be imposed, particularly for offences seen as of especial aggravation to the community.

This Bill makes numerous amendments to the Sentencing Act, while at the same time effecting amendments to a range of other legislation and repealing the Sentence Administration Act 1995. The principal reforms contained in these Bills relate to changes to the systems of remission and parole; the introduction of a presumptive sentencing matrix; and changes to sentencing legislation concerning suspended sentences, driving licence disqualification, sentencing guidelines to be issued by the Chief Stipendiary Magistrate, and restitution and compensation.

Remission and Parole: In 1996 the Attorney General commissioned a review of aspects of remission and parole. The review

was chaired by the Chief Judge of the District Court, His Honour Judge Hammond. The review received numerous public submissions on aspects of sentencing. In early 1998 the chief judge presented his committee's report. Many of the recommendations of that report have been taken up in this legislation and, certainly, the report has been relied upon as a source, even where the recommendations have not been followed or have not been followed exactly. On that basis, significant changes to the systems of remission and parole are now proposed.

The key reforms are -

abolition of the one-third remission on sentences;

greater capacity for courts to refuse eligibility for parole, particularly for repeat offenders and those who offend while on parole;

offenders who are eligible for parole will be required to serve at least one-half of the sentence;

offenders who are ineligible for parole will be required to serve all of the sentence, and may be subject to program requirements following their release from custody;

clearer guidelines of the matters taken into account by the Parole Board in considering release on parole; and

abolition of work release and home detention.

As I mentioned earlier, the two Bills taken together provide a significant reform of the sentencing laws and entail certain aspects of remission and parole being interwoven between the two Bills. Specifically, the reforms concerning the abolition of work release and home detention, and the Parole Board guidelines, are contained in the separate Sentence Administration Bill. On that basis, I now comment on the substantive nature of the reforms related to remission and parole that are contained in this Bill.

Remission: Remission is proposed to be abolished. Under the current system, a one-third remission on sentence is virtually automatic; and as such not only does it serve no purpose, but also it brings the sentencing system and the courts into disrepute. Within prisons today, better management techniques are in place to assist in prisoner management.

Eligibility for Parole: People sometimes forget the rate of technological change or even social change. Offenders who have been in jail for, say, the past 10 years need to be familiarised with things such as the widespread availability of automatic tellers and automatic ticket machines. Unless offenders are brought back into this society, they may choose to offend so as to return to the familiarity and certainty of jail life. However, for others, it is the fear of automatic return to jail and the supervision that prevents offending. Parole will, therefore, be retained. However, parole will be less available, particularly for repeat offenders and those who have offended on parole in the past. Thus parole will be for those who can most benefit from it. It will be easier for a court to refuse parole. At the moment, it is quite difficult.

The Bill contemplates that a prisoner eligible for parole must serve at least 50 per cent of his/her sentence before becoming eligible for parole. This differs in part from the approach taken in the Hammond report, which recommended that in respect of longer term sentences, the existing parole formulas should be maintained. The Hammond report does not contain any reasoning for maintaining these elements of the current system, and it may have been that the review committee considered that this element was outside its terms of reference. In the interests of clarity and public understanding, the Bill adopts a consistent approach to the treatment of parole throughout.

Hon Mark Nevill interjected.

Hon N.F. MOORE: That is quite right. That is the whole intention of it. By contrast, under the present system there is no eligibility for parole for sentences up to 12 months, so a prisoner usually serves two-thirds of the sentence in prison. Thereafter, for sentences of up to six years, one-third is served in prison; and in the case of sentences above six years, two-thirds of the sentence, less two years, is the period usually served in prison. Clearly this can be quite confusing, and on that basis it fails the test or objective of providing a clear, consistent sentencing regime that the public can understand. Parole is proposed to be kept because it does have an effect in reducing crime, and it serves a useful role as a buffer in facilitating the re-entry of offenders into society. Under the Bill, a court can order parole eligibility in respect of any term. In addition, courts will have a greater capacity to order that an offender be ineligible for parole. Currently, the system contained within the Sentencing Act in effect provides for a presumption in favour of eligibility for parole. This presumption will no longer apply.

Release Program Orders: As a consequence of the abolition of remission, offenders who are ineligible for parole will be required to serve all of the sentence that has been imposed by the court. In addition to this requirement, these offenders may also be ordered to undertake programs following their release from custody - in part to assist their transition back into society. The court can order that offenders whose sentence is less than two years be assessed for participation in programs which must be undertaken within six months of their release from custody. All offenders sentenced to two years, or more, are required to participate in such programs. Provision is made, however, for the program requirement to be lifted by the

chief executive officer where it is decided that an offender would not benefit from such a program. The principal purposes of the program requirement relate to addressing offending behaviour and facilitating the offender's re-integration to the community. To help achieve this, the Bill provides that community corrections officers in prisons will have a role in assessing offenders to determine appropriate post-release program participation, and that while participating in such programs, offenders will be subject to direction from a community corrections officer. As a consequence of the significant reforms to remission and parole, and to assist in providing greater understanding of sentences imposed by courts, other necessary changes to sentencing legislation are also proposed. These amendments relate to the requirement of courts to explain the effect of sentences and also provide a mechanism for the adjustment of sentences.

Effect of Sentences: Under the Bill, the court will be obliged to state, when sentencing, the amount of time that the offender will be required to serve as a result of the sentence that has been imposed. This will provide a considerable degree of transparency in sentencing - removing the uncertainty which offenders, victims and the public, through the media, suffer when left to make their own, often inaccurate, calculations.

Adjustment of Sentences: Critically important to the proposed regime is that sentences will be adjusted so that a person spends the same amount of time in jail under the proposed system as would have been the case had the offender been sentenced under the current system. If this were not done, there would be an across-the-board increase in sentences and an intolerably large increase in the prison population. If there were to be an increase, the Government would prefer this to occur with respect to targeted crimes. The ability to target particular crimes for more serious sentencing is contained in an innovative and structured approach to sentencing based upon a presumptive sentencing matrix.

The Sentencing Matrix: The sentencing matrix will be given effect in three stages. Each of the stages is intended to make the sentencing process more open, public and accountable, and will position the Government to be able to publish statistics showing not only the sentences imposed, but all the factors taken into account and the weight given to them. The judiciary would agree that it is accountable, and that there is a lack of public understanding of the sentencing process, which has led to some dissatisfaction with that process. Certainly, it is only when the public is likely to perceive a sentence as being too lenient that it is likely to read of it in the media. Those other sentences which a member of the public is likely to regard as too severe tend to be mentioned only in letters to the Attorney General rather than to the editor. A person interested in the sentencing process has at present to go to the written judgments and try to reconcile various reasons for sentence. Quite apart from the difficulty for a lay person to obtain access to reasons for sentence and to understand them, there is also a marked variation in style of explanation given by judges. There is either inconsistency in sentencing or a lack of understanding of the distinguishing characteristics, or a mixture of both. Whatever the reason, it is important that there be a better understanding of the process; and if there is inconsistency, that it be rectified. By use of this matrix, the public will be provided with sentencing information, and benchmarks will be set. At each stage, the process can be highly selective. The mechanism is that an offence, and a court, that comes under the provisions can be provided for by regulation. It can apply to any court and any offence, except in the Children's Court, where it applies only to schedule 1 and schedule 2 offences under the Young Offenders Act.

Stage 1: Information Gathering: When offences are prescribed under stage 1 for a particular court, then in that court, and for those offences, the court must give prescribed details as to the reasons for sentencing and do so in the prescribed manner. This reporting method will clearly and consistently set out the factors that the court took into account, and the degree to which they were influential. Not only will this allow better comparison, but from this the Government should be able to publish sentencing information.

Stage 2: Information and Publishing of Benchmarks: For a number of offences in the District Court, a tentative matrix has already been derived from available information. The matrix has tentatively been applied to what are currently understood as mitigating and aggravating factors to arrive at a reasonable prediction of the appropriate sentence for some specific offences. From the information received under stage 1, an even more reliable matrix to indicate the current benchmark for those offences could then be derived. This would give an indicative sentence that should apply to that offence under certain mitigating and aggravating factors. In addition to the reporting requirements, it will be necessary to calculate the benchmark, stating the weight given to the various factors mentioned in the matrix, and to explain, if the court has deviated from that benchmark, the other factors taken into account and the reasons for not following the benchmark. This would, hopefully, lead to greater consistency in sentencing or a greater elucidation of what are seen as the distinguishing factors. This stage should address perceived inconsistencies, which are a common ground of complaint from the public.

Stage 3 - Presumed Sentence and Adjustment by Parliament: For many offences, it may be that it is never considered that they should be prescribed under stage 3. Once an offence has been prescribed under stage 3, where a sentencing range is provided for in the matrix, such a sentence is presumed to be the correct sentence for that offence where those factors are present. Assuming that the offence has been through one or more of the earlier stages - although that is not required by the legislation - by the time that an offence is prescribed under this stage, the information available should be considerable. It is likely that offences will move to this stage where there is an apparent inconsistency among judges under an earlier stage, or Parliament is unhappy with the level of sentences imposed by the courts. As their effect is actually to require the court to follow the indication, except in certain circumstances, it has been decided that the approach to be followed is that

regulations under this stage will require the approval of both Houses of Parliament before they come into effect. As the matrix will be given effect by approved regulation, it will be quicker to pass than an amendment to the Act, because both Houses can approve simultaneously. It also allows for repeal by ordinary regulation in the event that an error occurs. Despite the matrix, any maximum or minimum sentence already in the law will continue to apply.

In this third stage, the benchmark is presumed to give the correct range of sentence. Although the court may deviate if it believes that the range of sentence under the matrix is unjust, if it does, there will be an automatic right of appeal. If the sentence is over-severe, the onus will be placed on the Crown to show why a less severe sentence should not be imposed; and if the sentence is over-lenient, the onus will be on the offender to show why a more severe sentence should not be imposed. There will be a very limited ground for appeal. Essentially, for those factors mentioned in the matrix, the matrix will apply; and it is only on those factors not mentioned that the court can base a finding that it would be unjust. Parliament will have a degree of sensitive control over sentencing which is lacking in the power to fix maximum and minimum sentences. Parliament has the power to approve a range within a set of circumstances or to provide a single sentence. Therefore, it can set varying degrees of latitude in sentencing, and it is expected that Parliament's skill and confidence in approving the matrix will develop over time.

The Attorney General has previously commented that the Sentencing Legislation Amendment and Repeal Bill also effects changes to sentencing legislation concerning a range of other matters, to which I will now turn.

Suspended Sentences: Provisions for suspended sentences are currently contained in the Sentencing Act, and provide for a range of sanctions in the event of a breach of the sentence. At present, when a person commits a further offence which causes a suspended sentence to be breached and the court decides that the suspended sentence should be served, the court can order only that the sentence for the new offence be served concurrently with the suspended sentence. Under the Bill, courts will be given greater flexibility when dealing with such breaches in having the ability to order that the new sentence can be served cumulatively upon the suspended sentence.

Use of a Motor Vehicle in an Offence: Presently, the Sentencing Act allows a court to suspend an offender's driving licence when a motor vehicle is associated with an offence. The Act provides courts with a range of circumstances in which this disqualification power can be exercised. These circumstances include when the use of a motor vehicle is an element of the offence and when a motor vehicle is used in the commission of an indictable offence. At present it is possible to, in addition to any other penalty, suspend a driving licence when the use of the motor vehicle is an element of the offence. The limitations of this were shown in an offence where an assault on a policeman was carried out with a car. The licence could not be suspended because the use of the car was not an element of the offence. The courts will now have power to suspend a driving licence when the offence involves the use of a motor vehicle, even if it is not an element of the offence.

Other Powers to Recommend Sentences: Even though the sentencing matrix can apply to the Court of Petty Sessions, a greater degree of consistency is likely among them simply on standard practices. It is believed that the Chief Stipendiary Magistrate can rectify any anomalies in sentencing by publishing sentencing guidelines. These would be subject to the matrix if a sentencing matrix were published for the Court of Petty Sessions, but it is believed that the Chief Stipendiary Magistrate can arrive at a more comprehensive scheme in a shorter time. For that reason the Chief Stipendiary Magistrate will be empowered to publish non-compulsory sentencing guidelines. The matter will be referred back to Parliament should these not achieve a greater degree of consistency.

Restitution and Compensation: Under the Bill the court will be able to order compensation even if it believes that a defendant has no means to pay. This will at least save victims the problem of having to sue if they want to take action or if the offender later comes into money. It also allows for an order for imprisonment until compensation is paid. This would be used when it is believed that the offender has the means to pay and in fact probably retains the proceeds. The intent of this imprisonment is to encourage offenders to make good the compensation. To further increase the likelihood of the offender complying with the order, any such imprisonment is to be served cumulatively upon any other sentence the offender may be serving. Although some offenders may choose to serve imprisonment rather than satisfy the compensation order, victims will still be protected as the imprisonment served does not discharge the offender from paying the compensation.

From the foregoing, I trust the House can appreciate that the Government is making a concerted effort to effect fundamental reform to sentencing legislation in this State. The significant changes to remission and parole, taken together with the introduction of the presumptive sentencing matrix, coupled with the other changes to the sentencing laws, are aimed at creating a clearer, more consistent and more accountable sentencing regime. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.30 pm]: I move -

That the House do now adjourn.

Adoption Amendment Bill - Adjournment Debate

HON NORM KELLY (East Metropolitan) [10.30 pm]: I have just noticed that today we have two versions of the Notice Paper - No 33, and No 33-2 - and that between those two versions there has been a change with regard to the Adoption Amendment Bill. That Bill appears in Notice Paper No 33 as being referred under Standing Order No 230(c) to the Constitutional Affairs Committee. However, in Notice Paper No 33-2 the Bill has been included in the normal Orders of the Day. I can understand that there might be a reason for that change, but I would be very concerned if the Government intended to deal with that Bill this year, given that, hopefully, only a few sitting days are left this year, and given also that there has been no indication previously that this Bill is one of the essential pieces of legislation with which the Government intends to proceed this year and there has been no advice from the office of the Minister for Family and Children's Services that there is any urgency about dealing with this Bill.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.31 pm]: I am not aware of this situation. I have a copy of Notice Paper No 33. The Adoption Amendment Bill was not referred to a committee and should be an Order of the Day. As I recall, that Bill has had a second reading -

Hon Tom Stephens: Apparently under the original Notice Paper it was considered to be uniform legislation.

Hon N.F. MOORE: I do not know, but it will not be dealt with this year.

The PRESIDENT (Hon George Cash): I may be able to throw some limited light on the situation. When the Adoption Amendment Bill was introduced last week and a second reading given, an examination of both the second reading speech and the Bill gave the impression that it should be dealt with under Standing Order No 230(c). A question was raised, and legal advice was taken, and as a result of a further examination based on that legal advice, which was received not directly by this office but through the minister's office, it was shown that Standing Order No 230(c) did not apply. That is why the latest Notice Paper does not show a Standing Order No 230(c) referral.

Point of Order

Hon TOM STEPHENS: Mr President, that raises the question of when the House would have the opportunity of determining that question. The arrival of Notice Paper No 33-2 escaped my attention. I hope that some process will apply where the House will have the opportunity of considering whether the original decision or the subsequent decision should stand, rather than find itself with a situation over which it may have no control.

The PRESIDENT: I understand what the Leader of the Opposition is saying. However, I can work only according to the Standing Orders. As I say, at first impression, both the second reading speech and the Bill appeared to indicate that the Bill would be subject to Standing Order No 230(c). However, on closer examination, and after subsequent advice from the minister's office based on legal advice, that matter was resolved. It seems to me that any time is the appropriate time for the Leader of the Opposition to ask me a question. He cannot ask me a question while I am in the Chair, but he certainly can raise the issue with me, as can any other member, and I can then put in train whatever is necessary to try to resolve the issue. If a dispute were to arise, it would clearly be a matter for the House to consider in due course.

Question put and passed.

House adjourned at 10.35 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

JARRAH LOGGING

332. Hon CHRISTINE SHARP to the Minister for Transport representing the Minister for the Environment:

For the past three years -

(1) What is the total bole volume of Jarrah trees felled in State forest in logging/silviculture operations?

(2) What is the total volume of Jarrah sawlogs produced?

(3) What is the total volume of each grade of Jarrah sawlog produced?

(4) What is the total base royalty received for each grade of Jarrah sawlog produced?

(5) What is the total volume of Jarrah sawn-timber produced?

(6) Of the total Jarrah sawn-timber produced how much is -

(a) dried and dressed;
(b) sold as greensawn timber;
(c) railway sleepers; and
(d) exported?

(7) What is the Department of Conservation and Land Management's ("CALM") definition of value added in relation to Jarrah sawn-timber?

(8) What proportion of the total sawlog volume is converted to value added timber products?

(9) Is all this dried and dressed locally?

(10) Of the total volume of sawn-timber produced, how much is used for -

(a) structural uses;
(b) appearance uses other than furniture and fine woodcraft;
(c) furniture and fine woodcraft; and
(d) other?

(11) What proportion of roofs in houses in the Perth metropolitan area are constructed from -

(a) native hardwoods;
(b) pine; and
(c) steel?

The answer was tabled. [See paper No 564.]

RESERVES AGREEMENTS

377. Hon CHRISTINE SHARP to the Minister for Finance representing the Minister for the Environment:

(1) How many Agreements to Reserve under the *Soil and Land Conservation Act* are currently in place in Western Australia?

(2) What are the monitoring procedures for these agreements?

(3) How regularly are they monitored?

(4) Has there been any breaches of these Agreements?

(5) If so, how many and what penalty action has been taken?

Hon M.J. CRIDDLE replied:

(1) There are 491 Agreements To Reserve registered as Memorials on Certificates of Title in Western Australia.

(2)-(3) Compliance monitoring of Agreements to Reserve is linked to land clearing controls. A system of monitoring based on satellite images is being evaluated. An annual review is proposed.

(4)-(5) A possible breach is under investigation. To date, there have been no such convictions.

ORD RIVER - TOXICITY REPORTS

449. Hon NORM KELLY to the Minister for Transport representing the Minister for Primary Industry:

(1) Have there been any tests or reports compiled in the past two years in relation to toxicity levels of chemicals in the Ord River?

(2) If not, why not?

(3) If yes, will the Minister for Primary Industry table these reports?

Hon M.J. CRIDDLE replied:

(1) Yes.

(2) Not applicable.

(3) There has been a number of tests carried out by growers, Agriculture Western Australia, Fisheries WA, Water and Rivers Commission and the Water Corporation over the last two years regarding toxicity levels and chemicals in the Ord River. If the honourable member has any specific queries I would be happy to provide a briefing for him by the relevant people.

FORESTS - CHIPLOGS REVENUE

500. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:

In each of the past five financial years, how much income did the Department of Conservation and Land Management receive from the sale of native forest chiplogs to -

(a) WA Chip and Pulp Co Pty Ltd; and

(b) any other company?

Hon MAX EVANS replied:

(a)

1993/94	$25 358 695.68
1994/95	$29 996 177.49
1995/96	$32 339 379.00
1996/97	$31 503 191.73
1997/98	$30 307 968.91

(b) Nil. The income is derived from payment by the company of all charges including gross royalty, harvesting costs and cartage.

PASTORAL LEASES - EXCAVATED EARTH TANKS

503. Hon MARK NEVILL to the Minister for Transport representing the Minister for Primary Industry:

Since July 1, 1988, can the Minister for Primary Industry advise -

(1) How many excavated earth tanks, which have received a Government subsidy, have been built on each pastoral lease in the Kimberley?

(2) How many of each of these tanks are still serviceable?

(3) What is the expected average life of these tanks?

(4) What subsidies have been paid to pastoral lease holders?

Hon M.J. CRIDDLE replied:

(1) Five in total on two pastoral leases.

(2) All.

(3) 20 to 50 years.

(4) $5,899 to date with a further $5,117 payable.

PILCHARDS FISHERY, ESPERANCE - TOTAL ALLOWABLE CATCH

518. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

(1) Is it the Fisheries Department assessment that the Total Allowable Catch ("TAC") of Pilchards in the Esperance region is 2 700 tonnes?

(2) Is the amount of quota allocated in Esperance 1 330 tonnes?

(3) Why has the amount of the TAC that has so far not been allocated, not been distributed to quota holders?

(4) Having twice attempted to distribute the unallocated portion of the TAC (as in Fisheries Department Management Paper 99 and in the 'Morgan' proposal), to Albany licensees in the first instance, and by making a payment to Albany licensees in the second instance, what is now preventing the Minister for Fisheries from allowing the Esperance fishery to reach it's safe and sustainable potential?

(5) Is the Minister's reluctance to allow Esperance based fishers the same right of access to the full TAC that is enjoyed by Albany and Bremer Bay fishers an expression of his response to the support that was given by Esperance fishers to the Parliament's disallowance of his regulations in this fishery last year?

Hon M.J. CRIDDLE replied:

(1)-(5) Fisheries Western Australia's current assessment is that the South Coast Purse Seine Managed Fishery is fully exploited and any proposed increase in exploitation within a particular zone of the Fishery must take into account the overall exploitation rate across the whole fishery. The South Coast Purse Seine Managed Fishery is based upon one south coast pilchard breeding stock. The value of units of entitlement within the Esperance Zone 4 of the Fishery equates to a quota level of 1330 tonnes for the 1998/99 season. There is currently an industry proposal for management changes within the South Coast Purse Seine Fishery, which examines the issues facing the industry as a whole. This proposal has been endorsed by the Purse Seine Management Advisory Committee for industry discussion and advice to the Minister.

FREMANTLE EASTERN BYPASS - EPA'S ASSESSMENT

597. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

In relation to the Environmental Protection Authority's ("EPA") assessment of the Fremantle Eastern Bypass -

(1) Has the Department of Environmental Protection ("DEP")/EPA assessed the impact of the highway on remnant vegetation located along the route between Healy Road and Bellion Road in connection with the loss of vegetation at Clontarf Hill?

(2) If not, why not?

(3) Where else in the local area does a similar vegetation and landform habitat similar to that at Clontarf Hill occur?

(4) Has the DEP carried out a fauna survey of Clontarf Hill?

(5) If yes, will the Minister for the Environment table that report?

(6) If not, why not?

(7) Why was the flora survey of Clontarf Hill by Bronwen Keighery carried out only in mid-summer?

Hon MAX EVANS replied:

(1)-(2) The Department of Environmental Protection (DEP) does not consider the vegetation between Healy Road and Bellion Road to be of regional significance. In these cases it is the proponent's responsibility to carry out appropriate surveys and to manage the impacts associated with the proposal as per their standard environmental management procedures.

(3) Similar vegetation and landform habitat occur in the local area at Manning Lake and Brownman Swamp/Brown Lake/Mt Brown.

(4)-(6) The fauna habitat value of Clontarf Hill will be considered as part of the Environmental Protection Authority's assessment of the Fremantle Eastern Bypass.

(7) The flora survey was undertaken by a consultant to the DEP to identify potentially regionally significant vegetation in the summer as the matter was considered urgent. However, the results of the survey indicated that for this locality and for its area and condition, a further survey would be most unlikely to change the conclusion that the vegetation was not of regional significance.

PIGGERIES

639. Hon J.A. SCOTT to the Minister for Transport representing the Minister for Primary Industry:

(1) How many piggeries are in Western Australia?

(2) Of these, how many are exclusively free range systems?

(3) How many are exclusively intensive systems?

Hon M.J. CRIDDLE replied:

(1) Approximately 500.

(2)-(3) While there is no formal record, an estimated 10% of Production is considered to be exclusively free range (extensive), up to 20% of Production is considered to be exclusively intensive while up to 70% of Production is considered to be a mixture of intensive, free range and straw based systems.

SWAN BREWERY, OLD WELL

646. Hon NORM KELLY to the Attorney General representing the Minister for Heritage:

(1) Is the Minister for Heritage aware of the existence of an old well situated on the site of the Old Swan Brewery?

(2) Has there been a heritage assessment made of an old well at the site of the Old Swan Brewery?

(3) If so, what was the outcome of that assessment and will the Minister table it?

(4) If not, will the Minister initiate an assessment of the heritage value of the old well?

(5) If not, why not?

Hon PETER FOSS replied:

(1) I am advised that early plans indicate that a well existed on this site.

(2) No.

(3) Not applicable.

(4) No.

(5) A conservation analysis has been prepared for the site, which covers many items including the historical reference to the existence of a well. Further assessment is not warranted, as the historical reference indicates the well lies beneath the concrete floor of one of the Brewery buildings which is proposed to be retained under the current development proposal.

GOVERNMENT DEPARTMENTS AND AGENCIES, CONTRACTS

655. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Works:

(1) Have any agencies or departments under the Minister for Works' control awarded any contracts to the following companies since July 1, 1996 -

(a) Triad Constructions, Triad Contractors or Achron Pty Ltd;
(b) R J Vincent & Co Pty Ltd;
(c) Highway Constructions;
(d) Henry Walker Contracting Pty Ltd;
(e) Ertech Pty Ltd;
(f) Moltoni Corporation;
(g) Brierty Contractors;
(h) Barclay Mowlem Construction Pty Ltd;
(i) Jonor Construction;
(j) Jaxon Construction;
(k) Doric Construction; and
(l) Entact Clough or Clough Engineering?

(2) If yes, can the Minister provide the following details of those contracts-

(a) the name of the contractor;
(b) the contract number;
(c) the date it was awarded;
(d) the project the contract was awarded for;
(e) the cost of the contract;
(f) if the contract has been completed, the final cost of the contract; and
(g) the names of any other companies who tendered for the contract?

The answer was tabled. [See paper No 563.]

INDUSTRY TRAINING ADVISORY BODY STATUS

671. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

(1) What criteria does the State Training Board use to grant Industry Training Advisory Body (ITAB) status to particular bodies for both funded and non-funded ITABs?

(2) Will the Minister for Employment and Training provide the names, position titles and places of employment of the individuals who sit on the governing bodies of the following -

(a) Arts, Sport and Recreation Industry Training Council;
(b) Australian Dental Association;
(c) Health and Community Services Council;
(d) Finance, Property and Business Industry Training Council;
(e) Elmside Nominees;
(f) Food Industry Training Council;
(g) Forest Industries Federation;
(h) Hospitality and Tourism Industry Training Council;
(i) Light Manufacturing Industry Training Council;
(j) Primary Industry Training Council;
(k) Process Manufacturing Industry Training Council;
(l) Transport and Storage Industry Training Council;
(m) Utilities, Electrotechnology and Printing Industry Training Council;
(n) WA Fishing Industry Council;
(o) WA Residential Training Advisory Foundation; and
(p) Wholesale, Retail and Professional Services Industry Training Council?

Hon N.F. MOORE replied:

(1) In addition to meeting the following requirements:

- Financial management and accountability capability;
- Proof of being a legally established not-for-profit organisation;
- No significant conflict of interest between any revenue generating activities or other interests of the organisation and the potential impact or outcomes of the industry training advice provided to the State Training Board;

organisations are assessed by the State Training Board against the following criteria:

- Industry representation - demonstrated capacity to represent the views and interests of the industry sector to Government, the public and private sectors, and the community;
- Industry coverage and commitment - demonstrated support from key industry associations, enterprises and other stakeholders;
- Industry intelligence - demonstrated capacity to collect, analyse and present information on the medium to long term developments in the industry sector and the impact of such developments on employment and training;
- Industry consultative processes - established mechanisms and demonstrated capacity to involve and consult a broad range of enterprises and industry representatives within the industry sector in the provision of the specified key training advisory services;
- Organisation commitment - demonstrated commitment by the organisation to support an industry training advisory function, through the provision of access to organisation services and resources (eg skills, personnel, financial, infrastructure, direct industry contributions).

(2) This information is not relevant to the functions these bodies perform for the purposes of the *Vocational Education and Training Act 1996* . The status of these bodies changed with the repeal of the *State Employment Skills Development Authority Act 1990* and the implementation of the *Vocational Education and Training Act 1996*. The information can be obtained by contacting the organisations directly.

GOVERNMENT CONTRACTS

675. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Works:

(1) Have any agencies or departments under the Minister for Works' control awarded any contracts to the following companies since July 1, 1996 -

(a) Malavoca Pty Ltd; and

(b) Hanscom Holdings?

(2) If yes, can the Minister provide the following details of those contracts -

(a) the name of the contractor;

(b) the contract number;

(c) the date it was awarded;

(d) the project the contract was awarded for;

(e) the cost of the contract;

(f) if the contract has been completed, the final cost of the contract; and

(g) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

This information was correct as at 3 December 1998:

(1) Contract and Management Services has not awarded any contracts to Malavoca Pty Ltd or Hanscom Holdings since July 1, 1996.

(2) Not applicable.

CITY OF WANNEROO, REZONING OF LOTS

706. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Local Government:

(1) Is the Minister for Local Government aware of concerns reported in the *Wanneroo Times* of October 27, 1998 that Wanneroo Commissioner, Rob Rowell -

(a) was trying to "sell" residents a proposal to re-zone two lots on Wanneroo Road from residential development R20 to R40 and mixed business; and

(b) failed to take notes at a meeting between developers and a resident which he organised?

(2) Do these actions breach any of the recommendations of the Royal Commission into the City of Wanneroo?

(3) If yes, what action is the Minister taking on these matters?

Hon M.J. CRIDDLE replied:

(1)-(3) The Minister for Local Government is aware of the Wanneroo Times article of 27 October 1998 and has written to the Chairman of Commissioners reinforcing the need for maintenance of high standards of integrity and accountability.

MT HENRY HOSPITAL SITE, VALUATION

711. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

(1) Has LandCorp conducted a valuation of the land at the Mt Henry Hospital site, or had a valuation conducted on their behalf?

(2) If yes, what was the land valued at?

(3) Who conducted the valuation?

(4) Is LandCorp planning to develop the land with a joint venture partnership?

Hon MAX EVANS replied:

(1) Yes.

(2)-(3) In June 1997 JLW Property Services valued the property (Lot 4093) at $11 320 000 based on deferred possession and staged payments.

(4) LandCorp is not currently planning on developing the land with a joint venture partnership.

GNANGARA LAND USE AND WATER MANAGEMENT STRATEGY

730. Hon Ken Travers to the Attorney General representing the Minister for Planning:

(1) Up to what stage is the Gnangara Land Use and Management Study?

(2) What date is the study expected to be released for public comment?

Hon PETER FOSS replied:

(1) The Gnangara Land Use and Water Management Strategy is being prepared for printing and release for a three month public consultation period.

(2) Early 1999.

QUESTIONS WITHOUT NOTICE

BOOZE BUS LOCATIONS

695. Hon TOM STEPHENS to the Attorney General representing the Minister for Police:

In relation to the decision by the Western Australia Police Service to advertise the location of booze buses, I ask -

(1) Was the Road Safety Council consulted prior to the decision being made to publicise these locations?

(2) If yes, what was its view on this issue?

(3) If no, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The Road Safety Council agreed with and supported the strategy.

(3) Not applicable.

RIPON HILLS ROAD, CONSTRUCTION

696. Hon TOM STEPHENS to the Minister for Transport:

In relation to the former Minister for Transport's claim on 3 December 1996 that three mining companies had agreed to contribute $15m towards constructing the Ripon Hills road, I ask -

(1) Can the minister confirm that the three companies were in fact released from these obligations because of financial difficulties which they were experiencing?

(2) Which of these companies are still operating in the region serviced by this new road?

(3) Why has a preliminary survey been carried out for the road between Telfer and Kintyre?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) No, they were not. At the time when Valiant Consolidated Limited went into voluntary administration, Main Roads had not delivered on the contract which required payment of $15m by the companies to Main Roads after the road was sealed.

(2) Newcrest Mining has continued its operations at Telfer. Valiant Consolidated has been restructured and is now trading as Consolidated Minerals Limited, with operations due to commence in early 1999. WMC Resources Ltd has sold the Nifty copper mine to Straits Resources Pty Ltd and is currently operating.

(3) The preliminary survey was part of the region's review of possible future transport network needs related to tourism, mining and remote community areas.

I reiterate my previous response to the member that there are no plans for an extension to Kintyre.

BANDYUP WOMEN'S PRISON, SLEEPING ACCOMMODATION

697. Hon N.D. GRIFFITHS to the Minister for Justice:

What is the minister's timetable to ensure that all prisoners at Bandyup Women's Prison have a bed to sleep on, as distinct from a mattress on the floor?

Hon PETER FOSS replied:

I went to Bandyup on Friday, and I issued instructions that all beds should be instantly obtained. I am pleased to say that some beds have been placed in the recreation area. Orders have been placed for the remainder of the beds. As soon as they are delivered, all prisoners will have a bed to sleep on.

ENVIRONMENTAL PROTECTION AUTHORITY, EXPERTISE

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

(1) Is the minister aware that the federal Minister for Forestry and Conservation, Wilson Tuckey, has claimed that Western Australia's Environmental Protection Authority does not have the expertise to properly examine the Department of Conservation and Land Management's compliance with the forest management plan?

(2) Will the minister increase the resources and funding of the EPA to ensure that it has access to the expertise necessary to properly examine all matters for which it is responsible?

(3) Why has the minister not ensured that the EPA is properly resourced and has the expertise to carry out its role?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(3) The minister has not yet had the opportunity to discuss these matters with Minister Tuckey. However, she will be meeting with him in the near future and will take the opportunity to apprise him of the current status of this matter.

BENNETT HOUSE, DEMOLITION

699. Hon HELEN HODGSON to the Attorney General representing the Minister for Heritage:

(1) Was the minister aware prior to Sunday, 25 October 1998, that the East Perth Redevelopment Authority was going to demolish Bennett House on that date?

(2) Is the minister aware that Bennett House is a registered Aboriginal site?

(3) Was consent sought under section 18 of the Aboriginal Heritage Act 1972 to destroy or disturb a registered Aboriginal site?

(4) Is the minister aware that the transfer of Bennett House to the East Perth Redevelopment Authority was contrary to the recommendations made by the consultant to the EPRA, Richard Wilkes, in his report on Bennett House?

(5) Did the EPRA comply with the provisions of the Native Title Act in respect of the demolition of Bennett House?

Hon PETER FOSS replied:

I make it clear that I assume the questions refer to the Minister for Heritage; therefore, the answers also refer to the Minister for Heritage, even though I provide the answers. A number of incorrect statements are framed in the form of a question, which makes it difficult to give an answer. It is supposing that a certain set of circumstances exist. Given those qualifications, I now provide the answer.

(1) Yes.

(2)-(3) No.

(4) Mr Wilkes supported the transfer and in fact his report recommended that Bennett House be given to the EPRA and that the Wittenoom Street block owned by the EPRA at the corner of Norbert Street be given to the Perth Aboriginal Medical Service Inc and the Noongar Alcohol and Substance Abuse Service.

(5) The Native Title Act has no relevance to the demolition of Bennett House.

BUNBURY BACK BEACH

700. Hon MURIEL PATTERSON to the Leader of the House representing the Minister for Regional Development.

Can the minister list the capital works associated with the upgrading of the back beach in Bunbury, the timing of these works and the total budgeted cost?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The proposal to enhance and protect the back beach in Bunbury is in the detailed design and investigation phase. This phase will test the concepts contained in a report to the City of Bunbury

in February 1998, and will result in fully costed and designed engineering and coastal management specifications for the back beach in Bunbury. Capital works proposed in the February 1998 report include coastal engineering, roadworks and car parking, construction of new services, landscaping and the construction of visitor facilities. A timetable for constructing the works is subject to endorsement by State Cabinet of a detailed design and investigation phase. The early budget allocation for this project was $450 000 in 1999-2000 for the detailed design and investigation phase.

MAIN ROADS CONTRACTS

701. Hon LJILJANNA RAVLICH to the Minister for Transport:

I refer to the position paper "Ten-Year Contracting Strategy: Road Maintenance" released by Main Roads in August 1998.

(1) Is it true that Main Roads will reimburse tendering costs up to $100 000 per contract per unsuccessful tenderer?

(2) How much has Main Roads budgeted for the reimbursement of tendering costs?

(3) Will the reimbursement of tendering costs policy be restricted to Main Roads, or does the minister intend to extend it to other areas of his portfolio responsibility?

Hon M.J. CRIDDLE replied:

A whole list of questions is asked. I will take them to Main Roads and investigate, and provide an answer to the member.

EDUCATION DEPARTMENT SENIOR COLLEGES

702. Hon CHERYL DAVENPORT to the Leader of the House representing the Minister for Education:

Some notice of this question has been given.

(1) Has the Education Department's review of senior colleges been completed?

(2) Will the review be released for public comment?

(3) If yes to (2), for how long will the review be released for public comment?

(4) Should the Government proceed to implement all or part of the review recommendations, when would it expect to make the changes?

Hon N.F. MOORE replied:

(1) Yes. A draft report has been completed for consultation with the boards of the senior colleges and campuses.

(2) The report will be released for wider consultation once the boards of the senior colleges and senior campuses have had an opportunity to comment.

(3)-(4) The period for wider consultation has not been determined at this stage.

OMEX SITE

703. Hon GIZ WATSON to the minister representing the Minister for the Environment:

With regard to the rehabilitation of the Omex site, I ask -

(1) Is the minister aware that the level of assessment for the containment wall project at the Omex site at Bellevue was set at a level of informal review with public advice?

(2) If no, why not?

(3) If yes to (1), did the minister mislead Parliament in response to question without notice 505 of 24 November in which the minister stated that during the CER for the construction of the containment wall, meetings were held fortnightly?

Hon MAX EVANS replied:

I thank the member for some notice of this question. It is not possible to provide the information in the time required, and I request that the member place the question on notice.

LAKES PINJAR AND MONGER, FALLING WATER LEVELS

704. Hon RAY HALLIGAN to the minister representing the Minister for Water Resources:

Can the minister advise if any research into ground water movement within the North Metropolitan Region shows conclusively whether lakes such as Lake Pinjar and Lake Monger are suffering from falling water levels?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Water and Rivers Commission has detailed information on ground water movement in the North Metropolitan Region through its research and investigations, as well as regular water level monitoring. A number of monitoring bores are located near or in the Lake Pinjar area, which is inundated in winter. Information from some of these bores dates back to 1977, with most of these bores monitored on a monthly basis. The maximum drop in water level over the past 20 years has been approximately 1.1 metres. The water level reduction in some bores is considerably less. Although operation of the Pinjar public water supply bore field will have affected ground water levels, the drop in the watertable is well within that expected due to climatic effects. It is within the variations approved by the Minister for the Environment for the lake area.

Water levels in Lake Monger have been recorded since 1960. Although surrounding ground water levels have some effect on lake levels, it is the management of outflowing drains by the Town of Cambridge which dominates water level trends. These trends now show no long-term change in lake water levels. However, the minister has been advised that in 1998, the Town of Cambridge kept lake levels a little lower than usual to enable implementation of aspects of its management and rehabilitation plan. The short-term effects of this lower water level are likely to be minor, compared with the benefits of implementing the rehabilitation plan.

PEEL DEVIATION ROAD, PROPOSED CONSTRUCTION

705. Hon J.A. COWDELL to the Minister for Transport:

(1) What funds are proposed to be spent on the upgrade of the existing coastal road from Mandurah to Lake Clifton, including the Dawesville deviation, prior to the construction of the Peel deviation road?

(2) What is the timetable for the construction of the Peel deviation road?

(3) How would the timetable be affected by the diversion of funds allocated to existing road upgrades between Mandurah and Lake Clifton?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The words are slightly different from those in the question that I have; in question (3) the member said "allocated", rather than "contributed".

(1)-(3) The Government clearly recognises the need to address the growing congestion along the Perth-Bunbury Highway in the Mandurah area. The planning is well advanced for the Peel deviation, which is expected to take the majority of the north-south through traffic out of Mandurah. Main Roads is currently undertaking an assessment of the priority to construct the Peel deviation and possible funding options. The timing of the construction will depend on the outcome of this assessment, as well as funding availability. The assessment will be completed and a decision on the timing will be made as soon as possible. It is of interest to note that in the five years to 1992-93, $27m was spent on the Perth-Bunbury Highway, whereas in the five years to 1997-98, the coalition Government has spent $47.4m.

INTERNATIONAL INVESTIGATION AGENCY, LEGAL FEES

706. Hon TOM HELM to the Minister for Transport:

Why did Main Roads WA pay more than $13 000 of International Investigations Agency's legal fees incurred in connection with Mr Joel Kuriakose's prosecution for acting as an unlicensed investigator?

Hon M.J. CRIDDLE replied: I imagine Main Roads felt he had carried out the investigation and should be paid that fee.

ENVIRONMENTAL PROTECTION AUTHORITY

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

(1) Does the minister intend to implement the recommendations of the Environmental Protection Authority Bulletin No 912, pages 41 to 43, before concluding the regional forest agreement?

(2) Does the minister accept the EPA's advice that the EPA has a statutory obligation to be consulted on the implications of the RFA?

(3) Has the minister, in consultation with the Premier, appointed an independent expert to advise on the inconsistencies between the Environmental Protection Authority Bulletin No 912 and the response from the Department of Conservation and Land Management?

(4) If so, who has been appointed to this role?

(5) When will this independent person report?

(6) Why does the minister consider additional independent advice necessary when she has already received such advice?

(7) Will this additional advice be made public?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) The recommendation will be considered as part of the Regional Forest Agreement process.

(3)-(5) A possible appointee has been recommended to the Premier but the appointment has not been finalised yet.

(6)-(7) Ministerial conditions provide that where the Environmental Protection Authority and the proponent are "in dispute", such dispute will be determined by the Minister for the Environment.

BOOZE BUS LOCATIONS

708. Hon TOM STEPHENS to the Attorney General representing the Minister for Police:

(1) Can the minister explain why the Channel 9 television station will be given exclusive television coverage of the location of booze buses?

(2) How does the minister justify giving an advantage to one private company over another and over the national broadcaster?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Western Australia Police Service was approached by Marketforce acting as an intermediary for the Channel 9 television station and 96FM radio station with a proposal to broadcast the location of booze buses. The rationale was that this would assist in promoting the road safety message throughout the community. The proposal was subsequently accepted by the Police Service.

(2) It has always been the policy of the Police Service to spread the road safety message as widely as possible. Channel 7 and 94.5FM are presently running campaigns which announce the location of speed cameras throughout the metropolitan area. During the Christmas period Channel 10 will run a series focusing on fatal crashes on Western Australian roads.

TIMBER INDUSTRY

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

(1) Will the minister table the list of 35 companies or operators included in the Australian Bureau of Agricultural and Resource Economics report referred to in question without notice 577, which did not appear in the response to question 317?

(2) How many companies operate hardwood sawmills which received logs to be processed into sawn timber from native forests in the Regional Forest Agreement region in 1997-98?

(3) How many sawmills referred to in (2) are currently in operation?

Hon MAX EVANS replied:

I thank the member for some notice of this question. It is not possible to provide the information in the time required and I ask that the member place the question on notice.

WEST KIMBERLY POWER SUPPLIES

710. Hon GREG SMITH to the Leader of the House representing the Minister for Energy:

Will the environmental benefits of a renewable energy source be included in any assessment of tenders for the provision of power to the West Kimberley?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The tender process is being conducted by the regional power procurement steering committee which is giving consideration to the inclusion of environmental aspects in an appropriate manner in the bid assessment.

BUNBURY PORT AUTHORITY

711. Hon BOB THOMAS to the Minister for Transport:

The Bunbury Port Authority was highly commended for excellence in strategic and contract management in the 1998 Premier's awards for public sector management.

(1) Can the minister explain why this port is being privatised when it has experienced record tonnages, excellent management and few or no disputes over the past decade and has attracted these accolades from the Premier?

(2) Can the minister detail the specific areas in which improvement to this impressive record can be expected?

(3) Can the minister quantify the degree of improvement he expects from privatisation of this port?

Hon M.J. CRIDDLE replied:

Seventy per cent of the Bunbury port operation is already in private hands. A great percentage of the movement at that port is already operated by the private sector. The port authority made the decision to ask for expressions of interest and that is what it is doing; it is calling for expressions of interest in some of its operations. We will receive feedback from that expression of interest and we will be able to quantify whether there is any advantage in doing it.

MILK VENDORS COMPENSATION SYSTEM, MINISTER'S COMMENT

712. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:

I refer to a reported statement by the Minister for Primary Industry that there is "nothing wrong" with the provisions that have been made to compensate the former milk vendors. If there is nothing wrong with the compensation system, why are some of the former licensed milk vendors now in a financial situation which is hundreds of thousands of dollars behind that which they enjoyed prior to deregulation?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The Minister for Primary Industry has asked that the question be put on notice.

PARDELUP PRISON FARM

713. Hon MURRAY MONTGOMERY to the Minister for Justice:

Is there any proposal by the Government to close Pardelup Prison Farm? If the answer is no, will the Government upgrade the farm, and has any timetable been set for this proposal?

Hon PETER FOSS replied:

Regarding the first question, absolutely not. Such a rumour did start and I have no idea from where; it appears to have defied gravity. The truth is quite the contrary; we have no intention of closing prisons. It is strange that someone would even suggest it. We have reviewed all our prison farms with a view to improving the way in which they are managed. Agriculture Western Australia gave us the benefit of its expert advice and as a result we will upgrade the farming activities of our farms. We will run them as one agricultural enterprise and we hope that as a result we will also have far more prisoners involved in agriculture. Although many people think that all prisoners at the farm are involved in agriculture, at Pardelup at the moment only a small number are involved in agriculture. As a result of the advice from Agriculture Western Australia, we will be changing that and many more prisoners will be involved.

BOAT LICENSING

714. Hon KEN TRAVERS to the Minister for Transport:

The Government announced 11 months ago that boat drivers would face tough licensing tests under a state government plan to cut dangerous incidents on Western Australian waters. In the light of this, how does the minister explain his claim last week that the issue of boat licensing had not been examined?

Hon M.J. CRIDDLE replied:

I am not aware that a statement was made so many months ago. I am not aware that we said that we would take up the issue. I would like to know from where the member obtained that information. We do not intend to introduce boat driver licences in the near future.

LEGAL AID COMMISSION, ACTING DIRECTOR

715. Hon N.D. GRIFFITHS to the Attorney General:

Is it is the case that the Legal Aid Commission of Western Australia continues to have an acting director and that this has

been the situation since July 1997? What is the Attorney General's timetable for the commission to have a director as distinct from an acting director?

Hon PETER FOSS replied:

I have no intention of having a director instead of an acting director because, as the member is aware, legislation will be put forward which will radically change the nature of the Legal Aid Commission. It would be difficult to appoint someone who had the capacity to do the job, if the job which that person was doing was different from the one which he would ultimately be doing. There is no point in making a five-year appointment when within a period of less than five years it is intended to have someone else. Mr Lindsay is doing an excellent job as acting director. I have not heard any complaints from the Legal Aid Commission as to his performance, and it continues to support the renewal of acting appointments.

JERVOISE BAY PROJECT

716. Hon J.A. SCOTT to the Leader of the House representing Minister for Trade and Commerce:

(1) With respect to employment opportunities in the Jervoise Bay project, which companies in the following categories not already operating at Jervoise Bay have committed to investing in the project -

(a) mining, oil and gas companies which would be the end users of equipment fabricated at Jervoise Bay;

(b) oil and gas engineering fabricators which will tender for the work from the above;

(c) small and medium sized engineering firms not necessarily specialising in the oil and gas industry;

(d) firms or organisations not directly involved with the mining, oil and gas industries, but which have an affiliation to the site?

(2) Which of those companies will be relocating from other areas of Western Australia?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) It is not possible to indicate the level of investment committed by companies that fall into the categories listed or which companies may relocate from other areas of Western Australia. However, the recent study, "Review of Jervoise Bay Infrastructure Plan", conducted by Ernst and Young in September 1998, suggests that companies in these categories support the project. Seventy-four per cent of organisations surveyed indicated a likelihood to use Jervoise Bay within the next three to five years; and 58 per cent of respondents indicated that Jervoise Bay would be likely to have a "medium" to "very high" effect on increasing their organisation's competitiveness.

ABORIGINAL HOUSING BOARD, HOMESWEST TENANTS

717. Hon HELEN HODGSON to the minister representing the Minister for Housing:

(1) Does Homeswest consult with the Aboriginal Housing Board when dealing with each and any possible eviction of Aboriginal tenants?

(2) If not, what role does the Aboriginal Housing Board play in the eviction of Aboriginal tenants from Homeswest properties?

(3) Is Homeswest required to adopt recommendations from the Aboriginal Housing Board in respect of the eviction of Aboriginal tenants?

(4) If not, what role do any such recommendations play in Homeswest decisions to evict Aboriginal tenants?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Homeswest consults with the Aboriginal Housing Directorate when an Aboriginal tenant is facing eviction. The Aboriginal Housing Directorate is the operational arm of the Aboriginal Housing Board.

(2) Not applicable.

(3) No.

(4) Any recommendations made by officers of the Aboriginal Housing Directorate are taken into consideration when eviction action is being taken. It is part of Homeswest's eviction process for any Aboriginal tenants facing eviction to be referred to the Aboriginal Housing Directorate. From there, a number of Aboriginal customer support officers endeavour to liaise with the tenants to assist them to resolve issues which are impacting on their tenancy.

Additionally, any tenants facing eviction due to rental arrears are provided with the details of local financial counselling agencies. Homeswest has a number of programs aimed at assisting tenants to successfully maintain a tenancy. Tenants experiencing problems with antisocial behaviour and/or poor property standards can be assisted through programs such as the supported housing assistance program, Family and Children's Services and Homeswest tenancy referral program.

LIBERAL PARTY 500 CLUB

718. Hon TOM STEPHENS to the Leader of the House representing the Premier

In relation to a function held by the Liberal Party 500 Club last Friday evening at Parliament House -

(1) What is current state government policy with regard to the use of parliamentary facilities by political fundraising organisations?

(2) Will the State Government be billed in any way for the cost of last Friday's 500 Club function?

(3) Will the Premier ascertain what charge has been levied on the Liberal Party for the use of Parliament House and will he advise the details of the costs that will be paid by the Liberal Party?

(4) Will the Premier take the necessary steps to ensure that the total cost of this function is borne by the Liberal Party and that no costs - neither the cost of hiring extra staff, staff overtime, or extra equipment - are paid for or subsidised by the taxpayer?

(5) If not, why not?

The PRESIDENT: For those members who may not be aware of it, the Government does not run Parliament House.

Hon N.F. MOORE replied:

Thank you, Mr President, for making that very clear to some members who are yet to work that out. Perhaps they need to be here a little longer to understand how it works. It is not in fact the Liberal Party's 500 club; it is an independent club called the 500 Club. It does not belong to the Liberal Party any more than the Curtin Foundation belonged to the Labor Party.

I have a long memory about these things. It is a bit rich that the Labor Party asks this question. I recall the "great" days of the new Burke Government when the Cabinet Dining Room was used every day for what it called community lunches. That went on and on, day after day, week after week at taxpayers' expense, straight out paid for by the Premier. The only reason that stopped is that the Burke Government ran out of people, or nobody wanted to come any more. However, that is what went on day after day in this place. Therefore, the question is a bit rich coming from the party which had its snout in the trough the whole time it was in government.

I thank the member for some notice of this question.

(1)-(5) The guidelines and conventions for the use of parliamentary facilities comes within the jurisdiction of the Presiding Officers and the Parliamentary Services Committee. The committee's membership comprises the Speaker, the President, Hon Nick Griffiths, Hon Tom Helm, Hon Barry House, Hon Bill Stretch, Mrs Katie Hodson-Thomas, Mrs Michelle Roberts, Ms Diana Warnock, Mr Fred Tubby and Dr Liz Constable. The cost of the function will be met by the Premier and the Deputy Premier at no expense to the Western Australian taxpayer. The cost of the function will be determined in the same manner as costs are determined for functions at Parliament House. The member is welcome to make comments and suggestions to the Parliamentary Services Committee about the operation of facilities at Parliament House, if he so wishes.

MILK DISTRIBUTION SECTOR, DEREGULATION

719. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:

The Minister for Primary Industry has been reported as alleging that the scheme to deregulate the milk distribution sector was introduced by the Labor Party and I ask -

(1) Does the Minister for Transport also hold that view in light of the fact that the former Labor Government settled the issue of competition in the milk distribution sector on 1 July 1992 when it introduced a regulated system based on 90 licence districts?

(2) If the Minister for Transport holds the same view as was reported to be that of the Minister for Primary Industry, has he considered that in the debate on the Dairy Industry Amendment Bill 1994 his predecessor said -

> . . . we inherited a situation where the only thing regulated in this industry was the vendors;

(3) Will the minister now correct his colleague's reported statement for the sake of accuracy of the record?

Points of Order

Hon BARRY HOUSE: This question appears to be referring to information that is currently available to a committee of which Hon Kim Chance is the chairman. In that respect, it is out of order.

The PRESIDENT: If that is the case and the question is taken directly from the knowledge gained from one of our committees that has not yet reported to the House, clearly it is out of order. Obviously, not being a member of the committee, I do not have that information to hand. However, in my view the question is also out of order because at one point it asked whether the Minister for Transport shared a view in an area that has nothing to do with his portfolio. I will have to read the question to better understand just who it is being addressed to and in what capacity. When I have read it, I will be able to advise the House whether it is in order.

Hon N.F. MOORE: I ask that the business of the House be resumed.

Hon KIM CHANCE: I can assure the House that the question is neither based on nor draws any inference from any matter before any committee of this Parliament.

The PRESIDENT: I thank Hon Kim Chance for advising the House in those terms. Notwithstanding that, I intend to read the question in respect of other issues.

Hon TOM STEPHENS: Just while you are at it, Mr President -

The PRESIDENT: "Just while you are at it" is not the way. Is the Leader of the Opposition raising a point of order?

Hon TOM STEPHENS: A point of order, Mr President. The point of order raised by Hon Barry House is the first time that we have had matters drawn to our attention that were, apparently, before a committee of this House. The point of order seems to me to be the first potential breach of privilege.

Several members interjected.

The PRESIDENT: Order! There is no point of order, and I will not even explain why. The Leader of the House has asked that we return to the business of the House.
