WESTERN AUSTRALIA

Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE COUNCIL

Thursday, 17 June 1999

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 11.00 am, and read prayers.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Inquiry Into Government Proposals for Westrail Freight Operations and Associated Infrastructure - Motion

Resumed from 16 June on the following motion -

> That the House direct the Standing Committee on Public Administration to inquire into government proposals for the sale or lease of Westrail freight operations, track network, rolling stock and associated infrastructure.

HON LJILJANNA RAVLICH (East Metropolitan) [11.05 am]: I welcome the opportunity to continue my remarks. The committee has much to do. Yesterday I indicated that I would be concerned if we were considering a long-term contract or lease. The benefit to the community will depend on the way the contract or the lease is structured. I understand that Westrail's freight business will be offered as a trade sale and that bidders will be invited to make an offer on the basis of a 20-year lease with options for a further 15 years followed by 14 years of the railway track and underlying land corridor, and outright purchase of the freight business including contracts, rolling stock and other assets essential to the operations of the business.

Have there been any expressions of interest? The Minister for Transport is shaking his head. I am also interested in a response from the minister about the expected value of the sale. I notice that that information has not been provided to the House, and the minister is shaking his head. However, I am confident that he will provide that information in his response.

I understand that a number of conditions will be attached to both the sale of the business and the lease of the railway network. As the minister will be aware, a considerable range of conditions will apply, among which is the maintenance of the track. The terms of the lease will require the lessee to maintain the track and associated facilities to a standard that is fit for purpose, in addition to other requirements for maintaining track standards arising from rail access and rail safety legislation. It is intended that compliance will be monitored and enforced through five-yearly reviews and specific requirements in the final years of the lease. I am concerned about that because, given the importance of the maintenance of track conditions to not only the successful bidder but anyone else who wants to use the track, a five-yearly review will be insufficient. A review should be undertaken on a much more regular basis to ensure that the standards are maintained. Clearly, this is an area in which the committee could do some work in its examination of the proposed conditions. The committee's role in that regard would be important. In the event that the legislation meets with success in this place, those areas will have had close scrutiny and been addressed in the best interests of the Western Australian public, particularly people who use the services of Westrail.

The other area that requires investigation is the third-party access to the rail track. The new operator will be required to comply with the state rail access regime, which provides a guaranteed right for other operators to negotiate track access under fair terms and conditions. This right is backed by an independent arbitration process, and the rail access regulator will monitor and enforce the rail track operator's adherence to the access legislation, including through the application of penalties for breaches of the Act or access code. I expressed concern about this because one of the reasons the Government is proposing to move down this line is to provide greater competition. Obviously the Government is not confident that it will achieve greater competition and is legislating almost to ensure that greater competition or third-party access to the rail track will be guaranteed.

Hon M.J. Criddle: We have already put the access Bill through this Parliament.

Hon LJILJANNA RAVLICH: I am aware of that.

Hon M.J. Criddle: What is your argument?

Hon LJILJANNA RAVLICH: If the competition were to work effectively, there would not have been any requirement to do that. My argument is that natural competition could not be relied on, and that is why the Government intervened when it introduced that legislation to the Parliament.

Another area which concerns me as opposition spokesperson for public sector management is the treatment of Westrail staff. Clearly the Government's message in the proposed privatisation of Westrail freight is no different from the message that has been provided in the partial privatisation of Western Power and MetroBus. The list of privatisations is extensive. A common thread running through all those privatisations is that the Government is saying, "There will be no job losses. We will look after the employees. We will effect a positive transition. At the very least, people will be transferred from the public sector to the private operator." Another common thread that flows through this is the fact that it does not happen. We have seen the shedding of jobs in all those cases; that is the reality. This Government has said that privatisation will be of no consequence to the workers because they will not lose their jobs. The bottom line is that in every privatisation which this Government has initiated and rammed down the throats of Western Australian taxpayers, there have been massive job losses.

Hon Ray Halligan: What is the current unemployment rate?

Hon LJILJANNA RAVLICH: The member should not give me that furphy because, at the end of the day, the Government

introduced the youth training allowance to force kids who should not be in the education system back into schools so it could rig the unemployment statistics. Members of the Government should learn something before they open their mouths.

Hon Derrick Tomlinson: Do not distort the truth.

Hon LJILJANNA RAVLICH: What a joke! A person need be employed for only about four hours to be registered as employed. Members know those figures are rubbery; every man and his dog knows it. This Government consistently claims that there will be no job losses. This case will be no different; there will be major job losses.

Hon M.J. Criddle: We are trying to do the right thing.

Hon LJILJANNA RAVLICH: It is something which the committee should look at carefully. The minister is shaking his head. If he is intimating that there have been no job losses as a result of the privatisation -

Hon M.J. Criddle: One thing you will never do is put words into my mouth.

Hon LJILJANNA RAVLICH: The minister is shaking his head, but he knows there will be job losses. He tells all and sundry that there will no job losses!

Hon M.J. Criddle: You must have a miserable life.

Hon LJILJANNA RAVLICH: It is the back flick sort of policy in which this Government gets involved. I am opposed to the privatisation of Westrail freight.

The PRESIDENT: Order! I understand that that is the member's position because she has said it on a number of occasions. The bottom line is that she should be telling the Chamber why this matter should or should not go to the committee. Everything the member said yesterday was directed at that. Today she wants to move into general debate, in which I expect the committee to engage should this reference be successful.

Hon LJILJANNA RAVLICH: Thank you, Mr President. I do not know where I would be without you. You always have a way of bringing me back to the motion and I appreciate it. I was about to say that the committee would have a lot of work to do in looking at the full range of important issues. I am opposed to privatisation. This is a core government service and, as such, it should be protected and kept in public ownership. Some time ago I moved a motion, the debate on which seemed to go on for about a year and a half. I felt as though I had spent the first year in this place supporting and speaking to the extensive motion of privatisation and contracting out. That was a referral for the Standing Committee on Public Administration to look at this area. It was a good motion, the subject of which deserved thorough investigation.

When the Standing Committee on Public Administration looks at this specific issue of the Government's proposal to sell or lease Westrail freight operations, track network, rolling stock and the associated infrastructure, I would appreciate its using the terms of reference of that motion as a ruler to run over how the Government's proposal on the proposed sale of Westrail freight operations lines up. Members might remember some of the terms of reference, and I will put them on record. When looking at the Westrail freight proposal, the committee should consider the economic and social impact of transferring state-owned enterprises such as Westrail freight to the private sector. The committee should look at the cost and quality outcomes of privatisation to establish the level of savings or additional costs that might result from the provision of this service by private contractors instead of government. The committee should also thoroughly investigate the extent to which the risk is transferred from the public sector to the private sector, and which government companies or businesses are giving the Government guarantees before agreeing to invest in large-scale public sector projects. What sort of arrangements does the Government propose to put in place? The committee should also investigate the extent to which policies have been introduced to guarantee the Western Australian public against financial default by private companies, and the extent to which contracting out of this service will lead to greater competition. The minister said that there would be greater competition between not only road and rail, but also rail and rail.

Hon M.J. Criddle: I said there is competition between road and rail. We are introducing it between rail and rail.

Hon LJILJANNA RAVLICH: We will see whether this stacks up. If the committee thoroughly investigates that term of reference, we may get some more answers. The committee should look at the extent to which the appropriate checking mechanisms will be in place for the regular monitoring of the performance of the contract. I have said that five-year reviews are too long, but members of that committee will make their own judgments on whether that time is too long and the reviews should be held within a shorter period. What happens if the contractor does not meet the contract requirements? What procedures will be put into place to deal with breaches of contracts? That is not the extensive list, because the terms of reference were comprehensive in regard to the privatisation and contracting out inquiry. I ask that the committee use that as a ruler and put it over the proposed sale or lease of the Westrail freight operations.

I would like an answer from the minister as to what options were considered. He said there were three options. I would like him to table that information. If any risk assessment or risk management plan has been produced for the contract development phase, I would appreciate -

Hon M.J. Criddle: That is for the committee to bring out.

Hon LJILJANNA RAVLICH: No. The Government has a very comprehensive policy in this area. I have asked many questions of the minister's department about contracting-out activities. One of the consistent factors is that no risk analysis has been conducted on multi million dollar contracts. I am very worried because if a risk assessment is not done and if risk management is nonexistent, we can expect operations to fall over. I am surprised that that has not happened more frequently. However, that is a separate issue. If the minister does not believe me, he should look at the Notice Paper. I am sure that

will convince him that his agency, together with many other government agencies, is in great difficulty with regard to lack of attention to risk management analysis and evaluation.

The minister has undertaken to advise me how much income is proposed to be generated from this sale. I am happy with that. However, as members might guess, I do not support privatisation. I do not believe that the Western Australian public has been given access to all the information about all the privatisations that have occurred. It is high time that some of these privatised agencies or proposed privatisations came under much greater scrutiny. I cannot think of a better committee to do that than the Standing Committee on Public Administration, and I cannot think of a better chairperson than my very able colleague, Hon Kim Chance.

HON J.A. SCOTT (South Metropolitan) [11.22 am]: I support this motion.

Hon M.J. Criddle: So do I.

Hon J.A. SCOTT: We are dealing with a very significant decision and a very valuable community asset. This issue needs to be carefully scrutinised by this Parliament. Significant data will be required to allow members to make the right decisions.

Hon M.J. Criddle: We have never had any intention of withholding information. We have toured with the information.

Hon J.A. SCOTT: I agree that that has happened. Extensive information is coming forward at the moment, principally from one side of the argument. Some of that information is very impressive and it has been very valuable in helping me to come to a decision. However, I find an imbalance in that information. The duty of the committee system is to ensure that all stakeholders put their points of view and to present a balanced perspective to this House to enable us to make our decisions.

I hope the committee will examine whether we will get proper value for our asset. This process could be managed in various ways. I understand the latest proposal is that we will lease the track. That system would not return a huge amount of money to the State. We must ensure that we get value for that asset.

Hon M.J. Criddle: There might be continuing savings.

Hon J.A. SCOTT: Yes. I also hope the committee will investigate what will happen to the staff. I have been assured staff reductions are unlikely; in fact, it is hoped to maintain the current level of staffing.

This process must produce real advantages that cannot be produced by Westrail. There must also be real competition. Removing one operator and replacing it with another will achieve nothing. I hope the committee will ensure that we get advice on that issue. We should also maintain services to the regions and ensure that no-one misses out because the provision of such services is not in the interests of the rail operator.

Another important issue is strategic control by the State. I want to ensure that the State maintains strategic control of the system. If it leaves it to market forces, the real value of the rail system to Western Australia - that is, its role in the optimum development of the regions - will not be realised. Throwing it open to market forces without some state control of expansion would be a terrible mistake.

I am not an expert in this field, but there are requirements for Australian ownership of these systems. I hope that, whatever the final scenario, it is majority-owned by Australian shareholders.

Hon M.J. Criddle: We may get a consortium.

Hon J.A. SCOTT: I thought that would be the case.

Hon M.J. Criddle: One never knows.

Hon J.A. SCOTT: I do not know how that will be safeguarded. One of my prime concerns about privatisation is that many valuable community assets that are making a profit might be sold off and those profits might then be siphoned out of the country to the point at which we are unable to service our foreign debt.

Hon M.J. Criddle: It is an interesting argument because many mines are owned by overseas companies and they generate the wealth of the nation.

Hon J.A. SCOTT: We also have a very large debt. That is not a fallacious argument despite the expansion of those mines.

Hon M.J. Criddle: I said it was interesting.

Hon J.A. SCOTT: It is important that we have balance in our capacity to maintain moneys in this country to pay for our borrowings. We need to be very careful about what we do.

I also hope the committee will consider what will happen with our northern systems, which are privately owned. I understand that some of these operators are talking to some of the mining companies that are operating rail lines in the north about possibly taking over those lines. I do not know whether this committee would be able to investigate that in any depth. However, as part of the strategic control of rail infrastructure in this State it is important to examine that, because at the moment we have battles between companies over whether they should have access to each other's rail lines and so on. That is an inefficient way to operate, and it would be better to have a system in place which ensured that in the future there would be a more strategic approach which would have benefits for the State rather than individual companies.

Hon M.J. Criddle: They are privately owned lines.

Hon J.A. SCOTT: I realise they are privately owned lines.

Hon M.J. Criddle: Some companies are looking at divesting those to a rail operator because it is not their core business, and that is probably part of this argument.

Hon J.A. SCOTT: That is right. However, at the same time we have a wasteful system in place by having rail lines running alongside each other when less capital could be expended to move the same amount of ore, which would make this country more competitive. It is pretty stupid to have a system which has competing lines, large parts of which are routed into the same places. I hope the committee will be able to examine that matter. As I said, this is a critical issue to Western Australia. We are dealing with an asset that belongs to the people, and we have a great responsibility to ensure that we protect the community's interest in this matter. I wholeheartedly support this motion.

HON KIM CHANCE (Agricultural) [11.32 am]: I thought it important that I make some contribution to this debate from the point of view of the Standing Committee on Public Administration. Although I do not purport to represent it, I want to provide some insight into what one member of the committee feels about this issue. However, obviously I am speaking principally from my position as a member of the Opposition. As a consequence of that, I support the motion, but I support it with some mixed feelings. On the one hand, I am keen for the House to use all of its available resources to gain a better understanding of this serious issue which the minister has brought to the House and on which the House will make a decision. I am sure that the minister feels exactly the same way; he will want the House to know all that it possibly can about the dynamics of the commercial choices that it must make on the question that he is putting to it. On behalf of the Standing Committee on Public Administration, I express my gratitude to Hon Ljiljanna Ravlich for her extremely generous comments regarding the committee.

Hon M.J. Criddle: She may well draw conclusions later on.

Hon KIM CHANCE: In fact, I am almost embarrassed by them, but not quite. On the other hand, as the chairman of the committee, but more particularly as one of the members of that committee, I feel somewhat challenged by the proposed reference. I feel challenged because of the scale and the importance of the reference. I also feel challenged because I acknowledge the need for a fast response. The minister will probably address that issue of timing in his response today. Ultimately, I feel challenged because of the committee's severely limited resources. If the motion is carried, the first task for the committee will be to determine which part of the issue it will prioritise for its inquiry. I say that because it is my view that even a well-resourced committee could not hope to cover the whole reference comprehensively in the time scale that I think the minister will soon indicate is the Government's requirement. I will make no further comment on that. The minister has a view and the House should be aware of it.

If that comment applies to a well-resourced committee, it applies even more to the Public Administration Committee. To make sure that everyone understands what I am saying, I acknowledge that the Government has progressively improved the allocation that is made to the Legislative Council's standing committees. I hope that what I have to say is not misunderstood, because I appreciate the lengths to which the Government has gone to make our committee system work. That comment is not strictly limited to resources, because the Government has done other things to make our committee system work better. However, having said that, the expectations of the committee system, both by the Parliament and the public, have increased substantially, and they now vastly exceed our committee system's capacity to meet them.

In order to meet its demand, the Public Administration Committee needs probably between two and three advisory-research officers.

Hon N.F. Moore: Why do you think you might need them now if you did not need them five years ago?

Hon KIM CHANCE: I have just explained that; it is because the expectations of both the Parliament and -

Hon N.F. Moore: That is absolute rubbish.

Hon KIM CHANCE: No. The Leader of the House asked me a valid question and, in fairness, I should give an answer. The reason that need is greater now than it was is simply the fact that the Parliament has greater expectations of its committee system, and in part that is because the upper House of the Parliament is not now in the hands of the Government.

Hon N.F. Moore: Do you not think that was the case before the election before last as well? Hon Joe Berinson starved the committee system of money; he gave it nothing.

Hon KIM CHANCE: I am sorry the Leader of the House has taken this view because -

Hon N.F. Moore: I have been around long enough to know how it works.

The PRESIDENT: Order, Leader of the House! Hon Kim Chance was making his comments without interjection. I ask that that continue.

Hon KIM CHANCE: Having acknowledged that the current Government has increased its allocation of resources and has done other things to make the committee system work better, I thought I might have been immune from that kind criticism. However, the fact is that the Parliament is making greater demands of its committees, and perhaps that is a reflection of the quality of the work that the committees have been doing.

Hon N.F. Moore: They have always done good work and you know it. They were prevented from doing it by Hon Joe Berinson.

The PRESIDENT: Order! Let us get on with the debate. Hon Kim Chance is entitled to be heard.

Hon KIM CHANCE: Apart from the higher expectations that the Parliament has of its committee system, the public has a greater expectation of its committee system. The reason for that change is not for me to determine, and every member may have a different view of that. Perhaps the public is now more aware of the work of the committee system. Much of that comes down to a greater interest in the Legislative Council by the public. Perhaps the public now sees the Legislative Council as having more relevance; I do not know. I like to think that is the answer. However, whatever the reasons are - these are not necessarily in our control - the resources which are available to our committee system are exceeded by the demands upon that system.

The Standing Committee on Public Administration has outstanding references which have initiation dates going back several years. It is attempting to finalise two major inquiries that have been substantially complete for months. The committee has not been able to table the reports into those two issues because they have not been finalised as a result of lack of resources. In one instance, only a topping and a tailing job is required.

Hon Simon O'Brien: Are you able to say what those outstanding issues are?

Hon KIM CHANCE: One is the industrial relations third wave report and the other is an interim report on privatisation, with particular reference to the outcomes of privatisation in the United Kingdom since the beginning of the privatisation process of the Thatcher Government. That latter report has particular reference to this motion.

I acknowledge the work done by the Standing Committee on Public Administration and in particular its subcommittee, which comprises Hon Barbara Scott as chairperson - she acted as its Chair in the United Kingdom - and Hon Barry House and Hon Cheryl Davenport. I have had limited input because the subcommittee is yet to report to the full committee. As yet it is not my business, but I have viewed some of the work it has done. Without having seen the final report, I can indicate that the outcome of that report will provide a valuable guide to the Western Australian Parliament, whether people sit on the side of the House that might be amenable to privatisation or are those who might prefer that privatisation did not take place. There are processes to be learned from what happened in the United Kingdom over that decade and a half. Public administration generally can learn from that, and one's personal position does not influence the value one might get from that report. Perhaps I should not pre-empt the report, but that is my early feeling about it.

I am reminded by Hon Nick Griffiths that the visit to the United Kingdom, which was the genesis of much, if not all, of the report, occurred two years ago. It has taken us that long to put it all together. It has involved two advisory/research officers, and in order to complete the report the committee must borrow an ARO from another committee. Those are the pressures under which the committee is operating. I understand that standing committee chairpersons will meet next week, although it has been difficult to arrange this meeting, to try to rationalise some of the work and discuss future directions in this matter. I am sorry the Leader of the House adopted the attitude that he did. We have huge expectations of our committee system and I hope we are able to work cooperatively and bilaterally to address these issues.

The comments made by Hon Ljiljanna Ravlich, leaving aside those by which I am mildly embarrassed, are true. If we want an example of what can happen to very important legislation such as this, we need only cast our minds back to the way the House dealt with the School Education Bill. The circumstances of the referral of that Bill to the Standing Committee on Public Administration were similar. It was big and complex legislation, and it involved a fundamental principle that the Government might claim it was elected to deliver, which was opposed by members on this side of the House. It also involved a very short time frame. The manner in which the Standing Committee on Public Administration handled that reference was to hire a new temporary ARO to do the job and try to meet a very difficult time frame. Even in that matter, the committee had to identify priorities, which is exactly the issue I have identified in respect of a sale of Westrail. The committee could have done a much better job than it did with the report, but it is significant that when the Bill came to this House, problems arose not so much with the issues handled by the committee but with those that had not been handled by it. Although the report was imperfect in many ways, nonetheless, it had done its job. Not only did it save hours of fruitless argument in this place by people who did not have the opportunity to understand every aspect raised in the Bill, but also it probably saved the Bill itself. Although it was still imperfect legislation when it went from this place to the Assembly, at least it was savable. I might be getting close to transgressing standing orders when I say that the evidence will be the manner in which this House handles the legislation when it is returned to this place.

This is a similar issue. We are dealing with a situation in which there is an ideological difference of opinion between the Government and the Opposition on privatisation. It involves complex commercial issues and there is a short time scale which will be reflected in the manner in which the committee must deal with the matter. It is complicated, of course, by the shortage of resources. If the committee is able to do its work in the way proposed, the issue will be handled in this place better than it otherwise would have been. That is why I said at the beginning that this is a matter of the whole House harnessing every resource available in order to make sense of the diverse opinions that exist. I am not pre-empting how the Standing Committee on Public Administration might choose to prioritise the issue, but important matters need to be understood.

One issue that is important to me at least, setting aside the matter of guarantees of service, is how we determine the price at which we are prepared to allow a bidder to take over Westrail. I refer the House to what happened in South Australia with the sale of its Water Corporation, which was sold for approximately $2.5b. I imagine that South Australia's Water Corporation was not much different from that in Western Australia. Both States have similar rainfall characteristics and similar populations, and the capital cities are about the same size. I understand that the capital value of the Water Corporation's assets is between $9b and $12b. It is a substantial sum. When I was a member of the board of the then Water Authority, the estimated value of the assets was $8.5b, and that was some years ago. If the assets of the South Australian board were even remotely the same as those of the Western Australian Water Corporation, and logic dictates that would be

the case, why were those assets sold for $2.5b, a figure which is at least one-third, if not one-quarter, of their value? We can apply that logic to Westrail. What is the value of Westrail? That is a difficult figure to define.

Hon M.J. Criddle: The market value at the time, and everyone knows that. It is the same as selling one's house.

Hon KIM CHANCE: It may be the same for the Water Corporation. When we look at the newly privatised rail corporations, we are presented with a picture of apparent and significant increases in efficiency, productivity and profitability. Australian National has been quoted as an example, as have Tasrail Pty Ltd and New Zealand Rail. We know at what prices those corporations were sold. I am quoting these figures off the top of my head, but I think I said something about this matter during the second reading debate. Tasrail was sold for about $US12m or $A20m. South Australian Railways bought the Australian National component in South Australia for a low figure, which I will not try to repeat here. It is clear that the asset value of those rail corporations was vastly more than the price for which they were sold. The cost of building one kilometre on the flat of 24-tonne per axle standard gauge rail is in the order of $400 000. Anyone who presents the idea that the Tasrail system was broken down is not telling the truth, because the main spine of the Tasrail system - the coal line - was very high quality.

Hon M.J. Criddle: I think it was the extension of that line that people talked about, which needed upgrading.

Hon KIM CHANCE: When we see these apparent projections of improved efficiency, productivity and profitability, we need to ask whether what we are seeing is the outcome of the corporation's freedom from debt.

Hon M.J. Criddle: That is not all I want to see. I want to see the industry grow.

Hon KIM CHANCE: Let us put it on a scale that we can all understand, because a transport business is a transport business; it does not matter what it does and how it does it. A taxi business is a transport business. If I wanted to set up a taxi business, I would pay at least $140 000 for a taxi plate, and about $20 000 for a second-hand car. I would start off my life in that business with a debt of about $160 000. However, if I could get into that taxi business by paying only $10 000, I would have access to an additional $150 000 of capital to do innovative and experimental things, some of which might work and some of which might not, and at the end of the day my business would look more progressive, profitable and expansionary than if I had gone into that taxi business with a debt of $160 000.

Does not the same situation apply to Tasrail? Is that not what has been projected to us as an efficiency arising from the privatisation of Tasrail? Does that efficiency have to do with privatisation, or with a debt restructuring of the corporation? I submit that on many occasions it is the latter. That is not to say that private corporations cannot introduce new ideas and better practices, because of course they can, but the debt restructuring may be the reason for the apparent improvement in the corporation's efficiency and productivity. The Public Administration Committee will be interested in talking to the minister's people about that matter, because I would like to see that demonstrated. I am not saying for one moment that we have prejudged this issue and think it will not work or result in any benefits. However, I would like to be shown whether taxpayers are getting a return in the form of service guarantee delivery and of the capital value of what is not our asset but is the asset of the people of Western Australia. I will not say any more than that, because I will then start to get into areas where I may easily be prejudging what the committee will do.

Hon M.J. Criddle: I am pleased to hear you say that you will make a judgment after you have found out all the information.

Hon KIM CHANCE: Some time ago, I put a question to the minister informally across the Chamber, and the minister said to me, "Tell us what you want to know about the financial structure of the proposal." I assure the minister that we will be very clear about what we want to know. If we believe that we have been given access to sufficient figures - and I understand that some figures the minister will not be able to make public -

Hon M.J. Criddle: Some of the scoping figures we cannot make public.

Hon KIM CHANCE: If we are given access to what we believe are sufficient figures, the committee will be able to come back with not necessarily information that can answer all of the questions that the House may want to ask, but sufficient information to enable the House to feel more comfortable about what it needs to know in order to make the decision; and to that extent, without making any promises on behalf of the committee, I believe that will make it easier for the House to make the decision that it needs to make.

HON W.N. STRETCH (South West) [11.57 am]: I want to put this railway restructuring, which is what I prefer to call it, rather than privatisation, into some sort of context. We are seeking to provide a viable service and to preserve an asset in the long term for Western Australia. It is good that the committee will look briefly at this issue, and I ask the committee when it is deliberating to look at the historical context of this matter and to consider that the size of our State, the concentration of our freight service requirements and the length of our track presents a huge challenge for any transport task force to undertake. If the committee system is to be sensible, the members of the committee should drop their ideology and political views and look at doing what they are charged with doing every day in the prayers of this House; namely, to provide better government and management on behalf of the people of Western Australia.

The management of the transport task force in Western Australia has always been a massive task. That will not change. I do not care how many staff we throw at the problem or how much money we throw at the committee study, wherever we go in the world, and whatever study we do, we will not get to grips with the real challenge until we balance the essential elements of the task; namely, identify where the produce or product is, where it needs to go, the distance that it needs to go, and the means of getting that produce or product to its destination, whether that be road, rail, air, motorbike, camel, or anything else.

My problem is being so old. I put my first load of wool on the road in 1954 under Bert Hawke's Government - a Labor Government which was not a bad one. That Government was quite low-key and mainly went about the business of keeping out of people's way so the real people in the community could get on with doing their jobs; I will not comment on how far we have strayed from that. At that time the Government was faced with closing railway lines and getting rid of staff.

Debate adjourned, pursuant to standing orders.

SELECT COMMITTEE OF PRIVILEGE

Report on a Failure to Produce Documents Under Summons

Resumed from 27 May on the following motion -

That the report be noted.

HON LJILJANNA RAVLICH (East Metropolitan) [12 noon]: I support the motion that the report be noted. I cast my mind back to where we finished the other week, the Leader of the House had taken a point of order as I had said that the crux of this matter is the question of public servants needing to protect their ministers and in this case exercising a judgment about commercial confidentiality. I remind the House that we are dealing with two documents called for by the Standing Committee on Estimates and Financial Operations. It is possible Dr Murphy interpreted these documents as commercially confidential and decided that they should not be handed over for that reason. The documents sought by the committee related to gas tariffs and the calculation of costs. It is possible they could have been commercially sensitive. Dr Murphy knew he was dealing with documents which might have been commercially confidential and obviously he thought that was more the case than the committee because Hon Mark Nevill said in this debate that he did not understand why those documents had not been handed over as a matter of course. To his way of thinking, there was no commercially sensitive or confidential information in them. This goes to the heart of the issue. How can public servants be expected to interpret what is and what is not commercially confidential? The Government's broadest interpretation is that anything which has a dollar sign attached to it falls within this definition of commercial confidentiality.

Hon Derrick Tomlinson: The Act itself specifies that which will be kept confidential and that is at the discretion of the joint venturers.

Hon LJILJANNA RAVLICH: Therefore, if the joint venturers say they do not want any details released, the full range of documents cannot be brought out into the public arena.

Hon Derrick Tomlinson: Unfortunately that is what the Act enables. Whether or not that is legitimate, it is what the Act enables.

Hon LJILJANNA RAVLICH: I argue that there is a pressing need to change the Act and include a tighter definition of what is and what is not commercially confidential so that people such as Dr Murphy do not need to exercise judgment in those matters. I am disappointed with the committee's report because the committee said on page 6 that it had resisted the temptation to discuss issues relating to the provision of documents which were peripheral to the order of reference; for example, refusal to produce on the grounds of public interest immunity or commercial-in-confidence. The committee should have looked at that matter because it is critical to this case. The Commission on Government recommendations said that claims of commercial-in-confidence to prevent scrutiny of public funds should not be able to be made automatically and that sensitive information and contracts should be made publicly available leaving specific claims of commercial confidentiality to be validated on a case-by-case basis.

This is a sad situation which could possibly have been avoided with greater communication between the key players, particularly more effective communication between Dr Murphy and the minister, and between Dr Murphy and the committee in response to the action he proposed to take.

Hon Simon O'Brien: Which committee?

Hon LJILJANNA RAVLICH: The Standing Committee on Estimates and Financial Operations. I reiterate my point that public servants are not business experts but are often required to make commercial judgments, sometimes because it is the right thing to do but at other times senior public servants make judgments aimed at protecting their ministers. There are no two ways about that. I have been a public servant and I know the conflicting demands and pressures placed on state public servants by Governments and ministers. In exercising judgment public servants often rightly expect that if they protect the minister and the Government, the Government and minister might come to their aid. Clearly that was not the case when the responsible minister instructed that those documents were not to be handed over. Even though Dr Murphy was the accountable officer, was in possession of the documents and by the nature of his qualifications should have known his legal obligations and handed over the documents, he thought he would have the minister's protection in some way. The minister intervened and said he did not think Dr Murphy should forward those documents to the committee. I do not know and I am not prepared to speculate about whether there was a communication problem at that time but I think it is reasonable to conclude that Dr Murphy might have believed the minister would respond to the committee and advise it that those documents would not be forthcoming. It is reasonable to assume that. However, as it currently stands the law does not entitle a public servant to transfer that responsibility to his minister or anyone else.

Hon Derrick Tomlinson: It does.

Hon LJILJANNA RAVLICH: Does it? Well, it did not happen. I thought if the committee specifically sought those documents from Dr Murphy, the onus would have been on Dr Murphy to respond directly to the committee.

Hon Derrick Tomlinson: In fairness, Dr Murphy had competing legal obligations and it was those legal obligations which made me reconsider.

Hon LJILJANNA RAVLICH: I do not agree with the member on that point. The case clearly demonstrates a need for public servants to know about their obligations to the Parliament. They should understand the guidelines on giving evidence to parliamentary committees. I would have expected Dr Murphy, given his senior position, to have sought information about those guidelines. I understand that Dr Murphy sought a legal opinion. However, I am concerned, not only for Dr Murphy, but for the many thousands of state public servants whom I am sure would have no idea about their legal obligations. I am surprised that this Government has not taken the opportunity to review those guidelines, particularly in light of the fact that a major public sector change has taken place under this Government. We no longer have a centrally controlled system of public administration in the State. We now have a much more devolved model of responsibility and with that devolution, government agencies have much more responsibility to act independently and make major decisions about the way that those government agencies are administered. Some government agencies - about 100 of them - have devolved purchasing authority. That in itself is significant. These agencies can enter into major contracts worth millions of dollars. I make this point: One could rightly expect that given these devolved responsibilities, some of these government agencies may think that they are not tightly wedded to the system, that they are to a large degree autonomous. It might be expected correctly that some of them would have a view that because they have this enormous power, they fall outside the obligations of meeting the reporting requirements to Parliament etc. Some CEOs and senior officers think they can act outside the law. That is most aptly demonstrated by the fact that 13 CEOs breached the Public Sector Management Act and did not even do a performance agreement for two years, and 19 have not done a performance appraisal.

Point of Order

Hon N.F. MOORE: I understand that we are debating the noting of a report which relates to a question of privilege. I do not think it is an opportunity for members to talk about the Public Service in general from A to Z. Mr President, I ask you to ensure that the member return to the issue at hand so that we can come to some resolution on this matter.

The PRESIDENT: Hon Ljiljanna Ravlich knows that I was becoming concerned because she could see the expression on my face. I was recognising that she may be stretching the bounds of relevance. The question I must ask myself is whether what is being said is reasonably incidental to or relevant to the matter under consideration. A passing reference to the responsibilities of public servants and whether the Government has a current statement of practice for public servants' responsibilities when dealing with committees of the Parliament, in my view, is relevant to the report that we are considering. However, the Leader of the House is correct. He rose at the correct time because Hon Ljiljanna Ravlich was extending her comments to the point that they were becoming irrelevant to this motion. Hon Ljiljanna Ravlich well knows the standing orders.

Hon DERRICK TOMLINSON: I seek some elaboration on that point of order. There were two reports; the first was a Select Committee of Privilege to determine whether a breach of privilege had occurred and to recommend a penalty if appropriate. My recollection is that before that report was debated in this place, a second committee was appointed to consider the circumstances of the breach and to consider whether the recommended penalty was appropriate. I understand that we are now considering the second of the two reports. If that is the case, to what extent may a member entertain the matters which caused the first committee to be appointed and the findings of the first committee?

The PRESIDENT: Hon Derrick Tomlinson is right in so much as the motion refers to the second report. However, the House will be aware that it did not debate the first report at any length. Instead, it constituted a second committee to consider the comments made and the conclusions reached in the first report. This morning, I have been conscious that we are dealing with tabled paper No 1075, which is the second report. However, in dealing with the second report, it is not unreasonable to raise issues that were considered in the first report. If we did not allow that course of action, the debate today would be confined to the circumstances under which there was a failure to produce the penalty that was recommended, and the 1987 guidelines. I have attempted to be as fair as I can and keep members within the standing orders. However, I understand there is a need for members to comment on the substance of the first report so that there is some cohesion in member's comments on the second report.

Debate Resumed

Hon LJILJANNA RAVLICH: The second report is clear in its recommendation, which is that the 1987 guidelines should be revised and issued with an appropriate degree of publicity within the public sector. I was making the point that given the devolution of responsibility, corporatisation in some agencies, devolution of responsibility and purchasing power, it is very difficult for public servants, particularly senior public servants, to work out their obligations within the public sector. Legislatively, the obligations remains the same because the Act has not changed, but the perception of public servants may be different. It is difficult to reach a conclusion on this issue without considering both of those reports because the second report had very narrowly defined terms of reference relating to the circumstances under which Dr Peter Murphy of the Department of Resources Development failed to produce documents upon summons by the Standing Committee on Estimates and Financial Operations, and to report on the appropriateness of the penalty recommended by a previous Select Committee of Privilege were Dr Murphy found to be in contempt for that failure.

Much of the comment I have made relates to the first items of the terms of reference, which are narrow because they do not look at the nature of the documents being sought by the committee and why they were deemed to be commercially confidential. Having read both reports, one must ask why the minister intervened and in doing so left a senior public servant in a difficult position. The minister was surely aware of the consequences of not responding to a summons served by a committee of the Legislative Council.

Hon Derrick Tomlinson: No summons was served on the minister.

Hon LJILJANNA RAVLICH: I am not sure whether the request was made in the form of a summons, but those documents were not produced on time and that led to a contempt of the Parliament.

Senior public servants should not for a moment think that they are outside the law. They must be clear about their legal obligations when they appear before a committee and are asked to produce documents or papers. This report and the work done by the Estimates and Financial Operations Committee will send a clear message to public servants, particularly senior public servants, that they must not only do the right things, but also do things right. Clearly there has been contempt. If public servants take the risk and breach the law, they must carry the consequences of that action.

Critical to all of this - I can only go on what has been recorded in the reports - is that in an event such as this there is a human side and there can be mis-communication where the right hand thinks the left hand will do something and for one reason or another it does not happen and a situation like this can evolve which is seen to be quite serious. Given that it has occurred, and in fairness to all concerned, it is clear that public servants must be made aware of their legal obligations. I am saddened that the guidelines which were written in 1987, which are old indeed, have not been rewritten by this Government, given the rate of change which has occurred in the state public sector since this Government took office. What should flow from this report is that it should be a priority of the Government to advise state public servants of their obligations so that no public servant can be caught again in this situation.

Question put and passed.

COMMITTEE REPORTS - CONSIDERATION

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Standing Committee on Constitutional Affairs - A Petition Requesting the Successful Establishment of a Tidal Power Project in Doctor's Creek at Derby - Thirty-third Report

Hon M.D. NIXON: I move -

That the report be noted.

The fact that at the time of the committee's deliberations expressions of interest had been called, and by the time the report had been brought down tenders had been called, limited the ability of the committee to make absolute recommendations in favour or against the project. Because of this factor the report is perhaps shorter than would have been the case had it been purely a matter of public discussion about the merits of a tidal power station. The report outlines what the proponents and the petitioners believe are the advantages of such a project. It would not have been proper for the committee to give this project its stamp of approval as the best method for providing power in this situation over any other project.

Hon GREG SMITH: The petition was forwarded by the people of Derby and it is notable that nearly every signature on the petition was that of a resident of Derby, and not from all over the State. It was a community-based petition. The 326 petitioners were mostly from the townspeople of Derby, who are right behind this proposal. As the chairman of the committee said, history got ahead of the petition to some extent as tenders were called for the provision of power to the towns of Derby, Broome, Fitzroy Crossing and a minesite.

This tidal power project is one of the greatest renewable energy projects that has been put forward in Australia in recent history. The ability to harvest power from the tides, unlike any other form of power, whether diesel or gas, can rely on the fact that the cost of the tides will not go up. Once the initial capital cost of establishing a tidal power plant has been expended there will be no other cost to the power source that will produce the electricity to these areas. Derby is located on a narrow section of high land that is surrounded by mud flats for miles. It has tides up to nine metres high coming in and going out each day. It is an enormous volume of water, which is probably equivalent to the height of the ceiling in this Chamber. It is a lot of water moving in and out each day. Lang Hancock recognised the potential to harvest power from the tides 20 years ago.

Hon Derrick Tomlinson: It was Sir Charles Court.

Hon GREG SMITH: The Government has not overlooked tidal power and people have always recognised the potential to harvest power from these tides. The most important factor for the proponents in building this project is to have customers. No-one will invest $150m or $250m in the construction of a tidal power plant if there are no customers for the power. It is essential for the success of the project that the proponents win the tender process to supply power to places like Derby and Broome. I am not sure what weighting is being given to a renewable energy project or to the fact that they will be able to supply energy for at least 100 years without the cost of the energy source to provide that power increasing. Derby has enormous tides. This project would do more than provide a source of environmentally friendly power as it would also create a permanent pool of water. That may sound like nothing special to most people who live on the coast. However, Derby has tidal variations of nine metres every day, and people cannot moor a small boat, go fishing or engage in other recreation when the tide is out. This tidal power project would place a dam across two forks of a tidal river and create a permanent high water area. This would add to the social benefits of living in Derby. People would be able to use the area to water ski, swim - provided not too many salt water crocodiles are around - or fish from a small boat.

If this tidal project is established, other projects would be attracted, such as prawn farms and barramundi hatcheries. These developments would go a long way towards improving the quality of life in Derby and creating employment opportunities.

The indigenous people of Derby are 100 per cent behind the project as they see the benefits of economic development and a permanent high water level area. Proponents have claimed that instead of Derby's constant muddy water as a result of the huge tidal movements, water in the permanent high water pool would clear as the mud would settle.

The proposal would place dams across two arms of Doctor's Creek. When the high side of the dams fill, the low sides would be almost permanently empty. A channel with turbines would run between the two. One would be full and one would be empty. It is an extremely simple method. This would probably be the first continuous power supply tidal project. Some tidal power projects operate when the tide comes in or goes out, but this proposal would provide power continuously whether the tide is high or low.

Hon J.A. Scott: Are the proponents Australian or from overseas?

Hon GREG SMITH: It is a conglomeration of Australian and overseas money. I do not care whose money it is: If someone is prepared to invest $200m in Derby, we should grab it with both hands. I find it strange that the environmental movement in Derby is the group most opposed to the project, as arguments are raised about mangroves, mud crabs, geoheritage mud and all types of matters. Also, this project would meet 50 per cent of our requirements for reductions in greenhouse gas emissions through renewable power.

Other facilities would be attached to the proposed tidal project; namely, a prawn farm or barramundi hatchery. Having a permanent high water and low water pool would enable people not requiring the volume of water the project provides, to pass water from the high pool to the low water pool through a prawn farm or barramundi hatchery.

Derby has suffered over the last decade. It was the regional capital of the Kimberley for many years. However, as Broome developed, departmental officers and companies relocated to Broome, and Derby has become smaller year by year. This project is an opportunity for the return of development to Derby. Also, the tidal project would become a tourism attraction in its own right. Broome has many unique activities and attractions, but tourists may look for something different to view after two or three days in Broome. Broome to Derby and back is a good day trip, and international visitors would travel to see the biggest tidal power plant in the world. The economic activity to be stimulated in town from the tourism industry would be tremendous. People taking a trip through the Kimberley leave Broome and turn off the road 40 kilometres from Derby to head to Halls Creek and Kununurra. Therefore, the town does not receive through traffic from the tourism industry.

I hope the tenderer will make every effort to establish this project, which would have great long-term benefits to Derby and Western Australia. Also, it would provide power with limited impact on the environment. We should not let this great opportunity pass us by.

Hon NORM KELLY: I thank the committee for its work. Understandably, members were constrained in their investigations on this petition as the Government is undertaking the tendering process. On 21 April the Minister for Energy announced the bidders which were in line to provide the towns' future power needs. Of the six consortia advanced, only one proposed power from a renewable source. The other five tenderers based their power supply on diesel or gas, or a combination of the two. The media release outlined that a short list of preferred bidders would be announced in May. However, we are still to hear who made that short list. I hope that the tidal energy consortium - namely, Tidal Energy Australia and Leighton Contractors Pty Limited - will be on the short list, particularly as a result of innovations made in recent weeks.

The petition put to the committee outlined a number of advantages from a tidal power supply to Derby. The committee report refers to a continuous, renewable, clean source of energy. However, the project would not deliver an entirely continuous source of energy. One has a period in neap tides when, as a result of a lack of variation in tides, power cannot be generated. It would be necessary to supplement that supply with a diesel power generator, but that would represent only a small percentage of the overall power output.

Increased employment opportunities would arise from the project, not only in construction but also in ongoing power generation. More importantly, commercial opportunities could be taken up as a result of such a power source and the provision of a lake in Derby.

Various commercial proposals have been put forward. The Environmental Protection Authority recently released bulletin No 918 on the Kimberley prawn company's proposal to put in a prawn farm at Doctor's Creek in Derby. That is only one way in which further money, development and employment can be brought into the town of Derby. The tidal power submission would allow for greater possibilities of prawn production in the area.

There is the potential for Western Australia to become a world leader in the technology of using renewable sources of energy. Already we have looked at, but I must say have not done much about, alternatives such as wind power and solar power. We have looked at those far less than we should be doing, considering the natural resources that this State has in those two areas. This proposal would become the first in the world. By combining with our university resources we could become a world centre for this technology and be exporting it. These far-ranging benefits that this single project could bring to the State should be fully evaluated while the tendering process is going on.

I do not have the document here, but during the tendering process part of the assessment of the tenderers is based not only on the normal economics of such proposals but also the wider social benefits that such a proposal could bring to this State. At point 41 of the committee report it states the criteria to be assessed, which include environmental impact, operational capabilities, risk technology and, importantly, the last point, community benefits. I would like to think that community benefits go far beyond the communities of Derby, Broome and Fitzroy Crossing. People should be looking at the community benefits for the entire State that this proposal could bring.

There are environmental concerns. Although I have not been to Derby for a number of years and I have not investigated

this proposal at such a close level, my first meeting with the proponents was over two years ago when they were putting it forward. I hope to get to Derby at some stage in the near future to look at some of the environmental concerns that have been put forward by some residents of Derby. Those concerns should not be belittled. There are concerns about the loss of mangrove areas and concerns about sulphur levels, which could become a problem due to the fact that we would be exposing a huge area of mudflats which would normally receive a flushing. Those areas would dry out to a far greater degree. However, when we consider any of these issues we need to look at any environmental damage or problems alongside the environmental benefits of such a proposal. It is necessarily an equation where one has to ask whether the environmental benefits far outweigh the environmental damage. We must weigh up those factors and then make a decision.

A very important agreement was made between the Federal Government and the Australian Democrats a couple of weeks ago relating to taxation policies. This is particularly relevant to the Derby tidal proposal. For this reason alone Tidal Energy Australia-Leighton Contractors' consortium should be in the short list of tenderers for final appraisal. The incentives included in this agreement make the Derby tidal power proposal very much more viable than it was. On page 11 of the agreement between the Prime Minister and the Australian Democrats' Leader, Meg Lees, it states -

> **An investment programme for renewable energy to offset the impact of GST on purchases of Green Power**
>
> The Commonwealth will fund a programme equivalent in size to the net effect of the GST on purchases of Green Power, to boost the commercialisation of renewable energy. . . .
>
> This programme will be administered by the Australian Greenhouse Office, building on the successful Renewable Energy Commercialisation Programme, effectively doubling its expenditure.
>
> **Grant scheme for remote (off-grid) electricity users to convert to renewable energy systems**
>
> The Government will retain the excise on diesel used for power generation and will use the funds to finance a Special Purpose Payments for the States. To be eligible for the programme States will have to commit to continue to cross subsidise remote power costs for domestic users and to use the funds to provide cash rebates of up to 50% of the capital value of renewable remote area power systems.
>
> Some $66m a year is collected from (publicly-owned) power utilities in excise on diesel for power generation, . . .

It must be remembered that Western Australia is the highest user in the country of diesel for power generation. It also states -

> Cash rebates up to 50% of the capital value of renewable remote area power systems (RAPs) will be offered, where it can be demonstrated that the RAPs system will replace existing diesel generation or for new systems. The programme will be administered through the States by the Australian Greenhouse Office.

This is a very positive initiative by the Australian Democrats and the Federal Government. It shows that the tax package was, in this small way alone as well as other ways, looking at a positive outcome for the environment, not only for the next few years but for generations and generations to come.

Hon J.A. SCOTT: I support the motion. I did not originally intend speaking on this but owing to the comments of Hon Greg Smith, I thought I needed to put the record straight. He pointed to huge opposition from environmentalists, the Greens (WA) and others. We have quite mixed feelings about this project rather than being intractably opposed to it. As Hon Greg Smith described the project, it sounds very exciting to me and other Greens, as a means for moving towards new technology. It could be the only one of its kind in the world. I have always been very keen to see new technology developed in Australia. The biggest and most environmentally safe export we can have is selling new technology. For those reasons and some of the reasons Hon Greg Smith has described, it sounds a very exciting project. However, it is not simply a question of saying that there is very little damage because it involves only a few mangroves. The prawn fisheries of the north of this State are dependent on the mangroves.

Hon Greg Smith: What percentage of mangroves are we talking about? In all seriousness, is it not a little bit?

Hon J.A. SCOTT: We are seeing little bits, little bits and little bits being taken by all sorts of projects around the State.

Hon Greg Smith: Not along the Kimberley.

Hon J.A. SCOTT: We must consider the environment. That area, and to the north, has considerable areas where the destruction of mangroves has occurred.

Hon Greg Smith: Whereabouts?

Hon J.A. SCOTT: Have a look around Burrup, where there has been considerable destruction of mangroves. It is a very rich area in terms of variety.

Hon Greg Smith: What do you call considerable?

Hon J.A. SCOTT: Two hundred metres of coastline is considerable to me; however, there has been much more destruction than that. Each port that has been constructed has destroyed not only mangroves there but also around the corner because of the changes to siltation and so on. I visited that area some time ago and looked at the mangroves extensively; there has been considerable damage. I am saying they are important; but it is not simply a matter of saying that because it may affect only a small amount, that is the only amount that will be destroyed. If we start changing the water flow, siltation and so on, there will be a major problem, not a small one. I am not saying that under no circumstances should we allow this project;

I am saying that we must take these issues seriously because it is not only that project that will be impacted by the change but also other fishing industries that are reliant on mangroves.

Furthermore, mangroves are important in maintaining and holding together the coastline. In the Gulf of Mexico, for instance, there were a great number of oil spills and many of the mangroves were killed off when their roots, which sit on top of the water, filled up with oil. There were vast and expensive problems in that area because of the erosion of the coastline as the mangroves died off. It is not therefore a simple proposal that will affect only a few mangroves; it is a more complex issue than that and must be properly considered. I hope that such a project can go ahead but it will be a problem if it costs more than it returns. I am not saying it will become a problem, I am just saying that it needs to be considered seriously.

Hon Greg Smith said that the price of tides will not increase. That is also not such a simple matter because from what I have been told about the project there could be problems with siltation that have not yet been properly worked out and there could be a large expense in dealing with that siltation. Although the green movement may be attacked for putting forward the proposition that this project may not be everything that it claims to be and may cause more damage, it does not necessarily say that such projects should not go ahead under any circumstances. It is saying that the matter must be properly considered and should not be entered into with simplistic, golly, gee whiz, new technology ideas because we often get ourselves in deep trouble when we take that approach. It has happened on many occasions in the past when we have been assured that projects will be wonderful economic boons and they have turned out to be economic and environmental losses. Green groups do want to see tidal power encouraged and projects like this implemented. We would like to see the types of industry and tourism and so on talked about by Hon Greg Smith. However, we must seriously evaluate all of those factors before jumping in just because everything sounds wonderful. I hope that we can do that and I support the motion.

Hon GREG SMITH: I will respond to the comments of Hon Jim Scott and also elaborate on the neap tide situation in this project. I have talked to the proponents of the project and to the people in Derby about the neap tides problem because the power supply will be reduced. Part of the proposal is by Pillara Gold Mine, which is owned by Western Metals Ltd and already has a fairly substantial power generation system. It can provide power and will take the necessary steps to have power available at each end of the grid that it proposes to build to fill that gap. However, we will probably learn as time goes by with renewable energy, when it comes into play, whether solar, tidal or wind, that all these natural powers are not consistent; therefore we must try to learn to live with them rather than work against them. The people at Western Metals Ltd, for example, have said that they will plan their maintenance shutdowns around the neap tides. For years the fishing industry has planned its trawling and the times it puts boats in and out of docks around tides. Western Metals Ltd will plan its shutdowns around the neap tides. A major ambition for Derby is to have a meatworks there one day for export boning beef, for example. Hopefully, if a cheap power generation system is installed, it will lead to the establishment of a successful meatworks and other industry that will establish itself on the back of this new power system which will be able to structure itself so that it winds down during neap tides.

The beauty of having a private body providing the power and negotiating deals with companies is that they are not locked into government controlled contracts where government determines the price of power for a certain length of time. A private contractor will be able to negotiate contracts to provide power at a certain price on the condition that only so much power is used at certain times, which will create a great deal of flexibility.

I will make some comments on the observations made by Hon Jim Scott and the attitude of the environmental movement to this project. This project has caused the environmental movement much pain because it will save 25 million tonnes of CO_2 being emitted into the atmosphere and the use of about 50 million litres of diesel per year as there will be no trucks taking diesel, pipes or gas up to a project. There are therefore are a great number of positives but the green movement is still identifying negatives.

I had the pleasure of going on a cruise among the mangroves with one of Australia's leading experts on mangroves. We had a look over the tidal power project area. Claims have been made that the mangroves in Doctor's Creek exist only in a few other spots. When we went there the expert looked around and said, "These are the most common mangroves that you will find anywhere. There are thousands of them. The whole coastline, for example, is covered in them." He said that mangroves are not a fragile species but are very aggressive and, if the waterline is shifted from one place to another, within a couple of years the mangroves will return to the waterline just as thick as before. In the Burrup area, for example, where loading facilities have been put in for the iron ore rigs, mangroves are growing underneath the ship loading facilities. It is not as though it is a species which, if it disappears, never re-establishes itself. What has frustrated the proponents of this project and also the prawn farmers is that they have to disprove every proposal put forward by the green movement. They discovered geoheritage mud in Doctor's Creek and the environmentalists said they believed it might be the oldest mud in the Kimberley and should be preserved so that people could study it.

Hon N.F. Moore: Perhaps that can be a growth industry.

Hon GREG SMITH: Yes. If people realised the cost to projects of disproving claims like these, they would realise the damage they are doing to the economy of Australia. It frustrates me when proponents want to build something like this and they are concerned with the environment just like everybody else. Another claim was made that Kingstown would silt up and water would no longer flow in and out. How ridiculous that is when one is talking about a minuscule amount of water in Doctor's Creek compared with the amount of water that comes and goes every day in those tides. However, the proponents then had to prove that it would not silt up Kingstown. If they are genuine concerns, they are very hard to believe because when the green movement claims there is geoheritage value in the mud, it is drawing a pretty long bow to try to frustrate the establishment of a project. Now that the proponent has successfully negotiated all those objections, hopefully the Environmental Protection Authority will say that it can be built. This issue has made it very awkward for the proponent

as it is waiting for EPA approval so that it can include it in the tendering process and each time that it thinks it has answered all the questions, another question is raised.

Debate adjourned, pursuant to standing orders.

Sitting suspended from 1.00 to 2.00 pm

HON MARGARET McALEER - CONDOLENCE MOTION

Letter of Thanks

THE PRESIDENT (Hon George Cash): I have received the following letter in response to a condolence motion passed in this House recently. It is from Tony McAleer at Three Springs and is addressed to me, as President of the Legislative Council, Parliament House, Perth, and states -

> Dear George,
>
> Many thanks for your letter and the copy of Hansard re the resolution carried in the Legislative Council.
>
> It was good of you to come to Three Springs for the commemorative service for Margaret.
>
> Yours sincerely,
>
> Tony McAleer

APPROPRIATION (CONSOLIDATED FUND) BILL (No 1) 1999

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) [2.02 pm]: I move -

> That the Bill be now read a second time.

The purpose of this Bill is to grant supply and to appropriate sums from the consolidated fund required for the recurrent services and purposes for the 1999-2000 financial year as detailed in the consolidated fund agency information in support of the Estimates.

Total expenditure is estimated to be $7 254.2m, of which $1 085.77m is permanently appropriated under special Acts, leaving an amount of $6 168.43m which is to be appropriated to the services and purposes identified in the schedule to this Bill. I commend the Bill to the House.

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

APPROPRIATION (CONSOLIDATED FUND) BILL (No 2) 1999

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) [2.04 pm]: I move -

> That the Bill be now read a second time.

The purpose of this Bill is to grant supply and appropriate sums for capital services for the 1999-2000 financial year as detailed in the consolidated fund agency information in support of the Estimates.

Capital expenditure and financing transactions are estimated to total $524.5m, of which $45.4m is permanently appropriated under special Acts, leaving an amount of $479.1m which is to be appropriated to the services and purposes identified in the schedule to this Bill. I commend the Bill to the House.

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

TRANSPORT CO-ORDINATION AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon M.J. Criddle (Minister for Transport), read a first time.

Second Reading

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [2.05 pm]: I move -

> That the Bill be now read a second time.

Members will be aware of the considerable benefits derived to Western Australians through the implementation of the

Government's transport reform program. As part of those reforms, the Transperth bus fleet was purchased by the Department of Transport in June 1996 with the operations of the bus services being progressively outsourced through competitive tendering.

Rather than establishing a new structure to manage the bus fleet, the Department of Transport examined the option for private sector management through competitive tendering. Industry advice to the department indicated that a significant reduction of capital debt costs could be achieved through the sale and lease-back of the Transperth bus fleet. The outsourcing program will result in the delivery of savings to the Government. In line with principles of good financial management, if the fleet were to be sold, the proceeds of the sale of the bus fleet would be used to repay existing debt on the fleet.

Any offer to purchase the bus fleet from Department of Transport would require the purchaser to provide finance for the purchase of the existing bus fleet comprising 870 vehicles; funding for the provision of 133 new buses by 1999, within the context of replacing the existing bus fleet by the year 2015; and the provision of further new vehicles to increase the bus fleet to a total 1 070 vehicles by the year 2015. Awarding a contract for purchase, lease and fleet management of the Transperth bus fleet will remove the bus procurement process from the capital works program, reduce the average age of the bus fleet and provide the Department of Transport with enhanced overall management control of the fleet.

A successful tenderer will be responsible for ensuring that replacement buses meet Australian design rules and encapsulate the requirement of providing more efficient, safe and better bus services for West Australians. Particular emphasis will also be placed on the provisions of the Disabilities Services Act, which will ensure that Western Australians with mobility impairment will be catered for through the introduction of new accessible buses that will provide easy access.

Management of the bus fleet may also be outsourced to the private sector; however, to prevent any conflict of interest, tenders will not be accepted from companies which have an interest in the provision of route services under existing contracts. Fleet managers appointed under the provisions of the contract will be responsible for management of the existing bus fleet; deployment of the fleet; accident management; and insurance of the fleet. The Department of Transport will also conduct performance reviews on an annual basis. The department will monitor key indicators, such as average age of the fleet; customer satisfaction with the implementation of the bus acquisition program; costs, including maintenance and fuel; and the optimum bus age prior to its replacement.

This innovative approach to the management of the Transperth bus fleet reflects this Government's commitment to provide a more efficient, cost-effective and competitive public transport system for the benefit of all Western Australians. In addition, the Bill will provide a regulatory regime for the setting of fares, the conduct of passengers and the issuing of infringement notices for non-payment of fares on contract bus services.

Members may be aware that, in its original form, the Bill provided powers to ensure compliance with the omnibus operators scheme. Although many initiatives contained in the scheme are laudable, the Government, through the Department of Transport, will work with industry to determine its future role in this scheme. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

YEAR 2000 INFORMATION DISCLOSURE BILL 1999

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

PRISONERS (INTERNATIONAL TRANSFER) BILL 1999

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [2.12 pm]: I move -

That the Bill be now read a second time.

The Prisoners (International Transfer) Bill 1999 will open the way for Western Australia to join a commonwealth-state scheme for the international transfer of prisoners. As a consequence of the enactment of the commonwealth International Transfer of Prisoners Act 1997, it is necessary for Western Australia to enact "model" state legislation to give effect to the scheme. The Bill is relatively straightforward. It provides a framework to allow the commonwealth Act to operate in Western Australia and complements the commonwealth Act, which contains most of the core elements of the transfer scheme.

In 1996 the Standing Committee of Attorneys General reached agreement on the legislative basis for the international transfer of prisoners. The international transfer of prisoners scheme provides for Australians imprisoned in foreign countries and for foreign nationals imprisoned in Australia to be returned to their home countries to complete the serving of their sentences. It also enables persons who have been convicted by international war crimes tribunals in relation to the former Yugoslavia and Rwanda, to be transferred to Australia to serve their sentences.

The benefits of returning prisoners to their home jurisdictions have been recognised in Australia since 1983, when the

interstate transfer of prisoners scheme took effect. Many hundreds of prisoners have since been transferred around Australia to benefit from serving their sentences in a location that will better promote their rehabilitation.

The international transfer of prisoners scheme was agreed to on the basis that -

> the Commonwealth will administer the scheme, provide an administrative structure for transfers, and regulate the status of prisoners who are transferred;
>
> States and Territories will pass legislation providing the necessary authority for the transfer of state-territory offenders out of the jurisdiction and to permit the detention within their prisons of persons outside their jurisdiction;
>
> jurisdictions agree to accept prisoners on transfer to their prisons on the basis of demonstrated community ties;
>
> the Commonwealth will meet the costs of administering the scheme and the receiving State or Territory will meet the costs of transfer from overseas to Australia and of maintaining that person while in prison; and
>
> the scheme will apply to all offences without exception.

Although this Bill is modelled on the commonwealth legislation, it varies in several ways due to concerns Western Australia has with aspects of the commonwealth legislation. Specifically, while the commonwealth legislation allows for probationers and parolees to participate in the scheme, and allows prisoners with sentences of six months or more to be eligible for transfer, the Western Australian Bill does not follow with these approaches. Following consultation and endorsement by the federal Minister for Justice, the Bill adopts a policy of different consent criteria, being -

> not to allow probationers and parolees to participate in the scheme; and
>
> to allow only prisoners with two years or more of their sentences left to serve to be eligible to apply for international transfer.

Reflecting this, the threshold criteria for the state minister's consent will be provided for under the administrative arrangements which are being formulated under section 50 of the commonwealth Act. No-one will leave Western Australia, or be returned to Western Australia, to serve a sentence without the agreement of the Western Australian minister. Consent must also be obtained from the prisoner, the foreign Government and the Commonwealth Government.

Prisoners transferred to Western Australia are deemed by the commonwealth Act to be federal prisoners. This is for reasons of administrative convenience. The commonwealth Attorney General determines the way in which the sentence of the foreign court is carried out in Australia. Before a prisoner can be transferred the Western Australian Government must agree with the commonwealth Attorney General's determination.

There are two methods of sentence enforcement in the commonwealth Act. One is continued enforcement, which means keeping as close as possible to the sentence of the foreign court. The other is converted enforcement, where a different sentence is substituted. It is expected that the continued enforcement method will usually be used in Australia. However, the method used in a particular case may depend on an agreement with a foreign country.

Apart from providing a framework for general transfer of prisoners, the commonwealth legislation also enables persons who have been convicted by certain international war crimes tribunals to be transferred to Australia to serve their sentences. Two international war crimes tribunals were established in 1993 and 1994 by the United Nations Security Council to deal with war crimes committed in the former Yugoslavia and Rwanda.

Persons convicted by the tribunals are to serve their sentences in countries designated by the tribunals from a list of countries which have indicated to the security council their willingness to accept such prisoners. A number of countries have already agreed to accept tribunal prisoners, and Australia's acceptance is subject to the qualification that the prisoner has a connection with Australia.

The costs to the State will include sending escort officers, returning prisoners - including airfares - and the costs of maintaining prisoners during the terms of sentences in Australia. The cost arrangements will be different in relation to transfers of tribunal prisoners, since that responsibility arises from international relations and Australia's membership of the United Nations. The Commonwealth will be responsible for the costs associated with transfers arising from sentencing by the tribunals.

In relation to general prisoner transfers, there may be significant cost savings to the State if there is a net outflow of prisoners. It is, however, difficult to predict the number of prisoners likely to be moved in and out of Western Australia once the scheme is operating and, of course, any financial savings will depend upon the number of transfers. The cost implications are therefore unable to be precisely quantified at this stage, but will be examined as part of the agreed evaluation strategy. This will entail a review of the legislation, both commonwealth and state, after the scheme has been in place for 12 months, to determine the extent to which it has been utilised and to assess its resource implications.

The commonwealth and state legislation, taken together, will not be sufficient to enable prisoners to be transferred to and from Western Australia. Once all of the participating States have passed legislation, the Commonwealth Government will negotiate transfer treaties with foreign countries. Administrative arrangements will also have to be entered into between the States and the Commonwealth, defining the relationship between, and the responsibilities of, the Commonwealth and States in administering the scheme. Once these treaties and administrative arrangements are in place, transfers will then be possible. I commend the Bill to the House.

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

CRIMINAL CODE AMENDMENT BILL 1999

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Attorney General), and transmitted to the Assembly.

ACTS AMENDMENT AND REPEAL (FINANCIAL SECTOR REFORM) BILL 1999

Suspension of Standing Orders

HON PETER FOSS (East Metropolitan - Attorney General) [2.07 pm]: I move -

That so much of standing orders be suspended as would allow me to move -

That Standing Order No 230(c) and (d) be suspended in its application to the Acts Amendment and Repeal (Financial Sector Reform) Bill.

HON HELEN HODGSON (North Metropolitan) [2.08 pm]: I was hoping that we would get some indication from the Australian Labor Party of how it will be voting on this motion. I do not support the suspension of standing orders in this instance. The suspension must be taken seriously. There is a reason for the process applicable to uniform legislation. I appreciate that members who have been in the House longer than I have know why it was introduced. I understand that the Attorney General introduced this standing order some time ago.

I come at this from a practical perspective. In the time that I have been in this place I have seen the standing order work to good effect because it gives the opportunity for an independent report from the committee to come to this Chamber to assure us that what is before us and what is enacted is in accordance with the original scheme as proposed at the ministerial council for whichever portfolio it may be. Standing Order 230(c) and (d) ensures there is proper scrutiny of uniform legislation. I have some problems in this instance because of the way in which this legislation is being accelerated through this place and through the Parliament as a whole. It is my understanding that the intergovernmental agreement in respect of this legislation -

The PRESIDENT: Order! This is a two-step approach. This is a motion to suspend standing orders to enable the Attorney General to move the second motion. The discussion on which I think the member is about to embark is related to the second motion. I hope the member understands that it is a two-step process and that she will have that in mind when discussing it.

Hon HELEN HODGSON: I am most concerned with the timing because, although this intergovernmental agreement occurred in March, the legislation enacting it was first introduced into this Parliament on 3 June; that was two weeks ago today. The legislation has already been accelerated through the Legislative Assembly to meet a particular deadline which is imposed by circumstances beyond our control. There is an expectation that this legislation will be passed by 30 June, which is only two weeks away. For the Government to pass a piece of major legislation through both Houses of Parliament in two and a half weeks is a tall order at the best of times. This is not exactly the best of times. The progress of business in this Chamber at this time of the year is not always easy to understand. During the last recess I received a list of 22 items of legislation which the Government considered should have priority within the next three weeks. There were also six disallowance motions at the start of this week, and one has now been dealt with. That means 27 items of business must be dealt with by 30 June. Of the 22 items on the list, two which fall within the highly desirable category have not yet been introduced into Parliament. I wrote these notes on Tuesday, and six of those items were not in the Legislative Council at that stage, but several of those have now been introduced.

The point is that matters which are being dealt with urgently are expected to be crammed into a short time line. The purpose of the standing order which is to be suspended is to ensure that uniform legislation is sent to a committee and appropriate time is given for scrutiny. However, we are taking the opposite approach with this important piece of legislation. We are dealing with it in a time frame that does not give it the standard amount of time for scrutiny. Someone must take responsibility for ensuring that legislation is introduced into Parliament within sufficient time frames to ensure that the time lines can be met. I acknowledge that occasionally these time lines cannot be met for various reasons; issues arise and discussions must be undertaken. However, that is not a factor in this instance. It was introduced on 3 June with two and a half weeks of sitting time in which to pass it through both Houses of Parliament. It is all well and good to say that we should support legislation in principle and say that we support the principle behind something, but we need the opportunity to examine it, and that examination becomes very difficult. The first information I received about this piece of legislation was during the recess. I received a telephone call not from a minister, a ministerial adviser or anyone in government. The first contact I received was from an industry lobbyist who told me that a piece of legislation had been introduced and he needed it through by 30 June. That has been followed up with correspondence from industry lobbyists.

Hon N.D. Griffiths: That is a very disgraceful performance on the part of the Government, don't you think?

Hon HELEN HODGSON: It is important that adequate time is given for the preparation of matters as important as this one. I made a comment the other day on a similar motion about our approaching these issues on a case-by-case basis. To draw a contrast, this piece of legislation before us is 81 pages in length and contains 110 clauses. Given the volume of work that we are expected to go through in this place, to read 81 pages and 110 clauses takes a bit of time. This weekend I am travelling to the eastern States and I know what I will be doing on the plane journey.

Hon Derrick Tomlinson: Tell me, tell me! I am so excited!

Hon HELEN HODGSON: I will be reading the Acts Amendment and Repeal (Financial Sector Reform) Bill to see what it contains.

Several members interjected.

Hon HELEN HODGSON: That is the difference; I have an obligation to look at the content of it. To develop that point a little further, if it is uniform legislation, there could be an assumption that because other Parliaments are dealing with it, it will be OK. That is why we have the committee process. We cannot make that assumption, particularly in Western Australia. We tend not simply to pick up template legislation. There is a policy in Western Australia when drafting legislation that we check the templates against legislation and use our model legislation where possible. That probably has its pros and cons, but it makes the opportunity to look at it even more important. I have spoken to colleagues in States which have passed this legislation and have heard what they have said about it. However, I do not know that the legislation with which I am dealing is the same as that dealt with by my colleagues in other States.

Hon Ken Travers: Will you oppose the GST until we have considered it at a state level?

Hon HELEN HODGSON: There is no state legislation to implement it.

The PRESIDENT: Order, members! Some members may not be aware that we are dealing with a motion to decide whether we should suspend standing orders for the purpose of moving another motion. Let us worry about that because it is a two-step approach.

Hon HELEN HODGSON: The point I want to make about the suspension of standing orders on this Bill deals with the time frames in which this piece of legislation has been brought before us. It is significant to the Australian Democrats and also to the Greens (WA), because we have limited resources and we spend a lot of time in this Chamber. It is not a matter of our ducking out of the Chamber while a colleague handles another Bill, because we must spend time listening to the debate and forming views. That means that we need enough time to look at and consider the legislation before us. The process of having the uniform legislation at least examined by the committee relieves us of some of that obligation because we can refer to the committee report. We may deal with other items on the Notice Paper in the next couple of days and that has been the process in some of those cases. It certainly makes life much easier to know that the legislation has been checked off and that a clause-by-clause examination has been undertaken to ensure there are no hidden problems.

I find these problems more frequent in the case of Bills introduced in the other place. Ministers in this place observe the way we operate and usually are able to ensure that the necessary procedural steps are undertaken, that briefings are offered and that we have time to inform ourselves before we go ahead. I cannot agree with the process when something is rushed through on the basis that it was not introduced in enough time to meet the deadlines imposed by outside forces. Therefore, the Australian Democrats will not support the suspension of standing orders.

HON J.A. SCOTT (South Metropolitan) [2.31 pm]: I am also very concerned about the speedy passage of this legislation. It concerns me that I have heard nothing from the government benches about why this legislation has been introduced so late in the day and why we must pass it so quickly. What is the deadline we must meet? I presume it is something to do with budgetary matters, but I have heard nothing. I am in the dark about this proposal. Whispers around the corridors are filling in the blank spaces. Until I hear a good reason to support this motion, I will oppose it.

HON N.D. GRIFFITHS (East Metropolitan) [2.32 pm]: The Australian Labor Party believes the proposition put by the Attorney General should succeed. Several people are at fault in this business. First and foremost, Australia is not being run particularly well. The Howard Government has dragged its feet on this issue, and that is why it comes before the States so late in the day. Second, the State of Western Australia has been slack in its treatment of this legislation. I refer, of course, to the Court Government. Introducing this measure in the other place on 3 June is somewhat late in the day. I note other jurisdictions dealt with the matter speedily. Some have been almost as bad as the Court Government and some have been worse. It is a pathetic performance on the part of the Government of Western Australia. To be fair, it is pathetic all around when we look at the way we are being governed, federally and within a number of States.

We are dealing with the question of time. The Labor Party is concerned to get on with this matter. Victoria introduced the legislation on 23 April and it was passed on 27 May. New South Wales, a very efficient and well-run State, introduced its legislation on 24 May and passed it on 26 May. That is efficiency! That Parliament subjected the legislation to very proper and close scrutiny. I am sure those opposite will agree with that when they consider the makeup of the upper House in New South Wales, which has a very large number of so-called Independents and minor party members. They subjected this measure to very close scrutiny indeed. The Australian Democrats may be assured that everything is A-OK because of the scrutiny of the Parliament of New South Wales. The bastards have been kept honest! Of course, I am not referring to them as "bastards".

Hon Murray Montgomery was about to say something to me, so I will pause for breath.

The PRESIDENT: There is no need because we are dealing with the suspension of standing orders. I ask Hon Nick Griffiths to get back on track and to discuss the issue at hand. Some of the matters to which he is referring relate to the next motion. He might wish to save time.

Hon N.D. GRIFFITHS: I am very interested in saving time. That is why I was referring to these pertinent matters and the treatment this legislation received in New South Wales. Timing is all important. South Australia introduced the legislation on 25 May and passed it on 2 June; the Northern Territory - also a very efficient legislature - introduced the legislation on 1 June and passed it on 3 June. Others will deal with it in due course.

I will not refer to the next matter at this stage. However, when we do discuss it, it will be obvious that many people will be affected if this measure is not passed through the Parliaments of Australia and brought into effect by 1 July. With the greatest of respect to members of this House, who are these five members, who between them attract very few votes, to hold

up the government of Australia? These matters have been given and will be given appropriate scrutiny as they pass through this House. It is not for parties which have very few members and which attract very few votes to hold themselves up as great scrutinisers of legislation, because they are far from that; in fact, they are compromisers.

HON DERRICK TOMLINSON (East Metropolitan) [2.37 pm]: Mr President, I am sure you will share my sense of deja vu on this matter and recall a financial institutions Bill introduced in this House at about 2.00 am. At the time I think you, Mr President, were seated in the chair alongside Hon Nick Griffiths, the Leader of the Government was occupying the chair occupied by Hon Nick Griffiths, I occupied the chair alongside the rather large fellow over the back -

Hon Ken Travers: You can have it back.

Hon DERRICK TOMLINSON: When we return to that side - members can rest assured that that will happen one day - because Hon Ken Travers will no longer be a member, he can sit in the gallery and learn something about how responsible oppositions conduct themselves.

That Bill was introduced at about 2.00 am.

Hon Peter Foss: We did not have enough copies either.

Hon DERRICK TOMLINSON: I will get to that. The Bill had been passed by the other place no more than 10 minutes previously. We did not see the Bill. I recall Hon Peter Foss and I protesting loudly that we were being asked to vote on a Bill we had not seen. About five copies were presented. The Leader of the Opposition had one, the Deputy Leader of the Opposition had one, and I think the shadow Minister for Finance had one.

Hon Peter Foss: I had one.

Hon N.D. Griffiths: That was one too many!

Hon DERRICK TOMLINSON: Hon Peter Foss was protesting that he had not seen it when he had! He should be quiet.

Several members interjected.

Hon DERRICK TOMLINSON: The argument was the same. The Commonwealth had introduced template legislation and had told the States that the process involved cooperative federalism. Canberra's interesting interpretation of cooperative federalism is that the States must do it the way the Commonwealth wants it done, and if they do not there will be penalties. Those penalties will not be imposed on the State but on Bob Hawke's investing mums and dads. It was their money in the financial institutions.

This is the sense of deja vu. We have almost the same situation, with the difference that we have the legislation, it has been properly scrutinised and the Opposition is properly informed. The Government has not introduced at 2.00 am a Bill that no-one has seen and told members that it must be passed before the House rises. The Opposition in that instance - we were the opposition and Hon Joe Berinson sat in the chair now occupied by Hon Norman Moore - acted responsibly. We accepted that the legislation was template legislation. It had been through a thorough process of scrutiny by ministerial councils; it had been through a thorough process of scrutiny by other States. We were the last to accept it, and given Western Australia's propensity for independence, we were reluctant to conform. However, we were caused to change our mind because of the protection of the interests of the mum and dad investors. The Opposition acted responsibly, and I was pleased to hear Hon Nick Griffiths reflecting that responsible approach to this legislation.

The Opposition held the numbers in those days, and as a consequence of that experience it forced upon this House a change in the standing orders which required legislation requiring either template or uniform legislation to lie upon the table for 90 days. In retrospect, that may have been just a little too harsh. Here, however, it is a case of who will be penalised if we delay on this. I ask that of Hon Norm Kelly, Hon Giz Watson and Hon Jim Scott, my red friend: Who will be penalised? It will not be the Government of Western Australia, nor me, but those mum and dad investors whom those members are so willing to represent. They penalise them at their peril. I strongly urge that they follow the responsible line that Hon Nick Griffiths has demanded and support the motion.

Question put.

The PRESIDENT: Members, to be successful this motion requires an absolute majority of 18. As there was at least one dissenting voice I am required to divide the House.

Division taken with the following result -

Ayes (23)

Hon Kim Chance	Hon Peter Foss	Hon N.F. Moore	Hon W.N. Stretch
Hon M.J. Criddle	Hon N.D. Griffiths	Hon Mark Nevill	Hon Bob Thomas
Hon Cheryl Davenport	Hon John Halden	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon E.R.J. Dermer	Hon Ray Halligan	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon B.K. Donaldson	Hon Barry House	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon Murray Montgomery	Hon Greg Smith	

Noes (5)

Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson	Hon Norm Kelly *(Teller)*
Hon J.A. Scott			

Question thus passed with an absolute majority.

Suspension of Standing Order No 230(c) and (d)

On motion by Hon Peter Foss (Attorney General), resolved -

That Standing Order No 230(c) and (d) be suspended in its application to the Acts Amendment and Repeal (Financial Sector Reform) Bill 1999.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [2.47 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to transfer the supervision and regulation of credit unions, permanent building societies and friendly societies from the State to the Commonwealth and consequently wind up the Western Australian Financial Institutions Authority. This aspect of reform of the financial system is aimed at creating a more competitive environment between banks, credit unions and building societies by placing them under the same regulatory and supervisory conditions, leading to improvements in the provision of financial products and services.

This legislation complements the Commonwealth Government's legislation that gives effect to the recommendations of the Wallis inquiry into the financial system in 1997. A key recommendation of the Wallis inquiry was for the supervision of all financial institutions to be brought under a single regulatory framework. In response, legislation has been enacted in the Commonwealth Parliament to establish the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission.

This legislation effects the transfer of those financial institutions currently supervised and regulated by the State across to this newly established single regulatory framework. This will enable increased efficiency and competition within the financial sector with credit unions and building societies being placed on an equal footing with banks. The single licensing and regulatory environment will reduce the regulatory inconsistencies between financial institutions that conduct essentially the same deposit-taking business. With increased competitive pressure introduced into the banking or deposit-taking environment, this should provide for increased choice, improved services and lower cost products and services. These improvements in efficiency will be achieved while preserving the integrity, stability and safety of the Australian financial system.

The regulatory powers of APRA enable it to set standards and enforce directions broadly similar to those currently provided to WAFIA under the Financial Institutions Code - currently applying to credit unions and building societies. Since the introduction of the Financial Institutions Code in 1992, WAFIA has gained considerable knowledge and expertise in the supervision and regulation of credit unions, building societies and, more recently, friendly societies. The transfer arrangements within this Bill seek to ensure that these skills and experience are retained, along with a local presence by APRA in the form of staff in a regional office of APRA in Perth. The Bill requires the transfer of staff from WAFIA to APRA on terms and conditions no less favourable than those that currently apply. The Bill also provides for the transfer of the assets and liabilities of WAFIA to APRA, including all information required for the effective supervision of these institutions. The supervision and contingency funds raised through industry levies administered by WAFIA will be distributed back to the industry along with retained earnings. This distribution will be based on the contributions made by individual institutions and is supported by the industry.

With respect to the rights of members in the transferring institutions, the approach adopted by the commonwealth and state legislation aims to ensure that the rights of members in credit unions, building societies and friendly societies are not adversely affected by their transfer. In addition, the transition arrangements have been framed to minimise the administrative burden on the transferring institutions and their members.

The Bill provides for the transferring institutions to become incorporated under the Corporations Law. The form of incorporation will depend on the type of institution and the board of each institution deciding the most suitable form for its members. The Bill also allows for voluntary and compulsory transfers of business between institutions, as is currently provided under the Financial Institutions Code. This has proven effective in dealing with cases of small institutions experiencing difficulty.

The supervision and regulation of terminating building societies - known as housing cooperatives - will remain the responsibility of the State, as is the approach of all other States and Territories. Homeswest currently performs this role and housing cooperatives are licensed under the Building Societies Act. This arrangement will remain, although amendments to the Building Societies Act will need to be made to ensure its consistency with changes to the supervision and regulation of permanent building societies by APRA.

The Bill is not expected to have a direct financial impact on the industry. It provides for the transfer of institutions from the State to the Commonwealth without the imposition of stamp duties or other taxes incurred as a result of the transfer process. However, there are likely to be some ongoing favourable impacts through lower industry levies under the single regulatory environment. The economies of scale associated with a more streamlined approach to supervision and regulation of financial institutions are expected to be passed on to the industry in the form of lower levies.

The process of considering and responding to the recommendations of the Wallis inquiry has involved considerable consultation with the industry through the peak industry bodies. These bodies have strongly supported the transfer of supervision and regulation to APRA. The Premier has been advised that no outstanding issues are raised by these bodies, other than the urgent need for this transfer to be effected. In this regard, the Commonwealth is seeking to effect the transfer

of responsibility on 1 July 1999, to minimise the uncertainty associated with the reform of the financial system and remove the competitive disadvantage imposed on credit unions, building societies and friendly societies under the current environment. The nature of the industry and its transfer to the Commonwealth requires all States and Territories to proceed with the transfer on the same date. The industry has lobbied heavily for a transfer date of 1 July 1999, and best endeavours are being made by most States to achieve this. Therefore, speedy passage of the Bill is urged. I commend the Bill to the House.

HON N.D. GRIFFITHS (East Metropolitan) [2.52 pm] - by leave: I do not intend to make lengthy observations, as the Attorney General has just given a second reading speech, but I should summarise briefly, if for no other reason than for the benefit of posterity, to indicate why the Australian Labor Party supports this Bill for the transfer of the supervision and regulation of credit unions, permanent building societies and friendly societies from the State to the Commonwealth. This legislation complements commonwealth legislation to give effect to some recommendations of the Wallis inquiry of 1997. It is a matter of record that Australian Governments - the States, Territories and Commonwealth - have agreed that the necessary complementary legislation be passed through all jurisdictions so that the legislation can take effect from 1 July. It is, therefore, the hope of the ALP that that will take place in this Chamber with respect to the deliberations on the Bill that will no doubt be forthcoming on the part of other members in due course.

The Bill provides for the winding up of the Western Australian Financial Institutions Authority, and its functions dealing with the supervision and regulation of credit unions, permanent building societies and friendly societies. The staff, assets and liabilities are to be taken over by the Commonwealth and the relevant commonwealth authority will be the Australian Prudential Regulation Authority. The regulation of terminating building societies will not be affected. To my mind this is fundamentally an efficiency measure to facilitate the operation of an Australian common market. If we go back almost 100 years to federation, it can been seen that much of the substance of federation related to a customs union or common market, and in a sense this measure is long overdue.

Earlier I referred to matters of timing. I should point out that the institutions affected, and those who have been categorised as mums and dads and their beneficiaries, presumably sons and daughters and the like, are very much in favour of the proposal, both with respect to its substance and its timing.

It is appropriate to make some brief reference to some of the observations of those who have lobbied me, my party and, no doubt, other parties and other members. In that light, I trust the matter will be given relatively speedy consideration, noting what others have observed previously both here and in other parts of Australia. I refer to the observations of the Australian Association of Permanent Building Societies in a letter to the Leader of the Opposition. That association points out that it represents all building societies in Australia. Building societies are traditionally financial organisations which have a very significant connection to many mums and dads, and sons and daughters, and in my view they should be treated accordingly. The observation is made -

> We are very supportive of the transition of the prudential and corporate regulation of building societies from the jurisdiction of the States and Territories to federal arena. We are also very supportive of the 1 July 1999 transfer date.

Again, I refer to another group of institutions affected; that is, credit unions. I am talking not about high finance but about organisations which have a lot to do with mums and dads, and sons and daughters. In the submission to the Leader of the Opposition from the Credit Union Services Corporation, the point is made -

> Passage of the Acts Amendment and Repeal (Financial Sector Reform) Bill 1999 is urgent to meet the target transfer date of 1 July 1999. Given that an unsuccessful attempt was made to bring the transfer date forward by seven months to 1 December 1998, it would be most disappointing if there was any further delay and uncertainty for industry and for regulatory authorities.

In that context, I should point out that anybody who reads the financial pages will know that there are more than a few storm clouds gathering over the economic situation, and the more we can do to lessen uncertainty in our economy, so much the better our people will be. The submission also states -

> State and Commonwealth officials and the credit union, building society and friendly society industries have been working hard to achieve the 1 July start date. It is in everyone's interests to avoid any slippage, particularly due to the need for implementation of the transfer to be bedded down in time to avoid hampering preparations for Y2K.

I am talking not about timing, but about the need to treat these matters in the Bill seriously and to get on with the job. I trust there will be no further opposition to the proposal.

I also note that the Australian Bankers Association has similarly put forward submissions on behalf of its members. I note a very pertinent comment in the submission which might put the matter in perspective, and point out to those interested that we cannot afford to take risks in these matters, particularly not at this stage of our economic development. The following is how the association put the matter -

> Any delay past 1 July will mean that non-bank financial institutions will have to wait longer to inject fresh competition into the market. As well, every month delay past 1 July will cost the banking industry around $18 million given that abolition of non-callable deposits . . . on which the banks receive 4.75% below market rates, is tied to the transfer.

Guess who will pay for that? As Hon Derrick Tomlinson said in the context of an earlier debate, it will not be me or the Government of Western Australia. It will be those people properly characterised as mums and dads, and sons and daughters.

I do not think anyone should bother any longer about getting on a high horse and pontificating about matters of form and procedure. I have had these documents since 3 June. I have had the opportunity of going through them and satisfying myself to the appropriate degree, as I am sure have all concerned legislators. I note that the Government and people outside government have been in a position to offer help if people needed help to understand this matter, because it is such an important matter to those concerned, and the potential downside if we do not get on with the job is so great.

Debate adjourned, on motion by Hon Helen Hodgson.

COMMONWEALTH PLACES (MIRROR TAXES ADMINISTRATION) BILL

Second Reading

Resumed from 20 April.

HON JOHN HALDEN (South Metropolitan) [3.01 pm]: The Australian Labor Party supports this Bill. Not a great deal needs to be said about this matter other than what was said in the second reading speech. This Bill is a novel, if nothing else, exposé of our laws. The purpose of this Bill is to ensure that commonwealth property, be it a post office, an airport or a defence base, is not a tax haven and exempt from appropriate state taxation law. The need for this Bill arose from the case of Allders International Pty Ltd v Commissioner of State Revenue (Vic), in which the High Court established that under section 52(i) of the Commonwealth Constitution, only the Commonwealth can levy taxes on commonwealth places. That challenged the taxation regime that had been in operation since federation and thereby created the opportunity for people to use commonwealth places as potential tax havens where they would not be subject to state taxation laws. This Bill will apply the State's taxing laws to Commonwealth places in the State. New taxing laws will not be required each time the state tax rate changes. The States will collect the tax on behalf of the Commonwealth. At the end of the day, this Bill is no more than an exercise to cover the bases and is a fair and equitable arrangement for all Australians. We cannot have a situation where tax havens are created on commonwealth property. The second reading speech states that New South Wales has introduced legislation to deal with this matter, and the other States intend to introduce such legislation. Most of the States are in the process of enacting this legislation, for reasons that are fairly obvious. The Labor Party supports this non-contentious piece of legislation.

HON HELEN HODGSON (North Metropolitan) [3.04 pm]: We have had quite a good time this week, where those of us who are bush constitutional lawyers have been discussing all sorts of aspects of constitutional law.

Hon N.D. Griffiths: Give us your wisdom.

Hon HELEN HODGSON: I regret that once again I have not brought with me my lecture notes on section 52(i) of the Constitution, so I will rely on memory.

Hon Ken Travers: You do not have a whiteboard either.

Hon HELEN HODGSON: That always helps!

This legislation is about the power of the State Government to impose taxes on commonwealth property. The question of commonwealth property and state taxes, and of state property and commonwealth taxes, has always been fairly vexed, because there are reciprocal immunities. Some members may recall that when fringe benefits tax was introduced about 13 years ago, there was some discussion about whether it could apply to motor vehicles that were owned by the State Government, because the reciprocal immunities that had been granted meant that the Commonwealth could not tax state property.

Hon Max Evans: I wish we had won the case on FBT.

Hon HELEN HODGSON: My recollection is that the Federal Parliament had to enact similar legislation to ensure that it could override the Constitution in respect of levying commonwealth taxes on state property. In this instance, the property is commonwealth property, and section 52(i) of the Constitution states that only the Commonwealth shall tax commonwealth property. It is clear from the way commercial ventures have developed on commonwealth property that in some instances commonwealth property is no longer used exclusively for public purposes. I use the term "public purposes" in its generic sense. In an airport, the provision of the customs hall is obviously a public purpose, but a duty free shop within that customs hall is no longer truly a commonwealth public purpose. These sorts of places have been subject to state taxes.

The question of whether state taxes can be levied on commonwealth property was dealt with by the High Court in the 1996 case of Allders International Pty Ltd v Commissioner of State Revenue (Vic). The headnote to that case at page 5135 of *Australian Tax Cases* states that the Commonwealth had acquired land at Tullamarine in Victoria for the purpose of constructing an airport. That land was later vested in the Federal Airports Corporation, which held the land for and on behalf of the Commonwealth. The FAC granted a lease to a taxpayer for a duty free store at that airport. The stamp duty that was payable was based on the rental factors, and the commissioner determined that the lease was assessable to ad valorem duty to be calculated and paid in accordance with section 83A of the Victorian Stamps Act. The High Court held in that case that section 52(i) of the Constitution gives the Federal Parliament the exclusive power to legislate in respect of commonwealth taxes; therefore, it was totally ultra vires for a State to levy such stamp duty.

Therefore, we now have the situation where the States cannot levy taxes on commonwealth property, and we need to set up a mechanism to deal with that matter. I concur with the comment made by Hon John Halden that we do not want to create tax havens on commonwealth property, because it is totally inappropriate to have a situation where one business has a commercial advantage over another business because it is on land that is owned by the Commonwealth and the other business is on land that is owned by a private body or by the State.

I seem to recall that we had some discussion on this issue last year in dealing with one of the revenue laws Bills where we were talking about universities and the exemptions they receive. The question is whether we have to level the playing field by ensuring that equivalent rates of tax are paid even though the organisation which owns the property may have a public purpose which normally makes it exempt from tax. I am thankful for the work the Standing Committee on Constitutional Affairs has done on this Bill. In this instance I believe the process has worked well because the committee has once again brought forward a clause-by-clause analysis of the legislation and has ensured that any anomalies have been brought to members' attention. It is clear in this case that there are no such anomalies because the committee simply recommends that all clauses be passed. If one compares the second reading speech with the clause-by-clause examination undertaken by the committee, no particular issue suggests difficulties, and as this is uniform legislation it is appropriate that it be passed in its totality.

I will raise one issue based on my personal knowledge of various taxing laws. It concerns the lack of consistency in rights of objection and appeal between the federal laws, the various States' laws and even within our state system. Different taxes have different periods in which appeals and objections must be lodged and dealt with. A proposal for the gathering of the Western Australian taxation administration into one instrument has been kicked around for a couple years. I heard about it soon after coming to this place. For various reasons including issues of ensuring that the concerns of the professional bodies are dealt with, that has not been drafted into a form to be presented to Parliament. However, it raises the question of even internally having different administrative provisions and the way that impacts on people who must comply under several regimes at once. In this case, the commonwealth legislation will apply and collect revenue and return it to the State. It is desirable for us to ensure that all of those administrative provisions are sufficiently similar to reduce confusion and administrative expense. However, I understand that this legislation itself does not deal with that issue because it uses generic terms and does not include the appeal provisions. I can do nothing about that today except express my hope that the authorities have found a mechanism to cope with the different regimes in different States and facilitate the application of uniform legislation with uniform provisions. It is important to protect the revenue in this instance.

Probably only a limited number of places are affected by this Bill although I note that the committee report provides an indication of some of them including areas such as the Perth International Airport, HMAS *Stirling*, Garden Island, Campbell Barracks at Swanbourne, and the Reserve Bank building - which is interesting because it is office accommodation. I expect there would be significant loss of revenue from that building without this Bill; I am sure the minister could give us an indication of just how much it would be. The affected places also include the law courts and Customs House. In this instance it is appropriate to ensure that exemptions are granted only where the building is being used for Commonwealth purposes as that is the obvious intention of the constitutional provisions as originally enacted. I agree that this Bill gives force to the uniform legislation as agreed and I support it.

HON MAX EVANS (North Metropolitan - Minister for Finance) [3.14 pm]: I thank the Labor Party and the Australian Democrats for their strong support of this legislation. I have talked to the Greens (WA) and they also support the Bill. I thank the Standing Committee on Constitutional Affairs for the work it did on this Bill because these things need to be looked at. I will follow up Hon Helen Hodgson's comments. The state tax administration Bill is very close to being ready to be introduced and will make the terms of objection consistent across the board. It has been put on hold recently while we waited to see what would happen with the goods and services tax, but it is now full steam ahead. It is important because it is easier for the practitioners if there are standard provisions in these laws. Some years ago the companies code for registration of business names and so forth was different in every State and it was made consistent. I assure Hon Helen Hodgson that that is being done. We will take on board her very valid comments about this being mirror legislation which details how the tax will be collected but is silent on objections or the right to appeal. I am not sure about that myself and the Government will take on board Hon Helen Hodgson's comments about that. This Bill was introduced because the lease of a shop at Tullamarine Airport was not going to pay Victorian stamp duty. This is a technical point like the issue of the tobacco tax and the High Court. It is one of the finer points of law which is taken to the High Court which decides whether we can do it. Once again this has gone against the States. Hon Helen Hodgson would have seen in the last day or so that the Australian Taxation Office appears to make rulings on many superannuation schemes running into millions of dollars but it has now reversed those on the basis that it will not accept the ruling. There is a whole industry here trying to avoid taxes. If we all avoided paying taxes, the whole country would crumble; people have to pay their fair share.

In summary, I will describe what will happen for history's sake because the word "mirror" is not clear. The Bill seeks to put in place the necessary support for, inter alia: An arrangement to be entered into by the State Governor with the Governor General to provide for the administration of the commonwealth mirror tax laws by state authorities; empowerment of state authorities to exercise or perform all necessary powers and functions of the Commonwealth when administering the commonwealth mirror tax laws; certain validation and saving provisions; and a general modification of state taxing laws to enable them to operate effectively in conjunction with the commonwealth mirror tax laws, complemented by a specific power to modify state taxing laws by regulation where a taxpayer has a liability under both a state taxing law and the corresponding commonwealth mirror tax law. That is fairly complicated but it is worth saying. A simple evasion of tax or stamp duty requires a complicated enforcement procedure to put it right. I commend the Bill to the House.

Question put and passed.

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

SCHOOL EDUCATION BILL

Assembly's Message

Message from the Assembly notifying that it had agreed to amendment Nos 5; 6; 7; 8; 11; 14; 16; 17; 21; 22; 26; 32; 36; 37; 50; 51; 53; 54; 55; 57; 60; 61; 62; 63; 64; 76; 77; 78; 80; 83; 93; 94, and has disagreed to amendment Nos 1; 2; 3; 4;

13; 18; 19; 23; 24; 25; 27; 28; 29; 30; 31; 38; 42; 43; 44; 45; 46; 47; 48; 49; 79; 81; 82; 84; 85; 87; 88; 89; 90; 91; 92; 98; 100; 102 for the reasons set forth in Schedule B, and has disagreed to and substituted new amendments for amendment Nos 9; 10; 12; 15; 20; 33 to 35; 39; 40; 41; 52; 56; 58; 59; 65 to 74 and 99; 75; 86; 95; 96; 97; 101; 103; 104 as set forth in Schedule A annexed for the reasons set forth in Schedule B annexed, now considered.

Committee

The Deputy Chairman of Committees (Hon Nick Griffiths) in the Chair; Hon Norman Moore (Leader of the House) in charge of the Bill. [Debate commmences on page 9212.]

The Assembly's schedules were as follows -

SCHEDULE A

No 9

Amendment disagreed to and the following amendment substituted —

Clause 21, page 16, after line 21 — To insert the following —

" (3) A person who exercises a power of authorization conferred by subsection (1)(f) in relation to a particular child is to take reasonably practicable steps to establish the child's whereabouts in each year of the child's compulsory education period. ".

No 10

Amendment disagreed to and the following amendment substituted —

Clause 26, page 21, line 5 — To insert after "record" the following —

" including the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be affecting the child's attendance record ".

No 12

Amendment disagreed to and the following amendment substituted —

Clause 37, page 28, line 11 — To delete the figure "$1 000" and substitute the following —

" $500 ".

No 15

Amendment disagreed to and the following amendment substituted —

Clause 39, page 29, after line 8 — To insert the following —

" (3) At least one person on a Panel must be a parent or community representative. ".

No 20

Amendment disagreed to and the following amendment substituted —

Clause 40, page 30, line 22 — To insert after "section 23" the following —

" including the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be affecting the child's failure to comply ".

No 33; No 34; No 35

Amendments disagreed to and the following amendments substituted —

Clause 79, page 58, line 21 — To insert after "**79.**" the following —

" (1) Subject to subsection (2), ".

Clause 79, page 59, after line 3 — To insert the following —

" (2) If the number of children referred to in subsection (1) applying for enrolment at a particular government school that is not a local-intake school exceeds the number of available places at the school, priority for enrolment is to be given to the child who lives nearest the school. ".

Clause 80, page 59, line 6 — To insert after "**80.**" the following —

" (1) Subject to subsection (2), ".

Clause 80, page 59, after line 15 —To insert the following —

" (2) If the number of children referred to in subsection (1) applying for enrolment at a particular government school that is not a local-intake school exceeds the number of available places at the school, priority for enrolment is to be given to the child who lives nearest the school. ".

No 39

Amendment disagreed to and the following amendment substituted -

Clause 63, page 50, line 13 - To insert after the word “school” the following —

“ in consultation with the Council and the school’s teaching staff ”.

No 40

Amendment disagreed to and the following amendment substituted -

Clause 63, page 50, line 16 - To insert after designation “(f)” and before the word “to” the following -

“ in consultation with the Council and the school’s teaching staff ”.

No 41

Amendment disagreed to and the following amendments substituted —

Clause 73, page 55, line 14 — To insert after “parents” the following —

“ , any of the child’s teachers or prospective teachers and, if appropriate, the child ”.

Clause 73, page 55, line 15 — To insert after “parents” the following —

“ and, if appropriate, the child ”.

Clause 73, page 55, line 16 — To insert after “addressing” the following —

“ or reviewing ”.

No 52

Amendment disagreed to and the following amendment substituted —

Clause 87, page 65, after line 9 — To insert the following —

“ ; and

(c) who is not a parent of a child at a school to which the matter relates. ”.

No 56

Amendment disagreed to and the following amendment substituted —

Clause 92, page 67, after line 24 — To insert the following —

“ (2) Upon making a recommendation to the chief executive officer, the principal is to notify the student and a parent of the student that the recommendation has been made and provide the parent with the reasons why the recommendation has been made. ”.

No 58

Amendment disagreed to and the following amendment substituted —

Clause 92, page 68, after line 9 — To insert the following —

“ (3) In its examination under subsection (2) in relation to a student other than a child to whom subsection (2)(b) applies, a Panel is to have regard to the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be relevant to the breach of school discipline or behaviour that is the subject of the recommendation. ”.

No 59

Amendment disagreed to and the following amendment substituted —

Clause 93, page 68, after line 26 — To insert the following —

“ (3) At least one person on a Panel must be a parent or community representative. ”.

No 65; No 66; No 67; No 68; No 69; No 70; No 71; No 72; No 73; No 74; No 99

Amendments disagreed to and the following amendments substituted —

Clauses 97 to 103

Page 71, lines 18 to 23; page 72, lines 1 to 29; page 73, lines 1 to 26 and page 74, lines 1 to 22 — To delete the lines and substitute the following —

“

Subdivision 1 — Fees for instruction, charges, contributions and costs

97. Definitions

In this Subdivision —

“adult student” means a person who enrols at a government school in a year and whose post-compulsory education period has ended before January in that year;

“contribution” means voluntary contributions;

“extra cost optional component” means an optional component of a government school’s educational programme having a cost that is not incorporated into the determination of the school’s charges or contributions under section 99 because of the high cost associated with the provision of that optional component;

“first charges payment year”, in relation to a student —

(a) until 31 December 2010, means the first calendar year in which the student had reached 12 years of age by the beginning of the year; and

(b) on and from January 2011, means the first calendar year in which the student had reached 12 years and 6 months of age by the beginning of the year;

“overseas student” means a person who enrols at a government school and who —

(a) is not entitled to reside permanently in Australia; and

(b) satisfies the criteria (if any) prescribed by the regulations for the purposes of this Subdivision.

98. Limitation on matters for which fees for instruction and charges may be imposed

(1) No fee for instruction may be imposed in respect of a student for the provision of —

(a) a non-optional component of an educational programme at a government school; or

(b) an optional component of an educational programme at a government school if the instruction is provided by a member of the teaching staff,

unless the student is an overseas student or an adult student.

(2) A contribution must not be sought towards a fee referred to in subsection (1) and any agreement entered into for the payment of a fee referred to in subsection (1) has no effect.

(3) No charge may be imposed in respect of a student for —

(a) materials provided in a non-optional component of an educational programme of a government school; or

(b) services or facilities for use in, or associated with the provision of, a non-optional component of an educational programme of a government school,

before the student’s first charges payment year unless the student is an overseas student.

(4) A contribution determined in accordance with section 99 may be sought for the costs of the materials, services or facilities referred to in subsection (3).

99. Charges and contributions for the provision of certain materials, services and facilities

(1) Regulations may be made providing for charges or contributions that may be made for —

(a) materials provided in —

(i) a non-optional component of an educational programme of a government school; or

(ii) an optional component of an educational programme of a government school that is not an extra cost optional component;

or

(b) services or facilities for use in, or associated with the provision of —

(i) a non-optional component of an educational programme of a government school; or

(ii) an optional component of an educational programme of a government school that is not an extra cost optional component.

(2) The principal of a government school may from time to time determine a charge or contribution —

(a) if the charge or contribution is of a kind prescribed by the regulations as able to be charged or be a contribution for the purposes of this section; and

(b) not exceeding any limit prescribed by the regulations.

(3) If the school has a Council a determination under subsection (2) does not have effect unless it has been approved by the Council.

(4) All charges or contributions for a school year must be determined under subsection (2) and approved under subsection (3) not later than 2 months before the beginning of the school year.

(5) The principal is to take reasonable steps to notify the persons —

(a) from whom may be recovered under section 107(1) the charges that are payable under this section for a school year, of those charges; and

(b) from whom a contribution may be sought, of the amount to be sought by way of contribution.

(6) Notification under subsection (5) must be given not later than 2 months before the beginning of the school year but the validity of a determination is not affected by the failure of a person to receive notice.

(7) When notifying a person for the purposes of subsection (5), it is sufficient for the principal to notify the person —

(a) of the total charges that are payable, or the total contribution to be sought, (as the case requires) for the school year in respect of the student, itemizing each component of those charges or the contribution and the charge or contribution for each component; or

(b) of the scale of charges or contribution for each —

(i) non-optional component of the school's educational programme; or

(ii) optional component of the school's educational programme that is not an extra cost optional component,

that will be available to the student in the school year.

100. Extra cost optional components of educational programmes

(1) The principal of a government school may from time to time determine the costs to be paid for participation in an extra cost optional component of the school's educational programme.

(2) The costs of an extra cost optional component must not include a fee for instruction if the instruction is provided by a member of the teaching staff.

(3) If the school has a Council a determination under subsection (1) does not have effect unless it has been approved by the Council.

(4) The costs of the extra cost optional components to be provided in a school year must be determined under subsection (1) and approved under subsection (3) not later than 2 months before the beginning of the school year.

(5) If an extra cost optional component may be participated in by a particular student, the principal is to take reasonable steps to notify —

(a) a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, the student,

of the costs of an extra cost optional component of those costs not later than 2 months before the beginning of the school year.

(6) When notifying a person for the purposes of subsection (5), it is sufficient for the principal to notify the person —

(a) by itemizing each component of those costs and the cost for each component; or

(b) of the scale of costs for each extra cost optional component that will be available to the student in the school year.

(7) The participation of a student in an extra cost optional component is conditional on payment of the costs of that component.

102. Optional components that are not extra cost optional components to be available to certain students

The principal of a government school is to ensure that optional components of the school's educational programme that are not extra cost optional components are available to students at the school —

(a) who are of compulsory school age; and

(b) who have reached their first charges payment year.

103. Principal to collect charges, contributions and costs

(1) The following are payable to the principal of a government school —

(a) charges determined and approved under section 99 in relation to the school; and

(b) costs of the extra cost optional components of the school's educational programme.

(2) If a person wishes to make a contribution that has been determined and approved under section 99, the contribution is to be collected by the school's principal for the purposes of the school.

104. Overseas students and adult students

A person who is an overseas student or an adult student is to pay such fees for instruction as may be prescribed and in accordance with the regulations.

105. Financial hardship

Regulations may be made providing for —

(a) the reduction, waiver or refund, in whole or in part, of any fee, charge or cost provided for by this Subdivision;

(b) deferred payment, payment by instalments or other forms of assistance for the payment of any fee, charge or cost provided for by this Subdivision.

106. Students (other than overseas or adult students) cannot be excluded for non-payment of charges

A principal of a government school must not exclude a student, other than an overseas student or an adult student, from participating in an educational programme of the school for the non-payment of a charge payable under section 99.

107. Recovery

(1) Any fee or charge that is payable under this Subdivision in respect of a student may be recovered as a debt, if necessary in a court of competent jurisdiction —

(a) from a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, from the student.

(2) The chief executive officer is to ensure that before any administrative or legal action is taken to recover a debt under subsection (1) —

(a) enquiries have been made into the reasons for the failure to pay the fee or charge;

(b) all reasonably practicable steps have been taken to recover the fee or charge; and

(c) the circumstances of the person against whom the action is proposed to be taken and the person's capacity to pay have been taken into account.

108. Agreements to pay costs not affected

Nothing in this Subdivision prevents a person —

(a) subject to section 98(2) from agreeing to pay money for or towards the cost of providing an educational programme for a student;

(b) from agreeing to pay money for or towards the cost of a school based activity beyond the school's educational programme; or

(c) from enforcing an agreement referred to in paragraph (a) or (b).

109. Items for personal use in educational programme

(1) The principal of a government school may from time to time determine the items that are to be supplied by a student for the student's personal use in the school's educational programme.

(2) If the school has a Council a determination under subsection (1) does not have effect unless it has been approved by the Council.

(3) All items to be supplied by a student for a school year must be determined under subsection (1) and approved under subsection (2) not later than 2 months before the beginning of the school year.

(4) If a particular student is to supply any item under this section, the principal is to take reasonable steps to notify —

(a) a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, the student,

of each item to be supplied not later than 2 months before the beginning of the school year. ".

Clause 107, Page 76, line 19 — To insert after the word "charges" the following —

" , contributions and costs ".

No 75

Amendment disagreed to and the following amendment substituted —

Clause 116, page 84, after line 5 — To insert the following —

" (4) In this section —

"student" means a student enrolled at a government school who is on school premises at a time when —

(a) the student is required to attend the school as part of an educational programme at the school;

(b) the student is otherwise participating in an educational programme of the school; or

(c) the student is on school premises in preparation for, or subsequent to, being at the school for a reason referred to in paragraph (a) or (b). ".

No 86

Amendment disagreed to and the following amendments substituted —

Clause 215, page 144, line 13 — To delete "the period" and substitute the following —

" a period not exceeding 3 years as ".

Clause 215, page 144, line 14 — To delete the line.

Clause 215, page 144, line 15 — To delete the full stop and substitute the following —

" ; and ".

Clause 215, page 144, after line 15 — To insert the following —

" (c) renew an order made under paragraph (a) for a one year period only by making the order to renew at least 6 months before the original order expires. ".

Clause 215, page 144, line 20 — After "order" where it first appears, to insert the following —

" , the amendment or repeal of an order or the renewal of an order ".

Clause 215, page 144, after line 24 — To insert the following —

" (4) The Minister is to ensure that the reasons in support of an order, the amendment or repeal of an order or the renewal of an order under subsection (1) are laid before each House of Parliament in accordance with section 42 of the *Interpretation Act 1984* as it applies under subsection (3) of this section. ".

No 95

Amendment disagreed to and the following amendments substituted —

Clause 216, page 145, line 20 — To insert after "review the procedure"the following —

" or reconsider the decision ".

Clause 216, page 145, line 22 — To insert after "review" the following —

" or reconsideration ".

Clause 216, page 146, after line 4 — To insert the following—

" (7) Nothing in this section affects the jurisdiction that the Parliamentary Commissioner for Administrative Investigations has under the *Parliamentary Commissioner Act 1971*.".

Clause 217, page 146, line 8 — To delete "or 215" and substitute the following —

" , 215 or 216 ".

Clause 217, page 146, lines 9 and 10 — To delete ", 21(2) and 216(4)" and substitute the following —

" and 21 (2) ".

No 96

Amendment disagreed to and the following amendment substituted —

Clause 234, page 155, after line 15 — To insert the following —

" (5) In performing its functions in relation to a particular child or student, or class of children or students, an advisory panel may have regard to the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be relevant to the matter before the panel. ".

No 97

Amendment disagreed to and the following amendments substituted —

Clause 214, page 144, after line 6 — To insert the following —

" (2) The Minister is to ensure that a subdelegation does not state that this section is to apply unless the application of the section in the particular case is in accordance with the fair distribution across government schools of the benefits of advertising and sponsorship. ".

Clause 237, page 158, after line 13 — To insert the following —

" (3) Regulations for the purposes of section 209(2)(d) may provide for —

(a) the duration of an agreement or arrangement for advertising or sponsorship in relation to a government school;

(b) naming rights in relation to advertising or sponsorship in relation to a government school;

(c) the means of ensuring that advertising or sponsorship in relation to a government school does not interfere with the normal operations of the school; and

(d) the extent to which teaching materials may be involved in advertising or sponsorship in relation to a government school. ".

No 101

Amendment disagreed to and the following amendments substituted —

Clause 124, page 88, line 29 — To insert the words "the school principal" and substitute the following —

" , but not the appointment of, the school principal or any other member of the teaching staff ".

New Clause 126, page 90, after line 14 — To insert the following new clause —

Certain property vested in Minister

126. All property acquired by an incorporated Council for the use of a school is acquired for the purposes of this Act; and section 208 applies to it whether or not public moneys were spent on its acquisition. ".

Clause 126, page 90, line 24 — To delete the word "or".

Clause 126, page 90, line 26 — To delete the full stop and substitute the following —

" ; or ".

Clause 126, page 90, after line 26 — To insert the following —

" (d) intervene in the management or operation of a school fund. ".

No 103

Amendment disagreed to and the following amendments substituted —

New Clause 147, page 101, after line 6 — To insert the following new clause —

" **Minister may give directions to the chief executive officer**

147. The Minister may give directions in writing of a general nature to the chief executive officer with respect to the performance of the chief executive officer's functions under this Part but the Minister cannot give a direction in relation to a particular person. ".

Clause 224, page 149, lines 1 to 12 — To delete the lines and substitute the following —

Minister may give directions to the chief executive officer

224. The Minister may give directions in writing of a general nature to the chief executive officer with respect to the performance of the chief executive officer's functions under this Act but the Minister cannot give a direction in relation to a particular person.".

No 104

Amendment disagreed to and the following amendment substituted —

Schedule 1 clause 10, page 162, after line 23 — To insert the following —

" (2) If, within 6 months of the commencement, the chief executive officer declares a government school to be a local-intake school the area for the purposes of section 60(1)(b) in relation to the school is to be taken to be the area described in relation to the school in a notice under section 21(2) of the repealed Act, unless the chief executive officer otherwise defines the area.".

SCHEDULE B

REASONS FOR DISAGREEMENT TO CERTAIN LEGISLATIVE COUNCIL AMENDMENTS

No 1; No 2; No 3; No 4

The intended amendments will confuse, rather than aid, the interpretation of the substantive provisions of the Act.

Advice from the Crown Solicitor's Office draws attention to a number of concerns with the proposals. The concerns relate to matters of application and interpretation; use of terminology and grammar; unintended limitations on the operation of other statutes; and redundancy and irrelevance of the intended inclusions.

The matters in the proposed amendments are largely addressed in a number of the other amendments for which there is agreement or agreement in principle.

The four objects originally drafted for the Bill have been rigorously tested to be consistent with the subject matter of the Bill and to avoid conflict with any of its provisions.

No 13

The purpose of the head penalty is to define the magnitude or seriousness of the offence. In the "Green Bill" the maximum was $2500 and this was amended in the Legislative Assembly debate. No further adjustment is warranted.

No 18; No 19

These two amendments are unnecessary since subclause (5)(d) already requires the Panel to provide the school with a written report. Amendment No. 21 provides a mechanism for the school to receive the appropriate advice from the Panel.

No 23; No 24; No 25; No 27; No 28

Amendments Nos. 22 and 26 underline the right of a parent to express a desire to be registered. Once this right is exercised, a process of application should proceed as originally drafted in the Bill.

The Bill provides that the chief executive officer is obliged to register the child, but only on completion of an application. The changes in wording are unnecessary.

No 29

The subclause was drafted as advice for a Minister to exercise caution in exercising the discretionary powers given at subclause (3).

Clauses 57 and 58 require the Minister to undertake community consultation regarding all proposed school closures and further prescription is unnecessary. In its present form, the amendment provides no guidance as to the nature and content of the proposed regulations.

No 30

The matters for consultation at subclause (1) are not related to school closure *per se*, but rather to the administrative consequences of any such proposal. The existing subclause 57(2)(e) enables this matter to be canvassed if necessary.

Subclause 56(4) relates only to subclause 56(3). It is subclause 56(1) which gives the closure power. No "grounds" for closure are set out in subclause (1). Finally, subclause 56(4) does not provide for all cases where the Minister decides to close a school.

No 31

This subclause was originally drafted to avoid a situation where significant resources could be used in legal debate over the consultation method.

Clauses 57 and 58 require the Minister to consult over the effects of any proposed closure. The method of consultation is best left to the Minister's discretion.

In its present form, the amendment provides no guidance as to the content or nature of the regulations. The proposed subclause (3)(b) appears to negate the need for regulations.

No 38

There is a difference between subclause (1)(e) and clause 123, at which the Council is limited to taking part in planning processes, rather than exercising joint responsibility for the final production of a school plan.

In view of the substitutions at Amendment Nos 39 and 40, this amendment is unnecessary.

No 42

On the basis that this proposal affects appropriation, it is the view of the Legislative Assembly that the amendment is beyond the scope of the Legislative Council to propose.

The amendment is so broadly stated that its application and interpretation would cause legal and administrative difficulties.

No 43; No 44; No 45; No 46

These amendments set up a direct contradiction with the policy on enrolment at clauses 185 and 192.

The amendments call into question the need for Part 5, where the establishment and scope of Community Kindergartens is described in detail.

No 47; No 48; No 49

Amendments Nos. 47, 48 and 49 create only minor substantive difference from the original drafting of clauses 78, 79 and 80 of the Bill.

The original construction is based on the phases of schooling, starting with clause 77 which deals with the pre-compulsory phase. The amendments would create confusion of structure, mixing the phases of schooling with the nature of boundary provisions.

The substitutions proposed for Amendments Nos. 33, 34 and 35 give recognition to priority for local access at government schools.

No 79

Charges for incorporation are made pursuant to the *Associations Incorporation Act 1987*. It is not appropriate to interfere with those provisions in this Bill.

In the second proposed subclause, the Minister for Education might not have the capacity to ensure the necessary arrangements, since it is outside his or her area of responsibility and power.

It is inappropriate to propose the waiving of a government charge, for which all other associations are liable. The number of P&Cs affected is likely to be small and the Bill was drafted on initial advice from WACSSO that it desired all associations to become incorporated.

No 81; No 82

The clause was based on a provision in the current Act, which gives the Minister discretion to seek a report whenever there is concern about the application of public moneys. The funds provided to non-government schools from State Revenue are used for recurrent expenditure [typically salaries].

The proposal will require no more than a simple statement of compliance, rather than a comprehensive account of expenditure. It will lead to a significant administrative exercise for little public benefit.

Co-operation arrangements with the Commonwealth in relation to non-government schools financial reporting are in place and provide the capacity to deal with concerns about public accountability for State expenditure in the non-government schools sector.

No 84; No 85

Amendment No 97 enables the preparation of regulations to deal with advertising and sponsorship issues. Naming issues are identified as a specific matter for inclusion in such regulations. These amendments are, therefore, unnecessary.

At No 85, the proposed definition would defy conventional understanding of the term "educational activity" in that public events or multi-school activities which are clearly educational could not be described thus in the legal sense.

No 87; No 88; No 89; No 90; No 91; No 92

The proposal to establish a completely separate statutory office or function for review is not supported.

The policy underpinning the Bill is that decisions about students should be made at the appropriate level of the bureaucracy [ie. school, district or central] or, in the case of non-government schools, by the school.

Where decisions are disputed, the Bill establishes a range of review panel mechanisms.

While there is an avenue to either the Ombudsman or the Minister if a grievance relates to a government school, a non-government school grievance can only be dealt with by the Minister. The non-government school sector does not support review by any office other than the Minister.

A modified scheme for the operation of these reviews is provided by the acceptance of Amendments Nos 93 and 94 and a substitution for Amendment No 95.

No 98

The mechanism for independent review at clause 216 provides sufficient avenue for dealing with the relatively small number of grievances which might arise.

The incidence of events under clause 20 is likely to be small. Clause 21 enables efficient management of school registers and discourages principals from removing names without appropriate checks.

The only grounds for cancellation under the Bill relate to the provision of false information or failure to keep enrolment information up to date. There is a stringent requirement in clause 20 for the principal to give the parent an opportunity to present reasons why the enrolment should not be cancelled.

The amendment is unworkable in relation to clause 21 since it may be impossible to serve notice on the relevant persons [their disappearance may well be the reason for removal from the register]. The clause is unnecessary in view of support for Amendment No 9 by which there is to be a regular check to locate missing children.

No 100

The current Act contains no direct reference to corporal punishment. The present Regulation 32 provides that "discipline is to be mild but firm, and any degrading or injurious punishment shall be avoided".

It is sufficient for the matter of corporal punishment to be dealt with in the regulations to support the *School Education Act*. Accordingly, the following will form part of the drafting policy for the regulations to be made under clause 118(2)(a) — "In government schools, no physical contact or touch may be used as a form of punishment of a child.".

No 102

The proposed agreements with WACSSO, or any other peak body in education, do not require legislation.

It is not appropriate to single out any one group without mentioning others. If others are acknowledged, there is the difficulty of knowing how far the list should go.

Subclause (2) mandates a time and an outcome which might not be able to be achieved and there is no mechanism for review of any agreement.

REASONS FOR DISAGREEMENT TO CERTAIN LEGISLATIVE COUNCIL AMENDMENTS AND SUBSTITUTING NEW AMENDMENTS

No 9

The Minister for Education is not able to direct agencies beyond his or her portfolio but cooperation arrangements can be achieved administratively.

A local School Attendance Panel might not be an appropriate body in all cases to undertake review, since the resources required might be inappropriate to deal with a child who is, for instance, interstate or in another region.

The intent of the amendment is recognised and so an alternative to achieve the same effect is proposed.

No 10

The intent of the amendment is accepted. A substitution provides a more appropriate structure and use of terminology. A similar approach has been taken for the amendments at Nos 10, 58 and 96.

In particular, the advice at subclause 26(2)(b)(ii) is to the child and parents, rather than the school or system. The proposed substitution enables a Panel to consider the relevant factors in relation to the school and school system as well as the child and parents.

No 12

While it is accepted that in some circumstances minors may commit offences under this clause, the level of penalty must take allowance of both adults and minors. The level of penalty is essential to demonstrate the seriousness of the offence, regardless of the circumstances of any individual offences or the circumstances of individual offenders. It is the role of magistrates and the intent of the sentencing legislation to deal with these matters.

The proposed substitution has been determined in consideration of all of the penalty provisions of the Bill.

No 15

The intent of this amendment is accepted, but with wording which is consistent with the drafting of the rest of the clause.

No 20

The intent of the amendment is accepted, but it is better placed following existing subclause (5) with some editorial changes, similar to those discussed at Amendment No 10.

No 33; No 34; No 35

Unlike the *Education Act 1928*, the Bill does not prevent parents from seeking enrolment outside the local area. In Parliamentary debate, both the Government and the Opposition have expressed support for the principle of parental choice in selection of government schools.

On the basis that local area boundaries are necessary only where there is overcrowding of a school, the amendments do not achieve a different effect from the original drafting.

The requirement to put boundaries on a significantly greater number of government schools than at present will create an additional administrative burden which is unnecessary.

In view of a need to remove ambiguity about the issue of "priority for local access", relevant amendments to the enrolment provisions at clauses 79 and 80 are proposed to address this matter.

No 39; No 40

The clause describes functions for which the school principal is accountable.

The intent of Amendments Nos 39 and 40 is accepted but alternative wording is provided. This is to avoid the need to amend clauses 64 and 123 for consistency with the proposed amendment.

No 41

The intent of the amendment is to reinforce the notion already in the clause about individualisation of educational programmes for students with a disability. An alternative wording to achieve the same effect is provided.

No 52

The intent of the amendment is accepted, but with wording which makes it consistent with the rest of the clause and other relevant clauses.

No 56

The proposed (2) is accepted. It reinforces the right of a parent to receive appropriate notice of an exclusion recommendation.

Proposed subclause (3) creates duplication of the work of the School Discipline Advisory Panel and could delay proceedings unnecessarily. At subclause (4) [as a result of Amendment No 57], the Panel is to report on the means by which the child's case has been handled.

No 58

The intent of the amendment is accepted, but the wording needs to be modified in a similar way to that proposed for Amendments Nos 10 and 20.

No 59

The intent of this amendment is accepted, but with wording which is consistent with the drafting of the rest of the clause and with other similar clauses in the Bill.

No 65; No 66; No 67; No 68; No 69; No 70; No 71; No 72; No 73; No 74; No 99

The Legislative Assembly recognises concerns from the Legislative Council about the application of the scheme of charges and fees in the Bill.

The Council's amendments, however, provide an unacceptable structure which is both complex and difficult to interpret. Its effect is that charges could only be prescribed for instruction of overseas students or for activities such as specialist religious education.

The Legislative Assembly proposes a re-written subdivision which:

incorporates relevant Legislative Council amendments;

acknowledges the Legislative Council's concerns;

provides a scheme which resembles the operation of current arrangements in schools; and

adds protection for those in financial difficulty.

The intention of the subdivision is intended to be:

that any contributions and charges sought from parents can be shown to be of direct benefit to students;

that there be a scheme of voluntary contributions towards the cost of materials, services and facilities used in the educational programme of a primary school;

that there be a scheme of charges for some of the materials, services and facilities used in the educational programme of a secondary school; and

that the costs of activities which are outside the educational programme ['extra curricular'] are not matters for inclusion in the Bill, but are in the nature of separate contractual arrangements between parents and schools.

Amendments Nos 71 and 72 are not supported. The intention is that there be a discretionary power for fees to be charged to adults and overseas students.

The current policy regarding adult access to government schools is that permanent residents should have a reasonable opportunity to gain access to a school-level qualification without a charge for tuition. It is intended to continue that policy and that no regulations be made in relation to this aspect.

On the other hand, provision needs to be made for collection of a tuition charge, or portion thereof, when adults undertake community education courses, at Senior Colleges for instance. The amendment would diminish the opportunity for Senior Colleges and other relevant schools to make this provision in the future.

No 75

It is accepted that an ambiguity in the wording of the clause might lead to concern about young people attending out-of-school events at their own local school site. The alternative wording is consistent with the attendance provisions at clauses 23 and 24.

No 86

The proposed deletion removes the Minister's power to exempt schools or classes of schools from specific provisions of the Act. This clause is intended to provide maximum flexibility for the future and to enable the evolution of new models for school organisation and operation to be managed appropriately.

It is acknowledged that the clause provides a significant power, which needs to be used prudently. In recognition of this a substitution is proposed by which the exercise of power by the Minister is limited to a period of 3 years, which is renewable for only 1 further year with the approval of the Parliament. If the change sought is to be permanent, the Act will need to be amended.

Further constraint is provided by an extension of 3 sitting days for the Parliamentary disallowance procedure.

No 95

The substitute amendment should be taken in conjunction with the acceptance of Amendments Nos 93 and 94. It is provided to clarify the scope of inquiries; to remove ambiguity about the respective roles of the Ombudsman and the Minister; and to reinforce the avenue of review by the Ombudsman in cases of students in government schools.

No 96

The intent of the amendment is accepted but substitute wording is provided, consistent with the approach at Amendments Nos 10, 20 and 58.

The advisory panels established under this clause could deal with matters unrelated to individual students and so the application of the amendment is slightly different from those discussed at Amendments Nos. 10, 20 and 58.

No 97

The effect of the proposed subclauses (3)(a) to (d) is accepted. These are seen to be helpful in providing guidance concerning the exercise of authority which derives from the powers of the Minister at clause 209.

The proposed (e) creates a potential conflict with clause 214 and it is not clear what the detail of regulations made under (e) would contain. The proposed (4) is unnecessary in view of the power to establish an advisory panel under the provisions of clause 234.

The substitution acknowledges concern about equity matters. It relates to the subdelegation power to schools.

Clause 209(1) requires that the powers exercised by the Minister are to be only "for the purpose of furthering the best interests of students and educational programmes in government schools".

No 101

Explicit provision to constrain the roles of a Council appear at existing clause 126 and so a new clause is unnecessary.

The specific concerns underlying the amendment are accepted and so a series of substitute proposals is provided.

The first of these provides a limitation on the role of a Council in the appointment of teaching staff to a school, where the limiting phrase "take part in" is used. A Council must receive specific authority from the Minister in order to exercise this function. The construction allows the Council to take part in either the selection of the principal, or the selection of other teaching staff, or both.

The second substitute amendment underlines the limitation of School Councils in relation to the management of school

funds, which are vested in the school principal by virtue of clause 106. It is noted that clause 123(a)(ii) enables the Council to participate in the planning of financial arrangements necessary to achieve the school's objectives.

The third substitute amendment provides a new clause by which the property of a School Council is to be vested in the Minister. This is analogous to property held by a P&C Association.

No 103

This clause is analogous to existing clause 224. An examination of the proposed amendment has brought to light an error in the drafting.

A provision such as that at subclause (3) is usually applied to a statutory authority, rather than a chief executive officer.

Section 32 of the *Public Sector Management Act 1994* makes provision for chief executive officers to be required to follow lawful directions. It remains only for the Bill to authorise the Minister to provide directions.

The proposed substitution is also to be applied to clause 224.

No 104

The intention of the amendment is to enable the smooth transition of existing boundaries to the proposed amendments at Nos 33, 34 and 35.

The substitution provides discretion to make use of previously existing boundaries for government schools where desirable or necessary.

Hon N.F. MOORE: I move -

> That amendments Nos 1, 2, 3, 4, 13, 18, 19, 23, 24, 25, 27, 28, 29, 30, 31, 38, 42, 43, 44, 45, 46, 47, 48, 49, 79, 81, 82, 84, 85, 87, 88, 89, 90, 91, 92, 98, 100, and 102 made by the Council be not insisted on.

The CHAIRMAN: We will deal with amendment No 1.

Hon LJILJANNA RAVLICH: The Australian Labor Party will not insist on amendments Nos 1 to 4. However, it is disappointed that the Government has insisted on maintaining its line that this is an administrative Bill and that no mention be made in the Bill of the quality of education provided. The amendments which were made to clause 3 and conveyed to the other place in a message were designed to enhance the legislation rather than to take anything away from it. The ALP is disappointed that the Government has not been able to move forward in respect of its position regarding Legislative Council message No 25, and amendments Nos 1, 2, 3 and 4 in particular. It would not have confused the legislation and had the Government shown more good will, we could have had a better outcome for those specific amendments. Nevertheless, the Government has made its position clear and I will not take up the time of the Chamber to rehash that debate. The ALP will accept the rejection.

Question put and passed; the Council's amendment not insisted on.

The CHAIRMAN: We will deal now with amendments Nos 2 to 4.

Hon LJILJANNA RAVLICH: Amendments Nos 2, 3 and 4 relate to the desire to promote a high standard of education in government schools.

Hon Derrick Tomlinson: That is to be applauded.

Hon LJILJANNA RAVLICH: I agree. There was nothing negative in the original amendments, which were designed to promote a high standard of education in government schools and ensure that education is provided to all children without discrimination on the grounds of sex, race or religion. As the Government has determined it will not accept these amendments there is not much point in going over the same ground. I did tally what was and was not agreed to and what was substituted and the outcome for the School Education Bill and the process that has been used is generally a good one. In total 32 amendments were agreed to, 38 were disagreed to and there were 33 substitutions. The Opposition can be pleased at a two-thirds success rate with the amendments it moved. If there is scope to get another few amendments through this place during the course of the committee stage we will be even happier. Suffice to say this is not an issue on which we will risk the legislation.

Question put and passed; the Council's amendments not insisted on.

The CHAIRMAN: We will deal now with amendment No 13.

Question put and passed; the Council's amendment not insisted on.

The CHAIRMAN: We will deal now with amendments Nos 18 and 19.

Hon HELEN HODGSON: It is my understanding that amendments 18 and 19 relate to an amendment moved by Hon Christine Sharp to ensure that the school is included in the process of dealing with school attendance-type problems. We both feel fairly strongly about that issue. It is important that it be seen not only as an issue to do with the child and the parents but also as a school issue, because often it is possible for the school to take up matters that will assist the child, the parents and everybody concerned with the attendance issue.

It was also a matter looked at in the Standing Committee on Public Administration. I remember lengthy discussion arose regarding the need to ensure an holistic approach was adopted to these issues. It was important that the schools be a part of the overall process. I know that Hon Christine Sharp has been taken away on parliamentary business, and it is important that those concerns be raised at this stage.

Hon LJILJANNA RAVLICH: I request that we handle the legislation in the order of the message. Can we slow down a little so I can find the right place in my file? This is an amendment on which Hon Christine Sharp feels strongly, and I am saddened she is not here to speak to it. I am not happy that the Government has rejected the amendment nor am I happy with the explanation provided for its rejection. In reference to both amendments Nos 18 and 19, the Government has stated that the two amendments are unnecessary since subclause (6)(d) requires the panel to provide the school with a written report. Amendment 21 provides a mechanism for the school to receive appropriate advice from the panel. However, proposed subclause (6)(d) does not do the same thing - it is different. Our amendment focused on giving advice to the school and the child's parents at the point of referral, which is different from giving advice to a child's parents after referral. Subclause (6)(d) is about giving a report after the event, which is too little too late. The ALP is not happy with the explanation provided, but will not risk losing the Bill on this matter.

Hon N.F. MOORE: Hon Ljiljanna Ravlich outlined the reasons provided by the Legislative Assembly for this amendment being unnecessary. The Government has no problem with its principle. As the shadow minister for education in another place stated, it is another case of redundancies with a number of amendments not making any improvement to the principle of the Bill. They double up in the legislation, and are unnecessary.

Question put and passed; the Council's amendments not insisted on.

The CHAIRMAN: The Committee will now deal with amendments Nos 23, 24, 25, 27 and 28 in a similar grouping.

Hon HELEN HODGSON: Although the amendments can be dealt with jointly, it is important that they be discussed as they deal with home schooling.

Hon LJILJANNA RAVLICH: These amendments were strongly supported by Hon Christine Sharp through both the Public Administration Committee process and during earlier debate in this place.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon LJILJANNA RAVLICH: Amendments Nos 23 to 26 all refer to application for registration of home educators. These amendments have been rejected and centre on whether a home educator should apply for registration or whether he or she should only have to notify the department. The Standing Committee on Public Administration was of the view that it was sufficient for home educators to simply provide notification of their intent to home educate. Many home educators are of the view that notification should be sufficient. The Education Department obviously has a difficulty with that for administrative reasons. According to the responses as to why these clauses have been rejected, the department has advised that the Bill states that the CEO is obliged to register the child, but only on completion of an application. That is exactly what home educators did not want; they wanted to be able to notify. How many applications are made by home educators annually, and how many of those applications are rejected? The reason I ask that is, if at the end of the day the total number of applications made equals the total number of applications accepted, we do not have much of an issue to debate.

Hon N.F. MOORE: I understand that home education takes place in about 900 families. I do not know of any rejections, but the moderator must visit on a regular basis to ensure that those children are being properly educated.

The Government wants to retain the term "application" rather than "notification". The policy still is that the chief executive officer does not have discretion to reject any application, but it is a more appropriate process to use the word "application" rather than "notification" and I would appreciate the Opposition's support to retain amendments Nos 23, 24, 25, 27 and 28 bearing in mind that we have already accepted amendments Nos 22 and 26.

Hon LJILJANNA RAVLICH: If all applications are accepted what is at issue? If the department does not have a screening process when a home educator makes an application to decide that some parents do not meet the criteria for home education, I cannot see the difference between making an application and notifying the department. They are the same thing unless the department goes through a screening process when the application is made and decides that some parents should not be involved in the process of home education.

Hon N.F. MOORE: There is essentially no difference between notifying and applying. However, the advice is that the word "application" is better drafting terminology. I will not slash my wrists if the member wants to stick with this, but I cannot understand why she is arguing the point. The advice is that application is the appropriate word; it means the same thing.

Hon LJILJANNA RAVLICH: There is a difference between applying and notifying. It is one thing to notify the Police Department that I want a drivers licence because that implies it is automatic; it is another thing to make an application and meet certain criteria in order to get it. The Australian Labor Party once again will not hold up the progress of this legislation based on the Government's insistence that amendments Nos 23 to 27 not be insisted upon. Hon Christine Sharp felt strongly about this. I am disappointed that she is not participating in this debate because she is detained on urgent parliamentary business. She would like to have had a final input into some of these issues that she felt strongly about. This is the second suite of amendments on which she worked fairly hard during the committee process to convince the rest of the committee that her case was valid

Question put and passed; the Council's amendments not insisted on.

The CHAIRMAN: The question is that amendment No 29 be not insisted on.

Question put and passed; the Council's amendment not insisted on.

The CHAIRMAN: The question is that amendment No 30 be not insisted on.

Hon HELEN HODGSON: This amendment intends to ensure that parents are adequately consulted in matters of school closure. It is clear that under the original legislation there was limited consultation on the rights of parents prior to the school closure. The message said that the matters for consultation in subclause (1) are not related to school closure per se but administrative concerns. That gets to the nub of the problem. It is important that parents have a say on whether or not their school is to be closed, not just on what will happen after the decision to close the school has been made. For those reasons I put the point clearly at the last debate on this matter and maintained we should ensure consultation takes place.

Hon LJILJANNA RAVLICH: I support the comments made by Hon Helen Hodgson. Members would be aware that the local area education planning process has been going on for some time. The constant criticism I hear as I visit schools in my electorate is that the process is driven by economics rather than good sound educational philosophy or management. People within the local school communities have woken up to what local area education planning is all about. They do not see any benefit coming from it. The parents and citizens association of the Gosnells High School approached Eric Ripper about the lack of funding to upgrade that school. That school has been seeking capital works money for some time, but has not been successful. I was disappointed because school rationalisations have occurred within the East Metropolitan Region, yet there does not seem to be any direct benefit flowing to school communities as a result of that local area education planning.

Hon Derrick Tomlinson interjected

Hon LJILJANNA RAVLICH: I have been to Belmont and that high school is doing well from a rationalisation of schools around that area. The point I make is that some schools fare better than others and Gosnells Senior High School is not faring particularly well. It would be good if there were a better redistribution. Consultation is an important issue and school closures should not be determined purely and simply on economic considerations. The amendment which was originally put forward was that consideration should be given to whether there was significant educational, economic and social reasons for not complying with the decision to close a school. I support the comments by Hon Helen Hodgson, but the Opposition will allow this to go through because we are not prepared to sacrifice the legislation on this clause.

Question put and passed; the Council's amendment not insisted on.

The CHAIRMAN: The question is that amendments Nos 31 and 38 be not insisted on.

Question put and passed; the Council's amendments not insisted on.

The CHAIRMAN: The question is that amendment No 42 be not insisted on.

Hon LJILJANNA RAVLICH: I thought we had an understanding that we would slow down. I thought this would be handled in sequential order.

The CHAIRMAN: This is being handled in the sequential order of the motion - not the order in the Bill, but in the message.

Hon LJILJANNA RAVLICH: Amendment 42 relates to clause 73, which deals with the education program for children with disabilities. The Opposition sought to include new subclause (3) by which the minister must ensure that appropriate resources are provided to a school in which a child with disabilities is enrolled. It has been knocked back by the Government on an appropriation argument that it is beyond the scope of the Legislative Council to propose such an amendment. This is a very important issue. Without holding up the Bill, it is important that the Australian Labor Party reaffirms its commitment to students with disabilities and the need to ensure that schools with students with disabilities are adequately catered for and resourced.

Hon KIM CHANCE: I take further the issue raised by Hon Ljiljanna Ravlich. The member indicated that she thought we would deal with the matter in a little more time. The difficulty which she raises in a mechanical sense is that opposition member's files on this Bill are structured clause by clause. I understand that the Chairman is dealing with the message rejected amendment by rejected amendment. It presents a difficulty in mechanically dealing with progress. I am not sure how the Government's filing system is structured.

Hon N.F. Moore: If the member had been here earlier, it was discussed and this process was a proposition put to me. I went along with it.

Hon KIM CHANCE: I understand the minister's point of view. I am not critical of anyone. I am explaining the point Hon Ljiljanna Ravlich made. From my point of view, before I had opened material on amendment No 38, the Chairman had already put the question. I ask that the Chairman allow a few seconds at least before putting the question.

Question put and passed; the Council's amendment not insisted on.

The CHAIRMAN: The Committee will now deal with amendments Nos 43, 44, 45 and 46.

Question put and passed; the Council's amendments not insisted on.

The CHAIRMAN: The question is that amendments Nos 47, 48 and 49 not be insisted upon.

Hon LJILJANNA RAVLICH: Amendments Nos 47, 48 and 49 deal with enrolments of children of compulsory school age at local intake schools. They relate to clause 78. Substitution provisions are involved. It highlights a difficulty in handling the Bill in this manner. We must reject these amendments in order to facilitate a substitution through amendments Nos 33 and 34, which give priority or access to local schools.

Progress reported and leave granted to sit again, pursuant to standing orders.

LOAN BILL 1999

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) [4.56 pm]: I move -

That the Bill be now read a second time.

This Bill seeks the necessary authority for the raising of loans to enable the State to assume responsibility for the debt raised on its behalf by the Commonwealth under the 1927 financial agreement between the Commonwealth and the States. Authority to borrow for the purpose of redeeming maturing financial agreement debt has been provided for in the Loan (Financial Agreement) Act 1991 and the Loan Acts 1991 to 1995 and 1997, and is expected to continue for a number of years until the State assumes full responsibility for this particular category of debt.

Redemption of maturing financial agreement debt is in accordance with the agreement between the States and the Commonwealth that the States would assume responsibility for this debt on a phased basis over the period 1990-91 to 2005-06. The Commonwealth compensates the States and Territories for the additional borrowing costs of this change based on interest margins between commonwealth and state debt applying at, and prior to, the change. In addition, the Commonwealth provides compensation for its reduced sinking fund contributions due to the accelerated decline in outstanding debt on which those contributions are based.

The borrowing authority being sought this year for the raising of loans of up to $260m is for the purpose of the redemption of maturing financial agreement debt only and no authority is being sought for borrowings for public purposes generally. The level of borrowing authorisation for the redemption of maturing financial agreement debt has been determined after taking into account the unexpired balance of previous authorisations as at 30 June 1999. It is also necessary to have sufficient borrowing authority to cover the maturing financial agreement debt for a period of up to six months after the close of the financial year pending the passing of a similar measure in 2000. The balance of the authorisation at 30 June 1999 for redemption of maturing financial agreement debt is estimated to be $10.1m.

The machinery nature of this Bill is consistent with the corresponding provisions in the Loan (Financial Agreement) Act 1991 and Loan Acts 1991 to 1995 and 1997 which have also contained the authority to borrow for the purpose of redeeming maturing financial agreement debt.

In accordance with clause 4 of the Bill, the proceeds of all loans raised under this authority for redeeming maturing financial agreement debt must be credited to an account called the "redemption of financial agreement debt account", which is part of the trust fund under the Financial Administration and Audit Act, and moneys in the account are to be used only for the purpose of redeeming maturing financial agreement debt.

In addition to seeking the authority for loan raisings, the Bill also permanently appropriates moneys from the consolidated fund to meet principal repayments, interest and other expenses of borrowings under this authority. 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) [5.01 pm]: I move -

That the House do now adjourn.

Leave Liability - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [5.02 pm]: I bring to the attention of the House a situation which has been developing over some time, and that is the Government's mishandling of the leave liability issue. In recent times some interesting information about the way in which government agencies intend to handle the problem of leave liability has emerged. I put on record that this is a problem of the Government's making.

Hon N.F. Moore: Because we know what we have. You did not even bother to find out what liability you had. You did nothing in government!

Hon LJILJANNA RAVLICH: The leave liability has doubled since 1994. If the minister does not believe me, it is in the Government's documentation. Every time I say "leave liability", the minister goes ape. Why does he go ape? He goes ape because he knows that is an embarrassing problem for the Government and it does not know how to fix it, and that is what I will tell him tonight. Members in this Chamber should watch those sitting on the government side. It is like watching fish in a pond, jumping up all over the place. They are absolutely pathetic!

The Government set a target that leave liability in government agencies be reduced by 10 per cent by 30 June. Agencies have accrued enormous amounts of leave liability. It is interesting the way they are handling it. The way the Premier is distancing himself from this issue is also very interesting. During the estimates hearing I asked Mr Wauchope whether the clearance of leave liability by public servants should form part of their performance assessment. Public servants cannot be held accountable in a performance sense purely because their leave has not been cleared. The other day a public servant put it to me that they were the real victims of government policy. When this Government came into office, the first thing it did was say, "You must be self-supporting." In other words, "We will look at you as an economic unit, and at the end of the day you must produce economic outcomes." If that sort of show is going on, public servants cannot afford to take the time off, firstly, because it reflects on their economic productivity and, secondly, because they are often instructed by their superiors not to take their leave when they might be entitled to take it. They get a double whammy. My concern is that through its agencies the Government is using heavy-handed tactics to force public servants to reduce their accumulated leave. Some agencies will close down over the Christmas period to clear leave liabilities.

Agriculture Western Australia circulated the following memo to its workers -

> Following assessment of budget planning information, one of the significant areas that we need to manage is the annual leave and long service leave liability of the agency. Our performance in its management is reported to Parliament during the budget process.
>
> With the above in mind, Agriculture Western Australia's Enterprise Agreement 1998 and Workplace Agreement (1) included the possibility of 'cashing in' some leave benefits. A number of staff have availed themselves of this opportunity.

I hear from middle and entry-level public servants that an amount of money was allocated, but all the executives got into it and there is nothing left for anyone else.

The memo continues -

> To ensure that these efforts continue Agriculture Western Australia has implemented a policy requiring that staff:
>
> - clear all annual leave (4 weeks) each year by 31 March following the year in which it accrues;
> - long service leave should be cleared within 3 years of being accrued, and
> - an agreed plan should be in place to clear excess leave balances.
>
> Managers and staff are required to develop appropriate arrangements and specific plans that will be monitored to ensure that the agency's leave liability is reduced.
>
> I ask that managers and staff work cooperatively in reducing our leave liability by considering work commitments, the closure of offices -

Agriculture WA will close offices over the Christmas period, perhaps for a month. Harvesting and other activities are going on in rural Western Australia at that time. If there is any time that Agriculture WA should not be closing its offices, it is during that very busy season. The memo continues -

> . . . and the needs of individuals in developing these leave management plans to assist in the effective management of this liability.
>
> Leave management plans should be a specific item for agreement at all PAPDR discussions. PAPDR forms will be amended to assist in this process.

PAPDR forms are part of the performance appraisal and personal development review process. What a joke! What does the clearance of leave have to do with someone's ability to perform their job? That is a disgrace. To top it all off, how dare departmental officers decide when the offices will be closed and when they will serve the public.

How many government departments will be closed and over what period will they be closed? Are they breaking the law in making those decisions to close driven purely by a desire to reduce liabilities? That is a very simple question. The Premier, as the minister responsible for public sector management, has some explaining to do.

I contacted Agriculture WA because I could not believe it had unilaterally decided to close shop to solve its leave liability problem. The response was that the department may close three or four country branches for a period over the Christmas break. Just like that! How many government agencies will close? Will the public sector be heading for a big shutdown and when will it be? The public has a right to know when they will be denied access to services as a result of the Government's mismanagement of leave liabilities.

That is a fair enough question. I want to know when they will be closed, how many will be closed, and for what period they will be closed, and I want to know why the public generally has to suffer as a result of the Government's mismanagement in this area.

This is an appalling situation. We know about Agriculture Western Australia and its strategies. I am interested to know what other government agencies will do to reduce their leave liability. I was appalled at the response given by Mr Wauchope, the Director General of the Ministry of the Premier and Cabinet. He said that he did not think that appraising the performance of public servants in light of their leave liability would be a breach of the law, and he left it at that as though it was no big deal. For many public servants who have done the right thing, hung in there, done their work and now been penalised, it is the wrong thing.

Hillarys Boat Harbour - Adjournment Debate

HON KEN TRAVERS (North Metropolitan) [5.10 pm]: I want to briefly bring to the attention of the House an issue that is causing a great deal of concern among my constituents in the North Metropolitan Region. It relates to a proposal by the Western Australian Planning Commission and the Department of Transport for a structure plan in respect of the Hillarys boat harbour. Although a structure plan dealing specifically with the area of land covered by the Department of Transport at the Hillarys boat harbour is probably not such a bad thing, the issue that is causing great concern for the residents of the northern suburbs is that part of the area included in that structure plan encroaches on the Whitfords nodes.

The Whitfords nodes are a fairly important icon in the northern suburbs, and a number of political debates have taken place over the years about development on those nodes. One need only go back to 1983. I am sure that Hon Cheryl Davenport and Hon John Halden, who were in the northern suburbs at that time, would remember the importance that saving the nodes played in the 1983 campaign which brought Labor to government.

Members need to be aware that the thing which is causing great concern, which was highlighted at a recent meeting in the City of Joondalup, is that the structure plan includes a fair whack of the nodes, and people are concerned that it is part of an attempt to extend the area of development around the Hillarys boat harbour into the areas that are currently bushland and areas for passive recreation within the nodes area.

From the comments that were made by the commissioners the other night, I am pleased to report to the House that the City of Joondalup is opposed to any extension of development onto the nodes. I applaud them for that. I also applaud the members of the community in that area who are taking up this issue. It is interesting to note that already a number of people who were involved in the original campaign to save the nodes in 1983 and who still live in the area are back there again to make sure that they can protect these wonderful pieces of our environment, which really need to be protected and defended from any attempts to encroach onto them. The other person I want to congratulate for the stance that he has taken is a former member of this House, Hon Alan Carstairs, who is also opposed to any attempts to develop the nodes. I understand that his father used to own the land, and when his father originally sold the land it was on the basis that it would be used for passive recreational purposes.

I also understand that part of the problem that has led to this proposal is a move for Fisheries WA to move its research station to the Hillarys boat harbour. I have looked at its proposals, and although I can understand its reasons for wanting to move to Hillarys, I am not sure that I am completely sold on that as being the most preferred site in the northern suburbs. If Fisheries WA goes to Hillarys, it must be on the basis that it can fit within the current area of land that is controlled by the Department of Transport. If there is some need for a minor boundary change to reflect geographic rather than cadastral features in the area, that may be acceptable, but any attempt to increase the area of land under the control of the Department of Transport for commercial-style development would be totally unacceptable. I hope that all members of this House would join me in opposing any development in that area.

Another issue that I want to take up briefly, rather than interjecting during question time this afternoon, is the Minister for Transport's suggesting that everything is wonderful in our public transport system at the moment. It is fair to say that if people were to use our public transport system, they would see, as have those who have continued to use it over the past 20-odd years, including me, that it has been in steady decline. I was thinking after the minister had spoken that most of the buses at the moment certainly pre-date the time when I was a bus driver.

Hon Kim Chance: They were all bought by Labor Governments.

Hon KEN TRAVERS: They were. When I was around there were some fairly old buses. They are still out there running. We have had, I think, four of the new buses delivered so far. I will be interested to have an update on that.

I congratulate the Government on the circle line which replaces cross-Perth routes. Anything that improves that situation is to be congratulated. However, the problem with the Government is that it constantly brings in little changes and says that it is doing a wonderful job, while overall the system continues to go down hill. When I was out last week looking at the way in which this Government wastes water, I drove past the new sub-depot by Cannington train station. I would love to know how buses that are parked at that depot get cleaned. I am sure someone will argue that they go back to the main bus depot every so often for a clean. As anyone who has ever been involved in driving buses will know, a driver can work for a day and a bus will not get particularly dirty. All a bus needs is for one group of people to make a mess and it is filthy. Under the old system a driver was able to take that bus back to the depot and change it for a clean one. I have no idea how that process operates at the moment in those sub-depots with no cleaning facilities.

Another issue the minister raised was the cost of the fares and how wonderful they are and that $6.20 is not an unreasonable amount. Sometimes we in this place lose touch with reality. We are on good incomes. We get spoiled with the lifestyle we live. I can assure the minister and other members of this House that if they go and talk to people who live in places such as Clarkson, Merriwa and Currambine and who are on much lower incomes than ours, they will find those people are very much struggling. The increases in public transport system fares that we have seen under this State Government have hurt them incredibly. I urge members to get out there and start catching buses. I did it earlier this year when I took the opportunity to regularly travel up and down to my electorate office in Joondalup by catching the train. A number of Westrail officials to whom I spoke thought I was mad because I was buying tickets rather than using my gold pass, which I understand entitles us to free transport.

Hon Derrick Tomlinson: Not in the metropolitan area.

Hon KEN TRAVERS: I did not break the law, did I?

Several members interjected.

Hon KEN TRAVERS: Some of them still think it does.

Hon Derrick Tomlinson: They were inducing you to. You must be careful of bus drivers.

Hon KEN TRAVERS: I can assure members that I bought a ticket. If people do that daily it quickly adds up. Even on the income of a member of Parliament, I started to notice how much it dug into my pocket. I have a great deal of sympathy for the residents in the outer northern suburbs and in Armadale and the like - those who do not have a lot of money or second cars and must depend on the public transport system. The additional costs this Government has imposed through the public transport system are astronomical and very much hurt these people's pockets.

The Minister for Transport spoke about the environment, but this Government continually builds new roads. Rather than expanding the railway system, it spends a fortune on expanding the road network. I challenge members opposite to research the last time a Liberal Government in this State opened a new railway line, as opposed to closed one down. It is a long time ago, if it ever happened.

Hon N.F. Moore: It was called the *Indian Pacific* train - the standard gauge.

Hon KEN TRAVERS: When was that? It was before the Leader of the House was even a member of this place.

Leave Liability - Adjournment Debate

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.20 pm]: I am glad Hon Ljiljanna Ravlich is still in the Chamber because I will give her a lesson on financial accounting and the accrual of long service and annual leave.

Hon Ljiljanna Ravlich: Why me?

Hon MAX EVANS: Because the member raised the subject. When the Labor Party was in government it ran on a cash accounting system, and on that basis it could say there was no liability for long service leave or annual leave. The member was correct in saying that there was no liability on the books, because it had not been calculated. I made the decision when this Government came to office to switch to accrual accounting, and it has taken a few years to catch up, redo the figures properly, and calculate how much annual leave and long service leave has accrued. Sick leave is not brought into the figures, although many people have accrued a lot of sick leave, as a financial liability.

Hon Ljiljanna Ravlich: So it is even worse than $1b.

Hon MAX EVANS: That liability will accrue all the time, because last year most agencies received a minimum salary increase of 3.5 per cent, and the accrued amount will increase by that percentage. Some of the bigger agencies received wage increases up to 10 per cent, and some other staff receive increases based on their years of service. Therefore, it will be a double whammy on the accrued liability. A number of factors push up the figure, and even though it may relate to the same number of days and hours, the value of the liability increases because of the increase in salaries. There is much less turnover in staff these days, and people trip over themselves to get their next entitlement to long service leave.

Management of this area is important, and we must speed it up much more. Closing down agencies is not necessarily the answer. We must make people take their leave, and enforce that. In one of my agencies a staff member had 46 weeks of accrued leave. He is now on leave. In the Police Service senior ranks were allowed to accrue two lots of long service leave when they were approaching retirement. That happened in many other departments. That leave was paid at a higher rate of pay than when it first became due. There are many anomalies in the system whereby people have two or three lots of long service leave outstanding - accumulated over 14 or 21 years - and they are paid this year what they should have been paid 14 years ago at the then prevailing rate of pay. The Government looked into this, but it is locked into a certain system.

The accrued liability is increasing each year because of the increased rates of pay. If the salary levels were reduced by 10 per cent, the accrued liability would also decrease. The Government will not do that. Under the Labor Government this liability was not apparent in the accounting figures. I now include in the figures the amounts owed to the Government and the amounts owed by the agency, which did not happen previously. That is proper accounting.

Hon Ljiljanna Ravlich: How many government agencies will close?

Hon MAX EVANS: I do not know; that is not my decision. None of mine will close.

Agriculture Western Australia - Adjournment Debate

HON B.K. DONALDSON (Agricultural) [5.24 pm]: Hon Ljiljanna Ravlich spoke about Agriculture Western Australia perhaps closing some of its offices in January.

Hon Ljiljanna Ravlich: Do you know which offices will close?

Hon B.K. DONALDSON: Some people in this House have lived in the country all their lives.

Hon N.D. Griffiths: You are not one of them.

Hon B.K. DONALDSON: I can assure Hon Ljiljanna Ravlich that in January, after the completion of harvesting, hardly a person is left in most country wheatbelt towns. I imagine the demand for services during January would be almost nil. When we stop and think about it, why should those people working in those areas not join their families and have an opportunity to build on the fabric of our society as family units?

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich must learn that when she says something in this House other members are entitled to respond; and they are entitled to respond without her interjecting. She does not have a mortgage on all of the time in this place or a mortgage on interjections.

Hon B.K. DONALDSON: Many businesses in country areas take the opportunity to close their doors during that period leaving only a skeleton staff. That is sensible business management. I am sure if members speak to a number of Agriculture WA officers with families, they would say that they would be only too delighted to escape the heat in some of the country areas during summer and go to the coast with their families.

Hon Ljiljanna Ravlich interjected.

Hon B.K. DONALDSON: This shows how ignorant Hon Ljiljanna Ravlich really is because she does not understand and would not have a clue about what actually happens in the country.

Hon Ljiljanna Ravlich: I worked in the country for eight years.

Hon B.K. DONALDSON: I suggest that one day in January she goes out in a motor car and drives around one of the wheatbelt towns. Members who have been in the Agricultural Region electorate campaigning in January - and a number of members have been - find there is no-one there; they are all on the coast with their families. Why should that opportunity not be extended to the people who work with Agriculture WA who wish to take their holidays during January? I am amazed that a person from the Australian Labor Party is denigrating the worker and not giving the worker an opportunity to enjoy family social life. That is half of the problem currently with our society; true family values are escaping us.

Several members interjected.

Hon B.K. DONALDSON: I suggest very strongly that Hon Ljiljanna Ravlich hops in a motor car next January, drives around some of those country towns and asks some of the Agriculture WA officers who are still there whether they would like to be away with their families during January. I know what the answer would be: Yes. Hon Ljiljanna Ravlich is being very silly and ill-informed. I suggest that before she gets up in this House and issues a diatribe of rubbish she gets her facts right.

Question put and passed.

House adjourned at 5.27 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

BANK CHARGES

949. Hon GIZ WATSON to the Minister for Finance representing the Treasurer:

In respect of charges which bank customers have to pay, will the Treasurer advise -

(1) On what date was the State Debit Tax introduced?

(2) Has the State Debit Tax changed in any way, since it was introduced?

(3) What service does the Government provide to bank customers to warrant these charges?

(4) When were bank cheque withdrawal fees introduced?

(5) Was the Government required to approve these fees?

(6) Will the Government consider waiving or reducing bank fees for pensioners?

(7) If not, why not?

(8) Does the Government intend to do anything to lessen this financial burden?

(9) Does the Government accept that these fees are causing hardship to people on limited incomes?

Hon MAX EVANS replied:

(1) Debits tax was transferred from the Commonwealth to the States from 1 January 1991.

(2) Debits tax rates in Western Australia increased to the same level as in most other States from 1 July 1997.

(3) Debits tax is not a service charge to bank customers. As is the case of other State taxes, revenue from debits tax helps to fund general community services such as health, education, and law and order.

(4) These fees are imposed by banks, not by the State Government. The member would need to ask the banks when they introduced these fees.

(5) No.

(6)-(8) Not applicable. However, I would note that the State Government already provides a financial institutions duty exemption for direct credits of social security payments, including pensions, into recipients' accounts. Furthermore, under national tax reform initiatives, we are proposing to abolish both financial institutions duty and debits tax from 1 January 2001.

(9) This is a matter for the Commonwealth Government to consider, given its primary responsibility for social security.

GOVERNMENT CONTRACTS, REIMBURSEMENT OF UNSUCCESSFUL CONTRACTORS

1322. Hon LJILJANNA RAVLICH to the Minister for Transport:

For all Government departments and agencies under the Minister's control -

(1) How many contracts have reimbursed unsuccessful contractors in -

- (a) 1995/96;
- (b) 1996/97;
- (c) 1997/98; and
- (d) since July 1, 1998?

(2) For each contract which reimbursed unsuccessful contractors, can the Minister state -

- (a) the contract number;
- (b) the date the contract was awarded;
- (c) the project the contract was awarded for;
- (d) the successful tenderer;
- (e) the unsuccessful tenderer/s;
- (f) the original cost of the contract;
- (g) the actual final cost of the contract;
- (h) the amounts paid to unsuccessful tenderer/s; and
- (i) the names of the unsuccessful tenderer/s?

Hon M.J. CRIDDLE replied:

Main Roads Western Australia

(1) (a) Nil.
(b) One.
(c) One.
(d) Two (Includes contract 713/97 for which payments are yet to be finalised)

(2) (a) Contract 19/95.
(b) 14 May 1996.
(c) Design and construct City Northern Bypass.
(d) Baulderstone Clough Joint Venture.
(e) Transfield Thiess Joint Venture Pty Ltd
Citypass Joint Venture.
(f) $203 848 321.
(g) In progress.
(h) Citypass Joint Venture $200 000.
(i) See (e).

(a) Contract 559/95.
(b) No award.
(c) Design and construct the Marble Bar - Woodie Woodie Road (via Ripon Hills)
(d) See (b).
(e) Henry Walker Contracting Pty Ltd.
Macmahon Contractors WA Pty.
Boral Contracting Pty Ltd.
(f)-(g) See (b).
(h) Henry Walker Contracting Pty Ltd $80 000.
Macmahon Contractors WA Pty $80 000.
(i) See (e).

(a) Contract 713/97.
(b) No award.
(c) Design and construct Kwinana Freeway interchanges and extension.
(d) See (b).
(e) Barclay Mowlem - BGC Consortium.
Baulderstone Hornibrook Engineering Pty Ltd.
Leighton Contractors Pty Ltd.
Thiess Contractors Pty Ltd.
Transfield - Macmahon Joint Venture.
(f)-(g) See (b).
(h) Each of the five tenderers will receive $150 000.
(i) See (e).

(a) Contract 6/98
(b) 11 February 1999.
(c) Design and construct Goldfields Highway (Mt Keith Wiluna Section).
(d) Macmahon Contractors WA Pty.
(e) BGC Contracting Pty Ltd.
Henry Walker Contracting Pty Ltd.
Highway Constructions Pty Ltd.
(f) $23 153 378.
(g) In progress.
(h) BGC Contracting Pty Ltd $50 000.
Henry Walker Contracting Pty Ltd $50 000.
Highway Constructions Pty Ltd $50 000.
(i) See (e).

Department of Transport

(1) (a)-(b) Nil.
(c) One.
(d) Nil.

(2) (a) 190/97.
(b) 10 October 1997.
(c) The Design of Transperth Bus Stops.
(d) Dixon Design and Developments Pty Ltd.
(e) Style Ink Design Consultants and Eureka Design.
(f) Contract value $15 300.00 plus $2 000.00 payment to each conforming tenderer = $19 300.00.
(g) Contract value $15 300.00 plus $2 000.00 payment to each conforming tenderer = $19 300.00.
(h) $2 000.00.
(i) See (e).

AIR SERVICES, NORTH WEST

1418. Hon TOM STEPHENS to the Minister for Transport:

I refer to the proposed cuts in air services to the North-West and ask -

(1) How many air services is each of Port Hedland, Newman and Karratha expected to lose?

(2) What steps is the Government taking to ensure that residents of these towns are minimally affected?

(3) How much longer will residents of Broome, Port Hedland and Karratha have to wait for the replacement of the Skywest service for these three towns?

Hon M.J. CRIDDLE replied:

(1) Skywest Airlines withdrew their 16 seat J.31 Jetstream aircraft from their fleet and as a consequence withdrew the three times per week service linking Broome - Port Hedland - Karratha, effective from 12 March 1999. Ansett keeps its services under constant review, and as from 10 May reduced its services to Karratha by one BAe.146 service each morning, (which mainly met Woodside requirements) but is confident that the morning Boeing 737 service can adequately cater for the demand. An additional service was placed on the route on a Tuesday afternoon. Ansett has no plans to change services to Newman, but like all routes, loadings are kept under constant review. Airlink proposes to withdraw all services from Port Hedland as of 2 July 1999, due to falling passenger numbers and inability to gain a substantial market share of the available traffic. Transport will monitor the situation to ensure passenger demand is satisfied.

(2) Transport monitors passengers statistics to the major regional centres of Western Australia and where there are areas of concern or lack of service the issue is addressed with the operator/s concerned. Likewise the airlines keep a close watch on passenger numbers and adjust their services to meet demand.

(3) Transport advertised for a replacement service to operate between Broome-Port Hedland-Karratha in September 1998, but at the time no operator could be found who considered the service commercially viable. Until 1 July 1999, Airlink provides a three times per week service between Perth-Port Hedland-Broome-Port Hedland-Perth. This will more than double the number of seats on the Port Hedland-Broome sector, than when operated by Skywest. However, these services will cease on 1 July 1999 when Airlink withdraws all services from Port Hedland. Transport is continuing to discuss the route with a number of smaller operators who have shown interest in providing a link between the three towns in question.

GOVERNMENT DEPARTMENTS AND AGENCIES, GUIDELINES ON CONSULTANTS

1444. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Will the Premier table in the House the written advice to Government departments and agencies that advises them of the requirement to submit returns detailing all consultants engaged?

(2) What are the criteria that the departments and agencies are required to use when determining whether the business entity engaged is a "consultant"?

(3) Are the departments and agencies required to detail in their returns consultancies that are engaged and paid for, as part of any larger contract paid for by the department or agency?

(4) How soon after each six month reporting period are agencies required to submit their returns?

(5) To whom are the returns submitted?

(6) Which agency compiles the "Report on Consultants Engaged by Government"?

(7) Inside what time line is that agency required to complete this report?

(8) What is the reason for the long delay between the end of the six month report period and the tabling of that report in the Parliament?

(9) When will the report for the six month period ended December 30, 1998 be tabled in the House?

Hon N.F. MOORE replied:

(1)-(9) I refer the Member to the responses given to his questions on consultants reports in the Legislative Council Estimates Committee on Thursday, 3 June 1999.

AIR SERVICES, NORTH WEST

1535. Hon TOM STEPHENS to the Minister for Transport:

I refer to the proposed cuts in air services to the North West and ask -

(1) How many air services is each of Port Hedland, Newman and Karratha expected to lose?

(2) What steps is the Government taking to ensure that residents of these towns are minimally affected?

(3) How much longer will residents of Broome, Port Hedland and Karratha have to wait for the replacement of the Skywest service for these three towns?

Hon M.J. CRIDDLE replied:

(1)-(3) Please refer to my response to Parliamentary Question Legislative Council 1418 asked on 24 March 1999.

GOLDFIELDS-ESPERANCE DEVELOPMENT COMMISSION, CHIEF EXECUTIVE OFFICER

1575. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Regional Development:

(1) Has a new Chief Executive Officer been appointed for the Goldfields Esperance Development Commission?

(2) If yes, who was appointed to this position?

(3) What are the qualifications of the appointee?

(4) What is the total salary for this position?

(5) Who made the appointment?

Hon N.F. MOORE replied:

(1) No. An acting Chief Executive Officer has been appointed for six months from 31 May 1999.

(2)-(5) Not applicable.

QUESTIONS WITHOUT NOTICE

PREMIER'S MEETING WITH HON HELEN HODGSON

1336. Hon N.D. GRIFFITHS to the Attorney General:

(1) Was the Attorney General involved in the Premier's meeting with Hon Helen Hodgson this morning?

(2) Was the meeting about getting the support of the Australian Democrats for the Government's Bills privatising court security services?

(3) Was the meeting also about the Government's proposals for a privately owned and operated prison?

(4) What has the Government offered to obtain the support of the Australian Democrats for these measures?

Hon Derrick Tomlinson: What a caddish question! A gentleman would never ask such a question.

Hon PETER FOSS replied:

(1)-(4) I do not know of a previous situation where a minister in this House has been asked about the substance of discussions taking place - whether behind the Chair or in the Premier's office - in negotiations between parties. It would be an unfortunate precedent -

Hon N.D. Griffiths: Why not be open and accountable for a change?

Hon PETER FOSS: I am quite happy to be. I just think it is an unfortunate precedent, in that the Opposition is seeking to find out the nature of discussions -

Hon Kim Chance: We know what they were; we want to know if you know.

Hon PETER FOSS: I know exactly what happened. I regard it as a most unfortunate -

Hon John Halden: You will not tell us?

Hon PETER FOSS: I have told the Press what I think has happened.

Several members interjected.

The PRESIDENT: Order! A question has been asked. I am still trying to fathom whether it falls within the Attorney General's area of responsibility. A member has made a statement about a meeting, in which he claimed certain things had happened, and he now seeks confirmation of those things. I thought the Attorney General might be telling me whether it is within his responsibilities. I do not know.

Hon PETER FOSS: It is a most unusual occurrence for an out-of-Parliament discussion to be raised in question time, and I certainly do not wish to create that precedent. I decline to answer the question.

INDEPENDENT SPORTS AGENCIES

1337. Hon N.D. GRIFFITHS to the Minister for Sport and Recreation:

My question relates to something outside the Parliament! I refer to proposals to include independent sports agencies and organisations within the Ministry of Sport and Recreation, and ask -

(1) Does the minister intend to proceed with these proposals?

(2) Which agencies and organisations will be included?

(3) What is the minister's justification for this action?

Hon N.F. MOORE replied:

(1)-(3) I am not sure to which "independent organisations" the member is referring. I will take a moment to provide an answer on the basis of what I assume the member is asking. The member may be aware that some time ago I instigated an internal review of the Ministry of Sport and Recreation and the other agencies that make up the portfolio of Sport and Recreation, to try to find a better way of running the portfolio to achieve a more focused situation in respect of policy development. As part of that review, a number of organisations which are funded by the Government, but which could be considered independent, were looked at; for example, the Women's Sport Foundation, the Coaching Foundation of Western Australia and the Aboriginal Sports Foundation. Some suggestions have been made about their future from the point of view of government funding. They are at liberty to remain as entities if they wish, but the question being considered is whether their activities would be better undertaken by the ministry and, if that happened, whether the funds would be retained by the ministry. That is being discussed with the various organisations.

I have met with every agency involved in the Sport and Recreation portfolio in recent weeks to discuss a more coordinated approach across the portfolio. At the moment about 10 organisations within that portfolio report directly to the Minister for Sport and Recreation, even though the Ministry of Sport and Recreation exists. Over the years it has become fragmented, and it is time to consider whether it could be better coordinated. These are essentially the recommendations of the internal report on the portfolio. No decisions have been made about the ultimate restructure, should one occur, but the intention is to provide a better coordinated approach across the portfolio so that we all speak with one voice in sport and recreation.

BUS CONTRACTS, FINE CLAUSE

1338. Hon KIM CHANCE to the Minister for Transport:

(1) Will the minister table that clause of the Transperth bus contracts that sets out the circumstances whereby a bus contractor can be fined for failing to provide a service?

(2) If the minister will not do that, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. I seek leave to table the attached clause.

Leave granted. [See paper No 1135.]

NAVAL BASE HOLIDAY ACCOMMODATION

1339. Hon J.A. SCOTT to the minister representing the Minister for Lands:

In relation to the housing situated in Naval Base, within A class reserves 24308 and 24309, I ask -

(1) What are the plans for the holiday accommodation in the area and for how long will it remain as holiday accommodation?

(2) What plans are there to excise further parts of either A class reserve 24308 or 24309?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The land is managed by the City of Cockburn for the purpose of recreation and camping. The Government will continue to recognise the existing informal leasing arrangements between the City of Cockburn and the chalet owners. The Department of Land Administration will liaise with the City of Cockburn over the future use of the site.

(2) The tabled amendments for reserves 24308 and 24309 are the only plans current for the two reserves.

GIBLETT COUPES 6, 7 AND 8

1340. Hon NORM KELLY to the minister representing the Minister for the Environment:

(1) Can the minister confirm that 512 hectares of Giblett coupes 6, 7 and 8 are on the Department of Conservation and Land Management's current harvest plan and are due to be logged in 1999?

(2) When are logging operations in these coupes expected to commence?

(3) Can the minister confirm that operations PG10697 and PG10897 in Giblett coupes 6 and 8, which are described as a selective jarrah cut operation, are expected to yield approximately 34 per cent, or 3 200 cubic metres, of jarrah sawlog and approximately 65 per cent, or 6 100 cubic metres, of karri and marri chip logs?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(3) The 1999 harvest plan for the southern supply area is incomplete due to the finalisation of the Regional Forest Agreement as both the areas of forest required to provide a comprehensive adequate and representative reserve

system and the amount of log timber that can be harvested on a sustainable basis had not been determined at the time the plan was prepared.

PEOPLE REQUIRING LONG-TERM NURSING HOME CARE

1341. Hon MURIEL PATTERSON to the minister representing the Minister for Health:

What steps has the Government taken to allow chronically ill patients who require long-term nursing home care to stay in small country hospitals?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

Admissions to hospitals are based on clinically assessed need, and, as appropriate, where chronically ill patients require long-term nursing home care and no appropriate alternative is available close to that person's home, admissions are accepted by the relevant small country hospitals.

GOODS AND SERVICES TAX, TOURISM COSTS

1342. Hon KEN TRAVERS to the Minister for Tourism:

(1) Can the minister confirm that Treasury figures indicate that a 10 per cent goods and services tax will result in tourism prices increasing by an aggregate of 6.7 per cent; and, if not, why not?

(2) Can the minister confirm that there is a distinct possibility that such an increase will dampen demand for domestic tourism, which currently accounts for 80 per cent of this $61b industry?

(3) Will this not provide a price advantage to overseas destinations such as Bali; and, if not, why not?

Hon N.F. MOORE replied:

(1)-(3) Can the member tell me to which Treasury he is referring?

Hon Ken Travers: State Treasury.

Hon N.F. MOORE: Is the member saying that state Treasury said there will be a 6.7 per cent increase?

Hon Ken Travers: Yes, as far as I know.

Hon N.F. MOORE: I seek some clarification of the question, because the member has made some -

Hon Ken Travers: What do you think?

Hon N.F. MOORE: I am trying to answer the question. Had the member asked me what do I think about it, I could have given him the answer. I would not mind getting a copy of the question so that I -

Hon Bob Thomas: It is the federal Treasurer.

The PRESIDENT: Order! Let us sort out this question.

Hon N.F. MOORE: There is some difference of opinion.

Hon Bob Thomas: Trust me. It is the federal Treasurer.

Hon N.F. MOORE: I always trust Hon Bob Thomas; it is his colleague I have some trouble with. I presume it is the federal Treasurer, because I do not think the state Treasurer has done any work of this nature in respect of tourism.

Hon Ken Travers: Why not?

Hon N.F. MOORE: With regard to the first question, I cannot confirm the Treasury figures, because I have not read the Treasury figures. With regard to the second question and whether I can confirm that there will be a dampening of demand for domestic tourism, that is a possibility. However, I must pre-empt that by saying that we do not know what the ultimate package will be, because negotiations are still taking place -

Hon N.D. Griffiths: Ask Hon Helen Hodgson!

Hon N.F. MOORE: I was about to suggest that members opposite ask her the next question; that might save me the trouble of having to speculate about what might come out of the federal Senate at the end of the day. It is conceivable that the cost of domestic tourism will increase, and while I understand that prices will go up by about 4 per cent across the board, we need to bear in mind that with the tax cuts and other changes to the tax system, people will have more money to spend and more spending power. The end result is a bit difficult to predict.

Hon John Halden: How can you work that out when it will be cost neutral?

Hon N.F. MOORE: I understand from my reading of the GST package that the overall cost of the package across the economy will be a 4 per cent increase in prices.

Hon John Halden: People will not have more money because it will be cost neutral.

Hon N.F. MOORE: I understand that is what will happen to prices. I understand also that people like Hon John Halden and me will receive a tax benefit, which will mean we will have more disposable income.

Hon Ken Travers: It will be cheaper to go to Bali than to Broome.

Hon N.F. MOORE: I am trying to answer that question. It is cheaper now to go to Bali than to Broome for the simple reason that Bali has countless options in respect of where one can stay, and that large aircraft cart large numbers of passengers to and from Bali. If the price of going to Broome were to increase as a result of the GST, of course it would be cheaper to go to Bali, but given a choice, I suspect I would still go to Broome, certainly in the short term, if not in the long term.

Hon Bob Thomas: I would go to Bunbury!

Hon N.F. MOORE: Hon Bob Thomas should go to Albany some time too. People tell me that is a great place!

The PRESIDENT: Order! I am sure members know that we have got through very few questions, and the strains on the faces of some members on my left indicate that they are either busting to leave the room or busting to ask a question.

Hon N.F. MOORE: I will sum up by saying that on the surface, domestic tourism may cost more; therefore, the domestic sector will suffer from a competitive disadvantage against the international sector, but until we know what the package will deliver, I suspect it is premature to make that assessment.

VICTORIAN PRISON SYSTEM

1343. Hon JOHN HALDEN to the Minister for Justice:

(1) Is the minister aware of the recent Victorian Auditor General's inquiry into the State's prison system, which found with regard to the independent Corrective Services Commissioner appointed to monitor the quality and consistency of services delivered in Victorian prisons that -

(a) the commissioner's office was not discharging its key monitoring functions effectively;

(b) it was not truly independent;

(c) its service delivery outcome monitoring was not encouraging service excellence;

(d) outcomes were established on the basis of average or less-than-average results;

(e) financial penalties to the private Port Phillip prison contractor had been minimal, even though serious deficiencies at the prison were not fully addressed for over a year; and

(f) the commissioner's office was undertaking limited supervision of the State's public prisons;

and which recommended that the State's evolving prison industry now required a strong and creditable regulator?

(2) Do these weaknesses highlight the inadequacy of having an independent regulator, as proposed for this State's prison system?

Hon PETER FOSS replied:

(1)-(2) What one should then do is look at the United Kingdom experience -

Hon John Halden: The select committee in the United Kingdom criticised it, and that committee was dominated by the conservatives of the day.

Hon PETER FOSS: It works very well. One of the wonderful things about it is that the United Kingdom has had some remarkable successes. The important thing is that we do not have an independent regulator at all at the moment. The public system has managed to get away with a method by which it is merely paid some money, and there is no regulator whatsoever.

Hon N.D. Griffiths: It is supposed to be you!

Hon PETER FOSS: I thought that the Opposition would support having an effective regulator. It is important to make sure we do have an effective regulator. We can always have an ineffective regulator, and we can always have an effective regulator. I sincerely hope we will have an effective regulator. I am pleased to hear that that view is shared by members on the other side of the House, and I congratulate them on that. The time has long since gone when merely because one happens to be a public provider, one does not need to account through an independent regulator. An independent regulator is an excellent idea.

Hon Ken Travers: Has Hon Peter Jones advised you on this?

The PRESIDENT: Order! Hon Ken Travers has had one question. He is down for a second question, but I have a lot of questions to go before I get to him.

Hon PETER FOSS: All sorts of things can go wrong. The most important thing is to set up a system that goes right. We intend to set up a system that does work and does go right. We believe that an independent regulator is a considerable improvement on the system that we have currently, where we have never had an independent regulator. We intend to have an independent regulator, and I am sure we will have -

Hon John Halden: You do not. There is no independence in it at all.

The PRESIDENT: Order! I do not want a debate during question time, because it prevents other members from asking questions, which is their absolute right.

Hon PETER FOSS: Hon John Halden is engaging in semantics and argument. He says that it is not; I say that it is. The fact that he says it is not does not mean there is not an independent regulator. The fact that a regulator in another place may have been unsuccessful to one degree or another does not mean we cannot set up a system that will work. We intend to set up a system that will work. One of the nice things about this is that we have plenty of examples of other systems, some good and some not so good, and we intend to keep the best aspects of those and have a system that works. I am sure that in setting up that system I will have the complete and enthusiastic endorsement of the Opposition, at least in principle if not in practice.

RADOCK PTY LTD

1344. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

I refer to the practice of Radock Pty Ltd in delivering the construction worker grade 1 traineeship for general construction and representing it as a new apprenticeship stage 1 wall and ceiling fixer workplace agreement.

(1) Can the minister confirm whether this use of the traineeship is appropriate and ethical, and does it comply with both the state and federal vocational education and training legislation and state and territory and Australian National Training Authority resource agreements?

(2) Will the minister direct the Western Australian Department of Training to demand an explanation from Radock Pty Ltd for its use of the traineeship in this manner?

(3) Will the minister provide the details of state and federal subsidies provided to Radock for each apprentice and trainee?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) No. Under the Commonwealth's new apprenticeship policy, the use of the terms "apprenticeship" and "traineeship" are not differentiated.

That has caused a level of confusion in the marketplace, especially among employers, young people and their parents. As a result, the Minister for Employment and Training has insisted that we no longer use the term "new apprenticeship" in this State but use the separate terms "apprenticeship" and "traineeship".

(2) No. The Department of Training is investigating the use of differing terminology and the confusion it is causing. The department will be raising this issue with Radock Pty Ltd to ensure that the information Radock is providing complies with the state policy and is expressed in a way which is clear to all stakeholders.

(3) Federal subsidies: Apprentices - $1 250 on commencement and $1 250 on progression from AQF2 to AQF3. Trainees - $1 250 on commencement plus an additional $1 000 group training scheme payment.

There are no state subsidies, but the State funds the off-the-job training for each trainee or apprentice. Radock is contracted to deliver training for 130 trainees to the end of June 1999 and to date has been paid $58 989 for 47 trainees. The current rate is $2 510 per trainee. Apprentice off-the-job training is carried out by the TAFE college network. Radock does not receive any funding for that.

Building and construction industry training fund: $2 500 per apprentice for each year of the apprenticeship - which is usually four years - plus an administration subsidy to assist groups schemes with additional costs in relation to the building industry; for example, workers compensation. Radock is eligible for this funding. There is no funding for trainees through the BCITF.

RADIOACTIVE SPILL, COOLGARDIE

1345. Hon GIZ WATSON to the Minister representing the Minister for Health:

I refer to the spill of radioactive material 3 kilometres from Coolgardie on Saturday, 29 May 1999.

(1) Did the uranium ore being transported originate at the Beverley mine in South Australia?

(2) Is it acceptable under safety requirements that ore be transported in acidic solution?

(3) How much radioactive material is transported within Western Australia from outside the State?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Yes, as provided for under the regulations for the safe transport of radioactive substances.

(3) Small samples of uranium ore from mines outside the area are occasionally transported into Western Australia for laboratory tests.

TRANSPERTH CIRCLE ROUTE

1346. Hon RAY HALLIGAN to the Minister for Transport:

The Transperth circle route was introduced on 22 February 1999. Has it achieved expected patronage levels?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The circle route was expected to carry about 30 000 people each week. The experience so far has been -

Week 1: 41 764, or 39 per cent higher than expectations.

Week 2: 38 808, or 29 per cent higher than expectations.

Week 3: 44 800, or 49 per cent higher than expectations.

It is worth noting that the decline in the second week was due to a public holiday on the Monday. These are remarkable results showing that 8 000 people use this innovative new service each day.

Hon Ljiljanna Ravlich: The other buses aren't working - what do you expect them to use?

Hon M.J. CRIDDLE: We have one of the best public transport systems.

Several members interjected.

Hon M.J. CRIDDLE: I recently took the opportunity to travel on our public transport system. I took the train to Fremantle and the 104 bus back to the city. I assure the House that our public transport system is a very good one.

Hon Ken Travers: Did they know you were coming?

Hon M.J. CRIDDLE: They would have had no idea I was coming. I paid the $6.50 fare for my wife and me, which is very reasonable. The concession fare for the same trip is $2.80. That is a very reasonable fare and we have a very good transport system. As long as the Opposition continues to run it down, we cannot expect -

Hon Ken Travers: You are running it down.

Hon M.J. CRIDDLE: We are buying new buses and trains to upgrade the system. The Opposition is trying to run down a very good public transport which we should get our people on. Members opposite talk about the emissions from our vehicles and then run down the public transport system.

Hon Norm Kelly interjected.

Hon M.J. CRIDDLE: We have a report that says environmentally, operationally and economically the best choice at this time is for us to go with the Euro II diesel motor in the next batch of buses we are purchasing. The Government will go with that until 2003. I recently visited Germany, and the Government is taking the opportunity to look at the fuel cell bus.

Point of Order

Hon MARK NEVILL: This has absolutely nothing to do with the patronage of the great circle route. We have the first three weeks but not the last three months.

The PRESIDENT: From my hearing of his answer, the minister has been responding not only to the original question but also to many of the interjections from my left. If people interject, they cannot expect the minister to say nothing. I have recommended in the past that a minister stop giving an answer if members interject, but that is a decision for the ministers. Yes, we are wasting time and, yes, lots of members want to ask questions, but the wastage of time is directly related to the interjections.

Questions without Notice Resumed

Hon M.J. CRIDDLE: I will finish, but I reiterate that our transport system is a very good one. We need to get -

Several members interjected.

The PRESIDENT: Order! I do not want any interjections. Allow the minister to finish answering the interjections he has already.

Hon M.J. CRIDDLE: We need to get as much of the population of Perth as possible on to our bus, train and ferry system because it is very good and it is the way to overcome some of the congestion in the city. Members opposite continually talk about getting people out of their cars and this is the way to do it. I encourage the Opposition to stop knocking our transport system so that people use the buses, trains and the ferries we have.

PRISON MUSTERS

1347. Hon N.D. GRIFFITHS to the Attorney General:

(1) Is it still the case that prison musters are higher than anticipated because of imprisonment of fine defaulters and people driving under suspension?

(2) Is the Attorney General aware of the decision of the full court in Mills v Versma delivered on 21 December that the only sentencing options for a second driving under suspension offence are a fine and/or imprisonment?

(3) Why is the Attorney General not bringing before the Parliament legislation to permit the full range of options under the sentencing Act to be available for these offences?

Hon PETER FOSS replied:

(1)-(3) The answer is no, that is not the reason the musters are higher. The main reason we have higher musters is a tighter breaching policy. We have now identified high-risk offenders among the people on parole and if those high-risk offenders commit certain acts, they are breached and returned to prison. That is the single greatest cause of higher numbers of people in the prison system.

Hon N.D. Griffiths: I do not think you can add up.

Hon PETER FOSS: I am sorry, but my department has analysed the increases. There are a number of factors, but the single largest cause is the tighter breaching policy for high-risk offenders. High-risk offenders are the very people that the public and I believe should be in jail. If these people commit an offence, there is a much greater chance of danger to the public. We keep a careful eye on these people when they are released into the community and we ensure there is higher breaching. It is not the sole cause, and it is clear that the increase in the musters has nothing to do with that at all. The next most important reason is that we are sentencing people for longer periods and that is again consistent with a tougher attitude on the part of the courts. The third reason is that the option of using imprisonment has increased in the summary courts; more people are being sentenced to imprisonment in the summary courts. The fourth reason is that for a time we had an unnaturally low number of fine defaulters being imprisoned because no-one was being imprisoned for fine defaulting while the new system came about.

However, the fine defaulting system has reduced the number of fine defaulters from 6 000 a year to around 600; that is, to one-tenth of what it was before. It is hardly due to fine defaulters that we have an increase in the number of people being imprisoned. The system has worked extremely well to reduce the number of fine defaulters from 6 000 to 600. It is true that another reason people are going to jail is that more people are being detected for drink driving offences and driving without a licence. That is due to extra vigilance on the roads. The booze buses are catching people for drink driving on numerous occasions. I have seen one of the magistrate's records of the people who come before him. Some people had their seventh DUI offence, which is extraordinary. At that time I made the point that we would be introducing compulsory treatment orders because I believe people who have had seven drink driving offences have a very serious alcohol problem. I have shown that it is not simply due to fine defaulters that these increases have occurred; it is a far more complex problem.

The Road Traffic Act imposes a minimum penalty of either a fine or imprisonment for people who are prosecuted for a second time for driving without a licence. This means that the general provisions of the Sentencing Act do not apply. The Minister for Transport has indicated that he has obtained cabinet approval for a change in the Road Traffic Act to allow some form of community service as a third option for people who have multiple road traffic offences. That is in the process of drafting. Prior to legislation being introduced, a process of consultation and drafting takes place. I am sure the member would not urge me to go too quickly through that process. In due course, that legislation will be introduced from that minister's portfolio and the change will be seen.

MOTOR VEHICLE REPAIR INDUSTRY LEGISLATION

1348. Hon CHERYL DAVENPORT to the minister representing the Minister for Fair Trading:

(1) When will the motor vehicle repair industry legislation be forthcoming based on the recommendations of the Bloffwitch report presented to the minister in April 1998?

(2) Will the legislation take the form of a co-regulation model similar to the New South Wales legislation?

(3) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The proposal is currently being evaluated under the National Competition Principles Agreement and when this has been completed the Minister for Fair Trading will take the matter to Cabinet with a view to introducing legislation next year.

(2) The proposal being considered under the national competition policy is similar to the New South Wales legislation.

(3) Not applicable.

CARAVAN PARK RESIDENTS, TENANCY RIGHTS

1349. Hon J.A. COWDELL to the minister representing the Minister for Fair Trading:

(1) Will the Ministry of Fair Trading prepare a booklet outlining the rights of permanent and semi-permanent caravan park residents under the Residential Tenancies Act?

(2) Do caravan park owners have the right to deny assignment of tenancy for the purchaser of an on-site mobile home? Is that right limited in any way?

(3) Do caravan park owners have the right to charge a commission on the sale of a mobile home situated on the site? Are any limitations placed on the amount that can be charged?

(4) Is a mobile home owner afforded any protection from exorbitant rent increases under any state Act?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The Ministry of Fair Trading has already published a series of tenancy notes which cover the most commonly asked questions about renting premises and is applicable to caravan parks. In addition, under the Residential Tenancies Act, it is a requirement that the owner provide to the tenant, at the time of entering into a residential tenancy agreement, an information statement outlining the tenant's rights and obligations. This requirement also applies to caravan park tenancies.

(2) A residential tenancy agreement established under the Residential Tenancies Act can provide that a tenant may not assign his or her interest. Where such a condition does not exist, the tenant may assign his or her interest only with the written consent of the owner. However, the owner must not unreasonably withhold that consent.

(3) This arrangement is not regulated under the Residential Tenancies Act. Such fees would apply only by way of contractual agreement between the park home owner and the caravan park owner.

(4) Under the Residential Tenancies Act, rent may be increased in a periodic tenancy only when the tenant has been given at least 60 days' notice, and not less than six months must have passed since the tenancy commenced. Rent in a fixed term tenancy cannot be increased during the term of tenancy unless the agreement allows for an increase and at least six months has passed since the last increase. When there has been a significant reduction in the chattels provided as part of the tenancy or the owner is motivated by a desire to end the tenancy, a tenant may apply to a magistrate of the Local Court for an order declaring the rent payable is excessive.
