Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Thursday, 6 April 2000

Legislative Council

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

REID HIGHWAY EXTENSION

Petition

Hon Giz Watson presented a petition, by delivery to the Clerk, from 519 persons requesting a deferral of the construction of the Reid Highway extension.

[See paper No 858.]

FRESH CHICKEN MANURE

Petition

Hon Ray Halligan presented a petition, by delivery to the Clerk, from 226 persons seeking an extension of time for the use of fresh chicken manure for horticultural use while tests continue to find a viable alternative acceptable to the industry.

[See paper No 859.]

FINANCE BROKING INDUSTRY IN WESTERN AUSTRALIA - APPOINTMENT OF SELECT COMMITTEE

Motion

Resumed from 5 April on the following motion moved by Hon Ken Travers -

That -

(1) A select committee of three members shall be appointed.

(2) The committee be appointed to inquire into and report on reasons for losses associated with the finance broking industry in Western Australia, including but not limited to -

(a) the statutory responsibilities relating to the finance broking industry;

(b) avenues for legal redress for investors;

(c) consideration of the adequacy of existing legislation to prevent a recurrence of the events which led to the loss by investors who relied on finance brokers.

(3) The committee have power to send for persons, papers and records and to move from place to place.

(4) The committee report to the House not later than 31 October 2000, and if the House do then stand adjourned the committee do deliver its report to the President who shall cause the same to be printed by authority of this order.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.02 am]: Yesterday I was responding to the motion moved by Hon Ken Travers to set up a select committee of inquiry into the finance broking industry. When debate on the motion was terminated in accordance with standing orders, I was saying that I felt that his argument that the Gunning inquiry is biased or is affected by a conflict of interest was wrong. The setting up of a select committee of Parliament will in no way address that issue because the Labor Party is seeking to make this matter a political football. Any desire to have a select committee is based more upon obtaining political kudos or kicking a few political points than upon getting to the bottom of the issues that have arisen.

I was interested to read the editorial in *The West Australian* today - I do not always agree with its editorials, and I do not agree totally with today's either - as it serves to remind both sides of the House as we consider this matter that some issues need to be taken into account which at the moment are not. I will quote from the editorial -

Hon Ken Travers: Table the whole thing; it is a very good one.

Hon N.F. MOORE: I do not have to table it; everybody has a copy of it. I will read out part of it to make the point that what the Opposition is seeking to do is probably contrary to what the editor of *The West Australian* thinks should be done. The editorial states -

> Politicians have an obligation to raise community concerns in Parliament. But they also have an obligation to use parliamentary privilege responsibly by seeking to establish facts before making accusations.
>
> In their unseemly haste to smear each other, they are prepared to put in jeopardy the reputations of companies and

> people against whom there is little or no evidence of wrongdoing. They are also blackening the reputation of the whole industry, although there is no evidence that most companies in it deserve censure.
>
> It is sadly clear that politicians are more interested in political point-scoring than in acting in the public interest, which will be best served by the exposure and fair assessment of the facts in the finance brokers' issue.
>
> The Gunning inquiry is not the ideal vehicle for this but it has better chance of success than do the political mud-slingers.

I do not agree with the conclusion about the Gunning inquiry, but the point needs to be made that *The West Australian* is saying what I was saying yesterday in a round about way; that is, having a political inquiry into this matter will not achieve any end other than political point scoring and mud slinging. Regrettably that is the nature of parliamentary inquiries. I also made the point that we are our own worst enemies because we use parliamentary inquiries for political purposes. To suggest that the Gunning inquiry is tainted but a parliamentary inquiry will be balanced is nonsense. It simply could not be substantiated by history or by any allegations that have been made against Judge Gunning.

The mover of the motion also made some play of the fact that Penny Searle, who was a witness on the first day of the Gunning inquiry, was unhappy with the process. On the Paul Murray radio program yesterday, Ms Searle was asked -

> Paul Murray: Okay, do you have no faith at all in the Gunning inquiry?
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> Ms Searle: I have to be honest and say that when I first went in I was very sceptical, but the opportunity to be able to lay before . . . or out into the public domain the problems that I've experienced, was too great not to take. On doing that, the way that I went through, first, my evidence with Mr Chaney and then into the inquiry itself, I've come away with . . . shall we say, a lot of hope.
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> Mr Gunning made it very clear, during the proceedings yesterday, that he would use the widest possible interpretation of the terms of reference to get to the bottom of investors' losses, and he looked as if he really meant it. And then when I'd read out my statement at the end, he stated that he was not sure my concerns about the primary problem - that's the inappropriate and deceptive practices of finances brokers - can't be addressed, and he said, very pointedly, *we will see*.

People who are observing what is happening in the Gunning inquiry are coming to the conclusion that the inquiry will deal with many of the concerns that have been raised.

The Gunning inquiry is not all that the Government is doing. It is important that the House understand that it is not just the Gunning inquiry that is looking at this issue of finance brokers. I will explain why a select committee is unnecessary and inappropriate in the circumstances. Since 1992, finance brokers have also been covered by the Commonwealth's Corporations Law, which is administered by the Australian Securities and Investments Commission. The ASIC needs to look harder at what it is doing. However, that does not suggest that I need to tell it what to do.

In 1998 the Commonwealth passed some new laws relating to managing pooled investments. Since December 1999 brokers managing pooled investments must be licenced by the Australian Securities and Investments Commission, must provide net tangible assets of up to $5m, maintain professional indemnity insurance, issue a prospectus for each scheme and register the investment schemes with ASIC. Complaints about finance brokers made in 1998 and 1999 led the ministry and the board to focus on three firms. ASIC also took action resulting in enforceable undertakings by two of the companies. Global Finance and Grubb Finance went into liquidation during 1999. Since then the Government has taken a number of steps: First, in July 1999 the board appointed supervisors to Grubb and Global under the Finance Brokers Control Act 1975 and their job is to unravel the issues which have been raised about Grubb and Global.

Hon Peter Foss: The liquidators were appointed to supervise, so they were there in a double sense.

Hon N.F. MOORE: Quite right. These supervisors, who have so far consumed about $1.5m in this task, have the job of untangling all of the various financial trails which resulted in Grubb and Global getting themselves into difficulty. They have commenced legal proceedings and will be able to identify any other potential legal actions for the recovery of lost moneys. Using his powers as a liquidator under the Corporations Law, the supervisor of Grubb, for example, has obtained orders to conduct a public examination into the way in which Grubb Finance operated its accounts at St George Bank. As I said, the Government has funded these supervisors to the tune of $1.5m, with additional expenditure being required. The supervisors have the job of untangling very complicated financial trails. This is the appropriate way to go about seeking the answers to the issues that have been raised. It is clearly the most appropriate way to ensure that the law takes its course.

In addition to the supervisors, as has been widely reported, the Police Service is also involved. It is the appropriate organisation to deal with issues in which the law may have been broken - not a select committee of the Legislative Council. It has been widely reported that the Police Service has 33 officers, lawyers and accountants investigating allegations of criminality in the finance broking industry. It is appropriate that matters of criminality be looked at by the Police Force, not a select committee of the Legislative Council. Seventeen representative charges have been laid against Graeme Grubb and, according to counsel assisting the Gunning inquiry, Mr Chaney, it can be confidently expected that more will follow. The supervisors, the Police Department and now the Gunning inquiry are all looking at the various issues that have been raised about matters affecting the finance broking industry. The supervisors are going through the various financial issues, the police are looking at criminal activity, and the Gunning inquiry is looking at the administration of the industry. As I quoted earlier from Ms Searle, the Gunning inquiry intends to take its terms of reference to their greatest extent to ensure

that the concerns of investors are dealt with in the context of assessing how well or how poorly the administrative process has been operating. The course of action that has been taken by the Government will cover all of the concerns raised by Hon Ken Travers. The Gunning inquiry is looking at the administration of the finance broking industry in Western Australia, the Police Force is looking at any questions of illegality or criminality, and supervisors are looking at the particular circumstances of investors to see whether their circumstances can be improved.

Let us look at what Hon Ken Travers has put forward in his motion. He has argued that the select committee should have three purposes: First, it should inquire into statutory responsibilities relating to the finance broking industry. Surely that is covered comprehensively by the Gunning inquiry. Secondly, it should address avenues of legal redress for investors. Clearly that is being looked at by the police and the supervisors. Thirdly, it should address the adequacy of existing legislation. I imagine the Gunning inquiry will look at that as well. Let us look at these points one at a time.

The select committee would inquire into the statutory responsibilities relating to the financial industry. The Gunning inquiry is already addressing issues about what has gone wrong with the finance broking industry, such as the extent of wrongdoings that were known or should have been known to the board and the industry and the appropriateness of the response of government agencies to the concerns that have been raised by people. The terms of reference of the Gunning inquiry cover the issues which this aspect of the select committee would also cover. The committee would review the effectiveness and structure of the Finance Brokers Supervisory Board, among others, including its functions, powers and procedures. The terms of reference would include a review of operational procedures and an examination of the support provided to the board by the Ministry of Fair Trading. The Gunning committee will be recommending administrative or legislative changes considered necessary or desirable to improve the administration and enforcement of the legislation.

The second area that Hon Ken Travers wants included in the terms of reference of the select committee is avenues for legal redress for investors. The potential for delaying both the recovery action and the prosecution is of great concern to the Government. The formation of a select committee could delay and potentially affect any recovery action and prosecutions that might arise from either the Gunning report, the supervisors' work or the police action. If that is what members of the Opposition want to do, they should say so, because that is a matter of great concern to the Government. As I said, the Government has already provided $1.5m to fund supervisors into Grubb Finance and Global Finance. The supervisors are working to maximise returns for investors; they are examining ways of recovering money from those who contributed to the losses. Some of that funding has enabled the supervisors to conduct a public examination of the way in which the Grubb Finance accounts were operated at St George Bank. Legal processes associated with this matter have been commenced and are expected to significantly assist investigators and others who need to further their claims of investments. An inquiry by a select committee of the Legislative Council could impede the operations of the supervisors and the recovery processes, particularly if the books and records being relied on by the supervisor were required by a select committee. It would be quite extraordinary if a select committee were to subpoena papers and books that were already being worked over by supervisors. That would have a significant impact on the way in which they do their work. Again, it would disadvantage investors who are trying to get their money back. The quicker these matters can be resolved, the better it will be for the investors. An additional inquiry - that is, the select committee - would also slow down the work of the supervisors and make it more difficult for them to do their job. Obviously a select committee would spend its time asking questions of various people and calling and subpoenaing witnesses to give evidence. Again, it would get in the way of the processes that are currently in place.

The Government is firmly of the view that any company directors, finance brokers, auditors, valuers or any other parties who have acted improperly or inappropriately in relation to pooled mortgages or have defrauded members of the Western Australian community will be vigorously pursued. There is no doubt about that; any suggestion to the contrary is wrong. As I have said, 30 police officers from the fraud squad are involved. Some criminal charges have already been laid, and further charges are likely. Counsel assisting the inquiry has indicated that is likely to happen in the near future. As well as all of that, the Finance Brokers Supervisory Board, the Land Valuers Licensing Board and the Ministry of Fair Trading are taking action against wrongdoers as a matter of course.

The appointment of a select committee, an additional inquiry, will seriously delay and compromise the prosecution of people who have already been charged with offences. That is a serious problem if people are giving evidence under oath, having been compelled to do so by a select committee, when their court hearing is yet to be heard and charges are pending or have been laid. A parliamentary committee set up for purely political purposes would be getting in the road of the process of the law. That is also inappropriate. A select committee can and would have the effect of slowing down investigations, because people conducting them would have to prepare themselves to give evidence to a select committee. Again, that is an unnecessary diversion of resources away from the prosecution of offenders, which is what we are seeking to do.

People in the past - I guess there are many examples - who have been involved in such inquiries have used the ensuing publicity to slow down their prosecution by alleging that the newspaper or media comments about what they said or what has been said about them at a select committee hearing can deny them a fair trial. Therefore, it is not out of the question for select committees to get in the road of the pursuit of justice in these matters.

The third area that Hon Ken Travers wants a select committee to look into is the adequacy of existing legislation in Western Australia. Again I make the point that the Gunning inquiry is set up under public sector legislation to look at this very issue. The inquiry has been asked to consider various aspects of the adequacy of existing legislation and to make recommendations that will prevent a recurrence of the current problems. Nobody denies that there are many problems, but one would deny that the problems have been caused by people working in the agencies doing anything illegal or improper.

Hon Greg Smith: The Opposition is saying that the Gunning inquiry, which will be going all day for five days a week, will get less information than a parliamentary committee sitting for a couple of hours.

Hon N.F. MOORE: I will come to that. When one looks at what is being done now and the resources of government that are being applied to this matter, to suggest that somehow or other three members of Parliament with the resources of Parliament House would make a significant difference to the final outcome is quite ludicrous. All it will do is to create uncertainty and difficulty for people, because whenever the select committee has hearings it will add to the confusion and to the problems of the prosecution.

The Gunning inquiry will also be examining the powers and functions of the Finance Brokers Supervisory Board. It has been asked to recommend whatever legislative or administrative changes are considered necessary to improve the administration and enforcement of legislation. Finally, the committee has been asked to recommend mechanisms for the future reporting of alleged wrongdoings to the appropriate authorities for investigation and to the public in a timely manner. It needs to be well and truly understood that the committee has been asked to recommend mechanisms for the future reporting of alleged wrongdoing to the appropriate authority to make sure that in the future we do not have a problem where wrongdoings are not reported effectively.

There has been some suggestion that the Gunning inquiry does not have the necessary powers to deal with the issues that we are considering now. The Gunning committee of inquiry has the same basic powers as a royal commission. It can require people to attend, produce documents and give evidence on oath, and has the services of eminent counsel. The committee has been directed by the Premier to conduct a special inquiry under section 11 of the Public Sector Management Act 1994. This direction from the Premier enables the Gunning committee to use powers available under that Act. As I have said, the committee can compel witnesses to appear before it and give evidence under oath or produce documents. Refusal to appear and give evidence would be a criminal offence. Such witnesses would not be excused from answering any question from the committee on the grounds that their answer might incriminate them or render them liable to a penalty, but their answer would not be admissible in evidence against them in any civil or criminal proceedings. Section 13 of the Public Sector Management Act gives individuals and government agencies the right to be represented before the committee by a legal practitioner or agency. As I have said, the committee has appointed John Chaney as counsel assisting. Mr Chaney will be questioning witnesses on behalf of the committee, although committee members may also ask questions. The committee obviously intends to comply with the rules of natural justice. This may involve witnesses being cross-examined by lawyers representing a person subject to allegations made before the committee.

The powers of the Gunning committee are therefore significant. Suggestions that we need a royal commission are unnecessary because the powers are there. The chairman of the committee is a retired judge so in that sense it is a judicial inquiry, albeit not a royal commission. However, it has the powers of a royal commission, and that is important in the context of this inquiry.

I would argue - interestingly I do not know why this is the case - that the terms of reference of the proposed select committee do not go much further, if at all further, than the terms of reference of the Gunning inquiry. To suggest that the Gunning inquiry and the other actions taken by the Government are inadequate is a reflection of the lack of understanding of what the Government is doing by those who make those criticisms. As I have said, the Gunning inquiry, the supervisors and the police are dealing with all aspects of this issue. To then add a select committee of Parliament to that process can only have the effect of getting in the road of and potentially jeopardising the outcomes of the work being done.

When one looks at the terms of reference of the proposed select committee, one sees that they are quite constrained as well. I can only conclude therefore that the purpose of the select committee is as I identified yesterday; that is, it is a political witch-hunt being undertaken by the Opposition to try to score base political points. That would be a potential tragedy from the point of view of the investors who are seeking some redress in this matter. I would have thought that the Opposition would think about that very seriously. If a select committee or indeed a royal commission, which it is asking for, were to have the effect of delaying or impeding the capacity of investors to obtain redress or to slow down the process of prosecution, we should very vigorously resist the setting up of those sorts of inquiries. At the end of the day, as I have said, the Government is determined to look after the interests of the investors who have lost money and at the same time to deal with those people involved in the business who may have been involved in criminal activity. Pursuing them vigorously is happening at the present time.

The Government's view is quite clear - it does not consider a select committee of this House to be an appropriate vehicle to resolve the sorts of issues that have been raised in respect of the problems with the finance brokers industry. Some people have said that this is just a payback for the Robin Greenburg affair and that the ALP wants a select committee because it was upset that, in 1983, a select committee of the Legislative Council inquired into Western Women Financial Services Pty Ltd. At that time the Government of the day was not conducting an inquiry into Western Women. In fact, the Government of the day had encouraged people to invest with Western Women and was a supporter of that organisation. So not only was it not investigating what was going on with Western Women, but also it was encouraging people to invest their money with it. The then Opposition believed that something was very wrong in that organisation and that it needed investigation. The Government of the day was not prepared to do that, so a select committee of the Legislative Council was set up to investigate Western Women - and we all know the consequences of that. In a sense, that was the appropriate use of a select committee because nobody was doing anything. The consequences of that matter, not so much the findings of the inquiry, but the ultimate conclusions that were arrived at as a result of the Western Women debacle and the criminal proceedings that eventuated, demonstrated that there was a need for the Government of the day to do something and not to sit back and allow Parliament to take the initiative. There is a significant difference between this finance broking issue

and the Western Women issue. From the moment concerns about this issue were aired in the community, this Government has taken action to address them. Some might say that we did not do it quickly enough, and they may be right. Some may say that the rigour was not as great as it should have been, and they may be right; I do not argue about that.

Hon Norm Kelly: People have been asking for amendments for years and years.

Hon N.F. MOORE: I know that, but that does not just apply to this Government. This matter goes back into history. If one looks at the history of complaints that have been made to the board, one sees that while amendments were sought, there was not the urgency that is now apparent. So I can defend the previous Government as much as this Government for not moving more quickly in respect of those matters. We have now - and some would argue belatedly, although I do not accept that - taken action on three fronts. To add a fourth front, which is, in a sense, an uncontrolled, Opposition-dominated select committee of the Legislative Council, will not help.

Hon Norm Kelly: It would be extremely controlled.

Hon N.F. MOORE: I do not know how many politically motivated select committees the member has been on, but I can tell him that such committees are uncontrolled. Over the years I have watched members of select committees ask questions of witnesses, and at times, I have been concerned. As a Government, we are trying very hard to sort out this mess and the concerns of people who are worried about the process and who have lost money, and we will ensure that any amendments made to the legislation are made in such a way that they address the problems that people are concerned about. We are using the police to prosecute people who may have been involved in criminal activity. All those things are now happening at a very rapid rate. As members know, the Gunning inquiry has begun taking evidence and continues to do so. It is supported and assisted by eminent counsel and I understand that a solicitor has also been appointed to the inquiry. The three people appointed to conduct the inquiry are highly reputable individuals who have a determination to get to the bottom of any wrongdoing that may have occurred in Western Australia. To now throw the hand grenade of a select committee of the Legislative Council - which I would argue is being set up at the request of the Labor Party for the grossest of political purposes - into the process will do no good to anybody. As I have indicated, it could have a detrimental effect on the outcomes for the investors.

Hon J.A. Scott: Can you explain that?

Hon N.F. MOORE: The member was not here when I explained that. I do not propose to make my speech twice to cater for the member's comings and goings. I would have thought that members of the Opposition would desist from this course of action on the basis that, by proceeding with it, they may in fact jeopardise the interests of the people they purport to help. I do not know whether they have thought very hard about that and I do not know what they propose to do with a select committee. I have watched some members of select committees use them for political activity; straight out points scoring; and attempts to use the media to get a point across, because select committees are open to the public and the media always attend.

Hon Greg Smith: Do they expect Parliament to appoint a qualified accountant to do the job and have him do the same things as the Gunning inquiry?

Hon N.F. MOORE: That is the next issue I intended to raise. The Gunning inquiry has a considerable amount of research and administrative support and assistance. Thirty-three people in the Police Service are also working on this and there are also a number of supervisors. Significant resources are available to help them untangle the mess that has been created by some of these finance brokers. In my opinion, the Legislative Council, through a select committee, would not have the capacity to do the work that is being done by these groups already. So what is it intended that a select committee do? I ask the rhetorical question of the mover: What does he hope to achieve? How is it intended that a select committee will operate? What sorts of things will it try to do? Is it going to investigate Global Finance or Grubb Finance and work out where they went wrong? Will it try to follow the trail of all the financial deals that were done? Will it take up the cause of a number of investors who have lost money and try to find out where it went? Will it investigate the Ministry of Fair Trading? Will it investigate the supervisory board? Will it duplicate what the police are doing? Will it duplicate what the Gunning inquiry is doing? Will it try to duplicate what the supervisors are doing? What will be done? With the resources available from the Legislative Council and the time available for the committee to meet and take evidence, all it will be able to do in the next six months, in my humble judgment, is take evidence from a few significantly disgruntled people and then try to come to some conclusions, whilst at the same time ensuring that the Press has a field day, every day, by getting a headline about somebody's concerns. That will not solve the problems. It might make the members feel good, but it will not redress the issues that concern the individuals affected.

Hon Greg Smith: It just allows the persons affected to ask the same questions in another place.

The PRESIDENT: Order! Hon Greg Smith will be given an opportunity to speak in due course.

Hon N.F. MOORE: I will conclude on that point. I would be very interested to hear from supporters of this motion as to what they believe the select committee will actually do and how it will fill in its time. Is it going to do the things that I mentioned a moment ago? Is it going to duplicate things that are already happening? If there is some other course of action lined up I would like to hear about it because that would make it easier for us to make a judgment about whether or not a select committee would be useful. At the moment, it clearly would be a hindrance to the process of justice taking place.

The Government rejects the motion. It believes it is politically motivated. Mr McGinty wants to use parliamentary privilege and a select committee to continue to denigrate people and score headlines regardless of the truth of the matter.

I again draw members' attention to the advice of the editor of *The West Australian*, an authority I do not normally reply upon. He suggested in today's newspaper that we should try to put the political point scoring to one side so that we can keep the concerns, worries and particular circumstances of individuals at the front of our minds. We can worry about the politics some other time. The Government strongly rejects the motion.

HON PETER FOSS (East Metropolitan - Attorney General) [11.41 am]: Prior to the enactment of the 1991 Corporations Law, the Commonwealth had commenced using its corporations power to regulate the securities industry. In fact, it had been involved for some years in regulating the securities industry. That led to a dichotomy between the regulatory supervision of people involved in investments. It meant that the bodies created were capable of supervision by state authorities, but the transactions involved were supervised by the Commonwealth and fell under commonwealth law. As members will be aware, by virtue of section 109 of the Commonwealth Constitution, the enactment of valid commonwealth law has the effect of invalidating and overriding a state law in the same area unless it is expressly preserved by commonwealth law.

Then, in 1991, the new corporations scheme was set up, which involved both commonwealth and state laws in a national scheme. Members again will remember that on that occasion Western Australia was very reluctant to enter into the arrangement. This House voted against it in the first instance. I know that, although it was promoted in this House by the then Labor Government, it was without a great deal of enthusiasm on the Government's part. As Mr Berinson rightly perceived, it was an unsatisfactory arrangement and the National Companies and Securities Commission arrangement that had previously applied was a better method from the point of view of administration and constitutional efficacy. Notwithstanding that, we were put in the position of having to go along with the arrangement with the other States.

The effect was to take into commonwealth hands a far wider range of supervision other than transactions - it took in the supervision of the bodies themselves. That was widened in a number of ways by the Commonwealth over a period with various other commonwealth laws and scheme laws that had the effect of specifically addressing transactions such as those referred to today. Hon Norman Moore referred to that occurring. The Commonwealth later also took over specific licensing of people involved in mortgage broking. Mortgage broking has probably always been caught in one form or another by various definitions of "prescribed interest", and the subsequent definitions that replaced that. If a person brokered a mortgage involving one person lending money to another person, and the broker was merely the go between for those two people, that was not caught by the original definition. As time went by, the transactions we are referring to - involving people advertising for investors and moneys being put together and then lent against that mortgage - by virtue of the nature of the scheme in which people are participating, were caught by the commonwealth securities legislation. Of course, as I said, more recently the specific licensing of those finance brokers became subject to commonwealth law.

One of the reasons that this State, in particular, was opposed to the Corporations Law and the gradual involvement of the Commonwealth is that it is very difficult for people in this State to put pressure on the Commonwealth Government and commonwealth agencies. Western Australians have always been very reluctant for there to be any form of federal involvement because they know that, if things go wrong, their opportunities to have the situation corrected are limited. If a Western Australian wants to speak to a senior commonwealth officer, he must go to Canberra to do so. Therefore, the opportunities to apply pressure are extremely limited.

There is no doubt that the Australian Securities and Investments Commission has an area of responsibility in the cases referred to today. It had responsibility for supervising these transactions prior to the 1991 legislation - certainly immediately after the passing of that legislation - and in respect of brokers since 1999. However, not much has been heard from ASIC about this situation; no-one seems to have heard from it about how it will deal with these cases. I suppose one cannot blame it for keeping a low profile. There has been cooperation between ASIC and the State Government in that, when the liquidators were appointed to the two companies, the Finance Brokers Supervisory Board appointed a supervisor - in fact, it was the same person as the liquidator - to make a broad range of powers available to that person to deal with the problems. I do not want in any way to underrate the extreme legal difficulties involved here. If it were simply a matter of waving a legislative wand to solve the problems, the Government would do so.

I will give members an idea of the complexity of the transactions that will be investigated. I do not wish to speak about particular cases, so I will refer to hypothetical cases and a decision already made by the Supreme Court as a consequence of some of these actions. It is suggested the select committee should investigate these actions. A mortgage broker solicits money from the public for the purpose of combining that money in a substantial mortgage to be registered over land and then secures that mortgage. If everything goes well, all that money is properly secured by that mortgage against that land. In some instances, the person is told his mortgage is secured against that land, but it is secured against other land. In some instances, it is not secured against any land. Claimants will say that they lent money on a particular piece of land, which is worth what the valuation says it is worth, and suggest that the land be sold and the money returned to them. Unfortunately - or fortunately, I am not sure - due to the fact that we have indefeasibility of title in Western Australia through the Torrens system, the court has held that the people entitled to the money under that mortgage are those whose names are registered on the title against that mortgage. Therefore, irrespective of the representations made to the person investing the money, those entitled to the money are those whose names are on the mortgage.

In some instances liquidators and supervisors are faced with problems involving valuations. In other instances, the problems are in the bookkeeping. This varies considerably between the two cases that have gone into liquidation. Members can work out which is the bad case given the charges that have been preferred. However, the legal complications are significant and will not be easily solved by anyone in the near future. I sincerely hope that the actions of the liquidator-cum-supervisor will progress that because it needs somebody in the middle to deal with it. We need that capacity to take proofs

of debt in a liquidation and allow the money out. The alternative is that everybody will start to take legal action and as a result any security will go in legal fees or liquidators' fees.

The Government has contributed the money to which the Leader of the House referred because the matter can be solved in two ways. One is the careful way, which the liquidator and supervisor is using to keep down the legal fees and to sort out the legal ramifications and everybody's rights. The other is to attack it like a bull at a gate.

As a lawyer, I have always said we must be careful not to cause irretrievable loss. In many cases a dispute can be solved with very little money lost in the course of achieving a solution. A classic example is a lease. A person may say he does not have to stay in a premises and another person may say he should; nothing is resolved and it is left empty for a year. I call that irretrievable loss. The premises will have been empty for a year and no rent paid. Somebody will lose the rent whether it is the tenant, who was not in the premises when he should have been paying rent, or the landlord, who had empty premises but was not entitled to rent them. Lawyers must be careful not to advise their clients in a way or do things that will cause both parties to lose money. They should not take a bull-at-a-gate attitude so that everybody loses.

I caution strongly that a simple solution is not available to solve this matter. It will be difficult, even for a person with the powers of a liquidator or a supervisor, to decide the relative rights of the people involved. However, one thing that will do very little for the rights of the individuals involved and may cause irretrievable loss is a parliamentary committee charging in like a bull at a gate. In the event criminal action is taken, a parliamentary committee will be able to do nothing. A witness facing charges will be entitled to refuse to answer questions. Under the Parliamentary Privileges Act a witness does not have to answer questions if he has good cause for not doing so.

Hon Greg Smith: If they did they would be protected by privilege.

Hon PETER FOSS: They would be, but a witness would not do it. One very good reason not to answer questions is that it may prejudice him. The evidence could not be used directly but the answer could be used to find the evidence outside the House. A witness could refuse to assist the committee. It would not get any evidence out of Grubb Finance Consultancy, for example, because the directors would refuse to answer on that basis.

What about paper evidence? Where do members think that the paper evidence is now? In these circumstances it is usually jointly in the hands of the liquidator and the police. If we issue a parliamentary subpoena, it will override the liquidator and the police, so they will then not have the evidence. How will they prepare their case for prosecution when a select committee has the evidence? I suppose we could all make copies. A huge amount of paperwork is involved in cases like this. For example, I acted for a company that was involved in a multimillion dollar project. Just as the second stage was due to commence, a dispute arose over sales tax. In came the commonwealth sales tax authorities and seized the entire collection of project documents. How do members think the developers got on with the second stage of the project? The commonwealth sales tax people suggested that they make copies of the documents when they needed them. As members may have guessed, I was consulted and we took the matter to the Federal Court and it was set aside. It was an outrageous exercise of the powers under the Act. If we were to call for papers, as is proposed by this committee, what do members think would happen to the work of the liquidator, the supervisor and the police? It would be almost impossible for them to progress the matter.

Hon Derrick Tomlinson: Do you anticipate a Supreme Court challenge against the parliamentary subpoena?

Hon PETER FOSS: That could not be done, except on the basis that it was outside the committee's terms of reference. That would be the only excuse available. The committee would be directly interfering with what everybody here has said they want to happen. We want to see people prosecuted and we want to see the complicated financial relationship resolved. At least I do and the Government does. We spent a lot of money to get a liquidator and supervisor to do that.

Hon J.A. Scott: Do you want this process to reveal any government failures?

Hon PETER FOSS: I definitely want it to reveal any government failures if they occurred. That is particularly what Judge Gunning is capable of doing.

People say they want a judicial inquiry as though there is a thing called a judicial inquiry. There is no such thing as a judicial inquiry as such. All sorts of inquiries can be carried out by judges. I suppose if an inquiry is carried out by a judge it is then a judicial inquiry. However, judges are reluctant to carry out inquiries unless they are done under the authority of a statute. A number of statutes allow people to carry out inquiries with the protection of the law and the authority of requiring answers. The most famous one is the Royal Commissions Act. Another one that is relevant to this occasion is an inquiry under the Public Sector Management Act. If there is such a thing as a judicial inquiry, one is being held, because the Gunning inquiry has the powers of compulsion both for verbal answers and for producing documents - it is not just confined to the public sector - with a judge sitting in charge of it. It is important to have a judge sitting in charge. Notwithstanding what we might think about ourselves here, a person with the background and training of Judge Gunning, particularly as a District Court judge who handled the majority of the serious criminal law cases in Western Australia, will be aware of how his actions will impact on other inquiries taking place. Most people are probably not aware that Judge Gunning was originally a partner of the firm Kott Wallace Gunning, which was a very substantial insolvency practice, particularly when he was a partner. He comes to this inquiry with a considerable degree of appropriate experience in both his insolvency background and his criminal law background through the District Court. The matters I have raised today about the impact of a parliamentary committee are matters with which his honour is peculiarly well qualified to deal.

I refer to the issue with which I began; that is, commonwealth involvement. Hon Ken Travers has suggested that the

Gunning inquiry will not be able to deal with the Commonwealth. Unfortunately, this Parliament will have exactly the same problem. I have been a member of committees in the past which required information from the Commonwealth. If a committee tries to use the power of this Parliament against a commonwealth agency, it will be rejected.

They operate under the authority of commonwealth law and reject the authority of this Parliament. I suppose we could have a full-scale constitutional battle over that matter, as no-one has ever pushed the Commonwealth and insisted that it is obliged to talk to us. To take an extreme case of the Australian Taxation Office, the secrecy requirements of the commonwealth Income Tax Assessment Act will apply. I can predict immediately that if we tried to get tax records, the answer from the Commonwealth and the High Court would be, "Sorry; the commonwealth Act states that we are obliged to have secrecy, and the State cannot override that requirement, whether a Parliament or not." Our power to make these inquiries is based in the state Parliamentary Privileges Act. There is no possibility of overriding the Commonwealth in that regard.

Debate adjourned, pursuant to standing orders.

STANDING COMMITTEE ON LEGISLATION

Acts Amendment (Sexuality Discrimination) Bill 1997, Forty-ninth Report

Hon Bruce Donaldson presented the forty-ninth report of the Standing Committee on Legislation in relation to the Acts Amendment (Sexuality Discrimination) Bill 1997, clause 8, proposed sections 35O(3) and 35P(3), and on his motion it was resolved -

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

[See paper No 860.]

COMMITTEE REPORTS - CONSIDERATION

Committee

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

Standing Committee on Constitutional Affairs - In Relation to a Petition Requesting that Community Based Midwifery be Included in State Health Services

Resumed from 30 March on the following motion moved by Hon M.D. Nixon -

That the report be noted.

Hon M.D. NIXON: When I last addressed the Committee, I referred to a pilot midwifery scheme. A concern of this pilot scheme was that only the Hospital Benefit Fund, a private company at that stage, was able to provide full funding for such care as the normal Medicare funding was not available for home birthing. Another problem the pilot scheme confronted was that some of the hospitals in which it operated, based on legal advice, believed they had a problem with "non-delegatable" liability; therefore, some hospitals deemed it wise to withdraw the service. Community Midwifery WA Inc provided the service, and although a hospital board has an obligation to provide appropriate treatment, the issue of delegated duty of care and its application was arguable. The matter was referred to a working party convened by the Metropolitan Health Services Board, which recommended that midwives in an independent practice be employed under casual employment arrangements within a hospital. Therefore, the midwives can be employed as a temporary casual staff member for the duration of the client's hospital stay as a means to overcome that problem.

The committee was advised that, as at July 1999, casual employment contracts had been initiated only at Woodside Hospital for 10 midwives employed by the midwifery program; Armadale-Kelmscott Memorial Hospital, with two midwives; and King Edward Memorial Hospital for Women birthing centre, with three independent midwives.

Hospital transfers was another problem faced. The committee was advised that all women who participate in the program must have a hospital booking prior to their delivery date to ensure ease of transfer to a hospital if required. Evaluations of the program in December 1997 indicated that the transfer to hospital of home births was at a rate of 20.4 per cent of all home births. The committee was informed that the transfer rate varied from time to time, and that most transfers involved complications, such as a delay in labour eventuating in a Caesarean section, breach birth or twins. Various other complications should not be part of the home birth situation. Sometimes women choose epidural pain relief and, therefore, transfer to hospital. The committee was informed that the approximate 20 per cent transfer rate was not an indication of failure; on the contrary, it indicated the safety and effectiveness of the midwives in identifying problems and acting appropriately to ensure a safe outcome. The midwives identified difficulties in advance which led to women being transferred to a hospital situation if required.

The trial also highlighted that the Acts under which the medical profession operates are not designed for the relatively new home birthing process. Midwives are required to carry $1m-worth of professional indemnity insurance, which is probably wise. The committee was informed that the Hospitals and Health Services Act 1927, the Hospital (Services Charges) Regulations 1984 and the Poisons Act require modification if midwives are to act in the professional manner wished by practitioners.

An evaluation was conducted of the community based midwifery program in December 1987, and external consultants Dr

Bev Thiele and Carol Thorogood were invited to prepare the submission. It was found that home birth clients were more likely to be over 30 years of age, be married and to be having their first or second baby. The majority of women utilising this service were white Caucasians from English speaking countries, and at the time of the evaluation no Aboriginal women had been on the program. However, one African woman and seven women from Asian countries were on the program at the time. The Standing Committee on Constitutional Affairs discovered during its inquiry that people with a Dutch background were some of the major beneficiaries of this service, because home birthing is a common practice in The Netherlands.

The report noted that the midwifery program compared favourably with the estimates of cost for similar birthing services provided by the Health Department of Western Australia and the Commonwealth: Births provided by the midwifery program cost on average $1 605 each, which is cheaper than the average of $1 905 for a regular birth, as calculated by the federal Department of Human Services and Health in 1995.

An aim of the midwifery program is to improve women's access to a range of alternative birthing services and existing parenting and childbirth material. The report noted that the midwifery program failed to attract much interest from women from non-English speaking backgrounds, and bicultural and bilingual workers were employed to approach local communities to raise awareness of the program.

The report concludes that the trial achieved its major objective as it demonstrated that community-based midwifery care is safe, satisfying and provides a viable model of maternity care, whether the birth be at home or in hospital. The evaluation endorsed the midwifery program and recommended that both state and commonwealth funding bodies continue their support for alternative models of maternity care.

The Standing Committee on Constitutional Affairs approached the then Minister for Health, Hon Kevin Prince, MLA, who stated that many medical professionals who participate in the medical advisory committees are reluctant to support the incorporation of community based midwifery services for a variety of reasons, including workplace and safety issues. Also, he outlined that the Health Department endeavours, through policy implementation and regulation, to influence the management of hospitals to put the issue of independent midwifery services on the agenda of their medical advisory committees. The minister said that the issue of Medicare coverage of independent midwifery services was a commonwealth matter on which he was unable to make a decision, although he would continue to raise the matter with the federal Minister for Health. The policy on home birthing has been well developed by the Health Department and there are guidelines for hospital accreditation and clinical privilege for independent practising midwives in Western Australia. The guidelines are defined in the report of the Standing Committee on Constitutional Affairs as -

> A midwife registered with the Nurses Board of Western Australia, accredited with the Australian College of Midwives Inc. who has notified the Health Department of Western Australia as required under Section 5, Midwifery Regulations (1982). The independent practising midwife has a private contractual agreement with the woman and works independently of a hospital, community health service or any health-related organisation.

The committee, as is its normal practice, conducted hearings. The panel that came before the committee was broadly based, and included Dr Beverley Thiele, a senior lecturer in women's studies at Murdoch University; Ms Bronwyn Key, the convenor of Community Midwifery WA Inc; a consumer representative of the Birthplace Support Group Inc; and three members of the Health Department of Western Australia. There was absolutely no doubt that the pilot scheme had been very satisfactory. Ms Adamson, the consumer representative, told the committee that women joined the program for a number of reasons, which include -

> the continuity and quality of care offered by the program;
>
> the support provided to special needs women; that is women who have had previous birth traumas or some kind of emotional trauma;
>
> the quality and volume of information provided by the midwives;
>
> the assistance provided to women and their partners in making the transition to parenthood; and
>
> cultural reasons.

I have mentioned that members of the Dutch community are well-known participants in the program. The report states in its conclusion that -

> The Committee believes that since it commenced operation in January 1996, the Midwifery Program has demonstrated its worth both in terms of the number of women choosing to participate in the program and the results that have been achieved.

Therefore, the committee is particularly pleased to recommend that the program should no longer be considered a pilot project and that health services should include community-based midwifery as a part of its normal maternity services. The recommendations in the report are, firstly -

> State Health Services should include community based midwifery as a part of its maternity services.

It also recommended that -

> Adequate, on-going funding should be made available to the Midwifery Program to allow for long-term planning to cater for all the women who wish to use the service.

Although the committee recognised that federal funding and the Medicare situation are definitely matters for the Commonwealth Government, it recommended that -

> The State Government should negotiate with the Federal Government to enact changes to Medicare to offer rebates to women who choose a midwife as their primary carer.

Hon GIZ WATSON: I have been approached by constituents on this matter and I have an interest in the subject, having been born at home under the care of a midwife. It is important to support the provision of more of the services of midwives in the community. Having read the report with interest, I am pleased to support its recommendations and to encourage the Government to adopt them. It is an excellent report. Hon Murray Nixon raised a number of points, and I certainly agree with them.

It is very important to provide women with a choice in this area. The assessment of the services currently provided by midwives certainly has indicated glowing support for them. That choice is very important because it is such a primary and important experience for women who choose to have a child, and it should be a positive experience. It is also important that, as much as possible, it is under the control of those women. Women often comment that when they give birth in a hospital, their control is taken over by the system. Certainly, midwives make every attempt to ensure it is an inclusive and empowering experience for women, rather than a disempowering experience.

Reference has been made to continuity of care, and that is also an important issue. The amount of educational material provided and preparation done by midwives offers a fantastic service. The report also notes that this service not only suits the clients, but also is cost effective. It is an interesting statistic. I will not quote the exact figure, but the cost for each home birth is less than the cost of a birth within the hospital system. It also challenges the notion that childbirth should be treated as an illness or medical emergency. Of course, it can be, but in the majority of cases it is not. Hon Murray Nixon said that home births were a relatively new feature; however, it is a move back to the time when childbirth was not regarded as a condition that required medical attention. The move to encourage home births, which is associated with the provision of midwifery services, is a positive one that will bring that whole experience back into the family and the community.

The issue of midwives working within hospitals has raised questions of liability and the hospitals' concerns about their liability for midwives operating within the hospitals. There is also a component of the hospitals protecting their professional patch, as well as their genuine concerns about liability. There is dynamic tension between the medical profession and the midwifery sector. It is interesting that in the late 1960s my father was one of the first doctors to be working with and encouraging home births in the community. He has told me that much re-education and work is needed to make doctors feel comfortable with the idea that midwives are capable of dealing with the majority of situations that occur in childbirth. They are quick to recognise when a situation requires the services of a doctor, and they need high insurance cover to operate as registered midwives.

I support the recommendations of the committee, and the committee should be commended on its report. The only point I am slightly disappointed with is the lack of a recommendation that state legislation and regulations be amended to address the issue of accreditation. The report refers to a number of proposed amendments that would address the issue of midwives operating within hospitals and providing accreditation for such things as the provision of drugs in limited circumstances. Those aspects would mean the program could operate more effectively and be expanded, as the report recommends and as other reviews have recommended. Not only should the program have continuous and reliable funding, but also it should be expanded. It is clear from the report that the demand exists currently, although it is hard to put firm figures on it. However, the demand for the services of midwives exceeds the services currently available. The key to that is secured recurrent funding, and a Medicare rebate. The rebate issue relates not only to the provision of midwifery services but also to other less mainstream medical services such as massage and other areas. We need to expand the rebate system to provide a more holistic and preventive health care service. I encourage the Government to take up those recommendations through amendments to the Health Act that will accommodate the provision of midwifery services.

I thank the committee for the report and urge the Government to take up those recommendations as soon as possible, so that midwives are more widely available and their positions are more secure than they currently are. I acknowledge the excellent services provided by midwives in this State.

Question put and passed.

Standing Committee on Ecologically Sustainable Development - Management of and Planning for the use of State Forests in WA - The Sustainability of Current Logging Practices

Hon CHRISTINE SHARP: I move -

> That the report be noted.

The fourth report of the Standing Committee on Ecologically Sustainable Development comprises one of its six terms of reference self-referred when it was first established in mid 1997. At this stage the committee has completed its inquiries into only two of those six terms of reference on forest management. I put on the record for clarification that at the moment the committee does not intend to report on the outstanding four terms of reference, because it is busy with other business.

The inquiry into the sustainability of current logging practices was a complex undertaking for the committee. There were

various reasons for the complexity and difficulties. One reason was that for at least two decades now the issue of sustainable forest management has been extremely controversial and has been investigated thoroughly within the Australian continent. That has meant huge volumes of material both of a scientific and polemic nature have been published on these matters. For example, the Resource Assessment Commission produced a three-volume draft report a few years ago, and a year later a three-volume final report. These were the kinds of levels of information with which the committee and the staff had to deal. To add to the complexities of putting this report together the committee went through several staff changes with research officers. As research officers changed, it was an enormous challenge to those very capable members of staff to get their heads around all this material, and the huge number of submissions that were received. The concurrent Regional Forest Agreement process was also producing voluminous editorial matter on the subject. As soon as one mentions the Regional Forest Agreement process it brings to light the further problem that the committee experienced in producing this report. The committee had not anticipated this problem when it began its inquiries in 1997, because the Regional Forest Agreement process had not reached the level of public profile and conflict it was to assume subsequently. Our inquiries were undertaken in parallel with the RFA process, but not caused by those inquiries. As the RFA process became more and more controversial and politicised and was accompanied by extraordinarily high levels of public interest in the matter - such as were demonstrated by the 30 000 public submissions that were made to the State Government on the Regional Forest Agreement process - the committee found itself unwittingly right in the thick of all this. That put enormous strain on the staff and committee members and it is to our credit that we tried to keep our eye on the ball and to keep our focus very much on our terms of reference and to try to perform a public role in bringing out, despite all these volumes, some information which was not on the public record at that stage but that the committee determined was necessary.

Turning to the report, and in the same vein, in looking at the sustainability of current logging practices, the committee found a bewildering array of estimates of sustainable yields of, in particular, the jarrah forest. The committee decided that in going through such documents as the 1994 Meagher report, the Barnett report, two Environmental Protection Authority reviews and the comprehensive regional assessment, it could perform a public function in attempting to clarify some of the issues surrounding the concept of sustainability. The committee report attempts to do that. The committee determined that there were three different ways to define sustainability in forest management. The committee found that the first and the lowest threshold is that of sustaining a gross bole volume of wood fibre. That would be associated with the production of residue such as woodchips. The committee found that on this first and lowest threshold our current forest management practices were sustainable. The second definition that the committee considered was of a higher threshold that was of an even, long-term yield of saw logs of consistent quality over time. The committee found with this sustainability definition and management objective, that the objective has not been followed in Western Australia, and significant overcutting has severely constrained for future generations this option of consistent saw log quality over time. The third definition of sustainability that the committee distinguished was that of ecologically sustainable forest management. The committee found that ecologically sustainable forest management is a very new perspective for forest management science. Because it is referring not to the consideration of whether a yield is being sustained over time but more to whether the ecosystem, with all its components, is being sustained over time, which would include the soil, micro flora and fauna, the quality of the streams in the forest, air quality, and species composition in the understorey, it is obviously extremely complex. The committee basically found that we did not have anywhere near the scientific data available at this stage to begin to say whether our management system begins to achieve ESFM.

In the process of these determinations the committee went over some of the recent history of timber extraction in the jarrah forest. The committee found that over the past 12 years there has been an intensification of logging extraction from the jarrah forest in particular. However, the committee found that the Environmental Protection Authority in 1988, when it was assessing the renewal of woodchipping in state forests, made very important recommendations. The first was that the authority agreed to a request from the Department of Conservation and Land Management that woodchipping, which hitherto had been limited to the southern forest region and the karri-marri forest, could be extended, as CALM had requested, into the jarrah forest system. This was to have very important management implications for the central and northern forest regions and was a very significant change.

In permitting that change to take place and the intensification of logging in the central and northern forest regions, the authority imposed a significant caveat. It requested that there should be no logging in areas that it considered to be salt-risk zones. The authority in a bulletin at the time defined salt-risk zones as those with below 11 millimetres of rainfall; that is to say, almost all of the jarrah forest in the central and northern forest system, except along the very western edge of the scarp, where significant additional rainfall occurs because of the topographical feature of the scarp. The EPA was saying in 1998, when it was reviewing what was essentially a Western Australian woodchipping and pulp industry proposal to renew the woodchipping agreement, that it agreed that in renewing that agreement it could be extended geographically but the authority would like to reassess any intensification of logging practices which would take place in large areas of the extension covered by the jarrah forest. However, that further assessment was delayed until 1992. The committee found that during that four-year delay the intensification of timber extraction, including what is known as gap creation which is a form of clear felling in the jarrah forest system, was applied to approximately 16 000 hectares of jarrah forest in the same salt-risk zones prior to the EPA assessment.

The committee also found that when the EPA finally made the assessment, which took place over a period during 1992 because the authority reported at the end of the year and the ministerial response took place over the next year, the minister determined that there were still some significant questions about whether the level of extraction was of a sustainable yield. Therefore, in 1993 the minister requested a further inquiry into what should be the correct sustainable yield extraction from the jarrah forest. That took place under a process chaired by Dr Timothy Meagher, which produced what is known as the

Meagher report. When the Meagher report was finally presented to the minister and the findings made public at the end of that very long process, essentially from 1988 right through to 1993, the Meagher committee recommended that CALM should not be allowed to have a level of cut which it was seeking, which was 675 000 cubic metres of first and second-grade jarrah logs. The long-term sustainable yield according to CALM's figures was either 250 000 or 300 000 cubic metres, depending on how the data was applied or presented. In something of a compromise the Meagher report recommended, and the minister adopted, an allowable cut level at that stage of 490 000 cubic metres, which was 63 per cent above the long-term sustainable yield.

The committee also found that the decision on the allowable cut set at that stage was constrained by the timber contracts which had been set as early as 1989, after the EPA's initial assessment. They were long-term commercially binding contracts which committed the State to supplying timber at unsustainable levels and made it very difficult for the Government of the day to effectively reduce the level of cutting to a sustainable yield. Moreover, this is very relevant to the present day when such constraints of long-term commercial contracts can be seen in the application of the Ferguson committee report recommendations for reducing logging in the karri forest. The State is still constrained by an over-commitment to long-term contracts. Those contracts were entered into without necessarily the minister sighting them at the time or certainly not requiring the tabling of that information in Parliament. In other words, the committee found that very large quantities of our natural resources were committed without scrutiny.

In addition to some of the very questionable events of the recent past, the committee found that those same contracts which committed the State to an extraction level 63 per cent above the sustainable yield were largely for exclusively first-grade material. In fact, some 80 per cent of the jarrah sawlog contracts are for first-grade logs. I use the present tense because I believe that is still true today despite the voluntary reduction on the part of the timber companies in some areas.

This has had very important ramifications. If we make the commitment 80 per cent for first-grade timber and the forest does not grow first-grade timber only, to be able to guarantee supply we will also produce enormous quantities of unsaleable second and third-grade material.

The committee report contains photographs of some of the logging stockpiles which were found in the forest and about which the committee received many submissions. It is common knowledge in the south west that throughout the forest one finds stockpiles of unsold lower-grade trees that were killed to meet the very high levels stipulated in the contracts. For example, Bunnings Forest Products Pty Ltd, which receives 64 per cent of the jarrah sawlog contracts, is not committed to take a single second or third-grade log.

One further complicating factor in unravelling this recent history was that, when the changes in the allowable cut subsequent to the Meagher report were implemented, the contracts were rewritten - again confidentially - and were converted from cubic metres to tonnes. In the process, the conversion factor - that is, the figure by which one multiplies the log volume to convert to its weight equivalent - was also changed. The committee was naturally curious about why the measurement method was changed given that the State had been attempting to reduce the supply level from that which the Department of Conservation and Land Management was advocating.

I would like to draw the attention of members to appendix D of the report, which contains very interesting information about the contracts recommitted as a result of the Meagher inquiry and the bewildering array of possible factors that could be used to convert that to the tonnes now used. The committee found a range of conversion factors used in the standard authoritative texts on the matter. On page 219 of the report the committee has listed eight different conversion factors that could be used to do these calculations. The range of cubic metres allowed to be removed from the forest may vary enormously depending on the conversion factor used. The committee naturally requested an explanation from CALM. However, it did not succeed in obtaining any explanation before reporting. Giving CALM the benefit of the doubt at each stage of this process, the conversion factors that it applied would mean that the jarrah sawlog contracts committed at that stage were at least 9 000 cubic metres above the allowable cut as set by the minister. Moreover, the conversion factors show that if the committee had applied the factor used by the old Forests Department - that is, 0.8561 - the level of commitment would then be 523 000 cubic metres. These contracts were established in 1993, and coincidentally that is exactly the level of sawlog cut in cubic metres forecast by CALM in its timber strategy of 1987. That is to say, if the former Forests Department's conversion factor were still used, we would find that - despite the subsequent 1992 EPA assessment, the reductions put in place by the Meagher inquiry and the minister's setting of the allowable cut - the cut would remain at exactly the level that CALM forecast six years earlier.

I will turn now to the recommendations in the report. It is important that members be aware of these recommendations because, of course, it is now obvious to all of us that this pertains to issues that have been very significant in the recent political history of this Parliament and of the State Government. Indeed, they have resulted in some vigorous reactions and improvements on the part of the State Government. Some of the Government's efforts to improve this obviously unsatisfactory situation will be before this House when we return in May to debate the amendments in the Conservation and Land Management Amendment Bill and what is commonly known as the separation of CALM.

The committee's first recommendation was that future proposals for draft management plans be prepared by a body independent from the operator of forestry with input from the operator and other groups as appropriate. In refamiliarising myself with this report this morning before speaking and noting this first recommendation, I was immediately struck by how this recommendation will come to the heart of the debate that we will have in a month. We will be debating whether the amendment Bills before this place are adequate to provide such independence and an appropriate level of input from the operator of forestry. I can assure members that that debate will be a lively one.

The second recommendation relates to the story I was telling members earlier. It recommends that the process of conversion from weight to volume measurement of timber should be made transparent and accountable. It was a nightmare for the committee to unravel exactly what had occurred and what were the real levels of extraction.

Thirdly, the committee recommended that an alternative resource allocation system that is more equitable and less wasteful be investigated and implemented as soon as practicable. This could be a very important new first task for the Forest Products Commission, if that occurs.

In building on that, recommendation 4 is that a key criterion for the allocation of contracts or licences be on the basis of improved sawmill utilisation of lower grade logs and higher recovery rates. As members will be aware, although some small mills manage to get as high as 50 or even 70 per cent recovery rates, depending on the quality of the logs they receive, the standard recovery rate from the major sawmills is approximately 33 or 34 per cent of the prime log as delivered. That is obviously of real concern because we are dealing with dwindling supplies of one of the world's finest hardwood timbers and, if we are to have any industry whatsoever based on small quantities of that fine timber, it is critical that we do not waste it as has occurred over recent years.

The committee also recommended that this improved allocation system give better access to small-scale users of forest products. One of the consistent themes among submissions, evidenced when the committee toured the south west, was complaints from small-scale users such as craftspeople and firewood suppliers that they were unable to gain access to any material, despite the anomaly of huge piles of uncommitted lower grade material lying about in the forest, to which I have just referred. It is obvious that there is huge scope for improvement in this area and that very important social equity issues are also involved.

Over the recent past we have seen an increasing centralisation of sawmills, increasingly high-tech sawmills and increasingly low employment. Now very few large sawmills are, if we like, clear felling someone else's forest. Important cross-regional and equity issues are involved concerning what is left as a resource for logging and how it is allocated fairly.

Hon Bob Thomas: What is meant by clearing someone else's forest?

Hon CHRISTINE SHARP: The towns of Walpole or Northcliffe, for example, no longer have active sawmills. Their struggle over the past few years has been to make their future economic base, apart from small-scale craft and fine furniture, the escalation of tourism; yet their most beautiful forests were being removed and logged to provide jobs in Manjimup. The Regional Forest Agreement figures I saw a year ago show that Manjimup has a low unemployment rate regionally; whereas, at that time, places like Northcliffe had, I believe, unemployment of 14 per cent. Important equity issues are involved.

The committee also recommended in recommendation 6 that the silviculture objective of logging practices should be to maintain a sustainable yield of quality sawlogs. Recommendation 7 was that the use of gross bole volume measurement should not be allowed to substitute for log quality indicators that are consistent over time. These two recommendations go together because the history of exploitation of our forests indicates that, as we have begun to run out of a certain quality of material, we have changed the product we remove and we have changed the way we measure the product; and, therefore, we have been allowed to continue the same high levels of extraction, even though they are clearly not sustainable.

The proportion of material of older trees that are far more important to the ecosystem, and older trees that concomitantly have a much higher quality of timber, has been consistently reduced over time in a process that I have described in other publications as the "juvenilisation" of our forests. The committee was concerned that in moving to possibly a gross bole volume system in the future to encourage better use of lower grade material, which the committee supports, a consistent quality indicator would not be used to ensure long-term sustainability objectives.

Recommendations 9, 10, 11 and 12 are related to the measurement of long-term sustainable yield and the State's proposed expert panel that would inquire into these matters. At this stage, the Government proposes to establish a review of ecologically sustainable forest management and, hopefully, the recommendations of the committee will be incorporated into that study.

Recommendation 13 was that management changes required to implement the ESFM occur before non-declining yields are calculated. In other words, we need first to work out whether our silvicultural practices can deliver ESFM - that is, full long-term protection of the ecosystem - with all its values. We also need to work out which changes should take place in logging techniques before using the much more mathematical process of determining what is the sustainable yield on that basis. It is a matter of getting the sequence right so that we get it right in the forests.

Debate adjourned, pursuant to standing orders.

Sitting suspended from 1.00 to 2.00 pm

MISUSE OF DRUGS AMENDMENT (CANNABIS CAUTIONING NOTICES) BILL 1999

Report

Report of Committee adopted.

Third Reading

HON CHRISTINE SHARP (South West) [2.01 pm]: I move -

That the Bill be now read a third time.

HON NORM KELLY (East Metropolitan) [2.01 pm]: I am disappointed that the Government did not use the opportunity to amend the Bill to be more closely in line with its policy on cannabis, which is a statewide cannabis cautioning system. I am also amazed that the Attorney General issued a media release, prior to the passage of this Bill, stating it was forced through the upper House. The release was premature, and I hardly think a four-day debate constitutes "forcing" the Bill through the upper House. A lot of rubbish is contained in the release, and I will not go through it all. However, it does state that the Bill "virtually invites ordinary citizens to get involved with major drug dealers". It seems the Attorney General is happy for government policy to allow people to become involved with major drug dealers, but he will not support the policy contained in the Bill. What government members said during the debate on the Bill contained a good deal of hypocrisy. I am disappointed that over the past four days the Government ignored the opportunity to bring the Bill into line with its existing policy. I am more than happy to support this Bill and reiterate that it has not been forced through, but was well debated. I hope that with the assistance of the Australian Labor Party, it progresses through the other place.

HON J.A. SCOTT (South Metropolitan) [2.04 pm]: I am pleased to support the third reading of this Bill because, to some degree, it is a move away from treating small-scale cannabis use as a criminal offence and turns it into a health issue, as it should be regarded. The Government has been fairly hypocritical in its approach to this issue because, while it wants to continue to treat cannabis use as a criminal activity, it has a different attitude to tobacco. I was criticised during the debate for saying the Government is very negative towards cannabis yet it used tobacco money to support its federal conference. I note that it was reported in yesterday's newspaper that the Federal Liberal Party will again be using that money for its next conference. The Government must consider cannabis use as a health issue. I support the Bill.

Question put and a division taken with the following result -

Ayes (14)

Hon Kim Chance	Hon N.D. Griffiths	Hon Mark Nevill	Hon Christine Sharp
Hon J.A. Cowdell	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Cheryl Davenport	Hon Helen Hodgson	Hon J.A. Scott	Hon Bob Thomas *(Teller)*
Hon G.T. Giffard	Hon Norm Kelly		

Noes (13)

Hon M.J. Criddle	Hon Murray Montgomery	Hon Simon O'Brien	Hon W.N. Stretch
Hon Peter Foss	Hon N.F. Moore	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Ray Halligan	Hon M.D. Nixon	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Barry House			

Pairs

Hon E.R.J. Dermer	Hon Max Evans
Hon Ken Travers	Hon B.K. Donaldson
Hon Tom Stephens	Hon Dexter Davies

Question thus passed.

Bill read a third time and transmitted to the Assembly.

PROSTITUTION LIMITATION BILL 2000

Introduction and First Reading

Bill introduced, on motion by Hon Mark Nevill, and read a first time.

Second Reading

HON MARK NEVILL (Mining and Pastoral) [2.09 pm]: I move -

That the Bill be now read a second time.

The Prostitution Limitation Bill 2000 seeks to address the public nuisance and public alarm caused by people soliciting for prostitution in a public place. The Bill allows prostitutes soliciting in a public place to be detained for up to 12 hours. A person detained under clause 6 of the Bill is to be given written information about the availability of drug abuse rehabilitation programs. Detention without charge is similar to being detained without charge for public drunkenness. A prostitute apprehended for a second time within 14 days of a previous apprehension and convicted must attend a court-approved drug rehabilitation program.

Community sentences, which can include therapy programs, are an option available under the Sentencing Act 1995. A person soliciting the services of a prostitute in a public place can be detained for up to 12 hours. A person who is detained and convicted for a second offence is liable for a fine of $1 000 for a first offence, $3 000 for a second offence and $5 000 for subsequent offences. A community sentence is an alternative option under the Sentencing Act 1995.

The Bill attempts to address the drug addiction problems of most streetwalkers in a constructive way. Apprehension and detention of kerb crawlers and touts will be a deterrent to those who will have to initially explain to their families where

they have been for the past 12 hours and to those who will face increasing fines or a community sentence. The measures in this Bill address an underlying problem of streetwalkers and their offensive behaviour in a public place, reduce the cost to taxpayers, require less police time and reduce the need for draconian police powers.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Muriel Patterson.

LIQUOR LICENSING AMENDMENT (PETROL STATIONS AND LODGERS' REGISTERS) BILL 2000

Introduction and First Reading

Bill introduced, on motion by Hon N.F. Moore (Minister for Racing and Gaming), and read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Minister for Racing and Gaming) [2.12 pm]: I move -

> That the Bill be now read a second time.

The main purpose of the Liquor Licensing Amendment (Petrol Stations and Lodgers' Registers) Bill 2000 is to amend the Liquor Licensing Act 1988 to prevent the Liquor Licensing Authority from approving the grant or removal of a licence that would authorise the sale of packaged liquor from any premises if there is a petrol station on the premises and the premises is -

(i) in the metropolitan area; or

(ii) in, or within a prescribed distance outside, a country townsite in which there is a packaged liquor outlet.

The Bill will also prevent the establishment of a petrol station on licensed premises that is authorised to sell packaged liquor and located in the metropolitan area or in a country townsite, subject to the Director of Liquor Licensing being empowered to exempt premises in a country townsite. The exemptions in the Bill enable a petrol station to be established together with a packaged liquor outlet in a country townsite, thereby ensuring that residents of isolated country townsites are not disadvantaged.

The Bill is in response to the 15 January 1999 decision of the Liquor Licensing Court to refuse the application for a liquor store licence by Gull Petroleum (WA) Pty Ltd at a roadhouse on the Great Northern Highway, Upper Swan. The judge's refusal to grant the application was based upon the location of the premises at the start of a major highway, rather than because the premises was a petrol station. In his decision the judge made the following comment -

> . . . this application should not be determined by the application of preconceived policy. This is particularly so where the legislation is silent about such policy when it was open to Parliament to legislate against the sale of liquor from service stations and it has not done so.

The Bill will reinforce the State's drink-driving campaign by preventing impulse purchasing of packaged liquor at petrol stations.

Members will note that the opportunity has also been taken to reduce from six to two years the period that a hotel licensee must retain a register of lodgers. Currently, hotel licensees are required to retain a register of lodgers for a period of six years after the last date occurring in the register. This requirement can represent an onerous task for large four or five star hotels, where up to 60 000 guests can be registered a year.

I commend the Bill to the House and table for the benefit of members an explanatory memorandum for the Bill.

[See paper No 861.]

Debate adjourned, on motion by Hon Bob Thomas.

RAIL FREIGHT SYSTEM BILL 1999

Committee

Resumed from 5 April. The Chairman of Committees (Hon John Cowdell) in the Chair; Hon M.J. Criddle (Minister for Transport) in charge of the Bill.

Clause 1: Short title -

Progress was reported after the clause had been partly considered.

Hon KIM CHANCE: When debate was interrupted I was at the point of making a personal explanation and for the sake of correction of the record I should continue with that point. Yesterday's uncorrected *Hansard* records that I was explaining the Opposition's approach to this Bill and responding to an interjection regarding the manner in which the Opposition approached the School Education Bill. I said -

> We are here just saying no.

The Minister for Transport said -

> But that is what you always do. You have been doing it for years. You don't agree with anything.

Predictably, of course, my answer to that was no. I am sure, with the benefit of an evening's rest, the minister would, at

the appropriate time, feel the need to correct the impression that he may have inadvertently given that I have been a negative contributor to debates in this House. The minister would be aware, particularly of Bills which fall within my shadow portfolio of responsibility of Primary Industry and Fisheries and, to a lesser extent of Health and Transport, that I have not been a negative member. The minister's agricultural Bills have frequently passed through this place, particularly at a time when I had control of the order of business as the Leader of the Opposition and at another time as the manager of opposition business. We have frequently progressed and improved Bills of that nature.

Hon M.J. Criddle: I give you credit in those instances.

Hon KIM CHANCE: I thank the minister for feeling the need to correct the record.

Before I was sidetracked on the interjection regarding the School Education Bill, I was making a point that one of the effects of the proposed changes before us is to write what seems to be excessive and extraneous detail into the legislation. It is bizarre that the proposed legislation before us deals with questions of train lengths, axle loads and maximum and average speeds. I acknowledge that the Australian Labor Party will deal with this issue in more detail when we reach clause 12 and I will take my seat now to allow the minister to respond to what seems to be a strange way to write legislation in this day and age.

Hon M.J. CRIDDLE: All we are doing is putting those issues from the contract into the legislation. It may be a strange way of doing it in the member's view. However, from the point of view of a guarantee under these circumstances, the decision has been made to put them within the Bill.

Hon KIM CHANCE: I guess I must accept that. There is nothing wrong with the structure of the proposal to alter or create the legislation; it just seems a strange way to do it.

It is my contention that the short title should not be agreed to. Aside from the industrial relations issue, which is an extraneous matter, I have taken great care to detail some of the proposed changes before us which were not part of the Bill we debated in the second reading stage. I have argued that the proposed changes are so fundamental as to cause at least one member of this place to alter his position on the Bill. Hon Mark Nevill indicated that he would oppose the Bill in its original form. Indeed, as recently as Thursday, 23 March, Hon Mark Nevill said -

> . . . I made clear the path which I would require the Government to go down before I would agree to the privatisation of Westrail. I was opposed to the Bill as it stood, and I would not have supported it. An amendment which clearly sets out what I would do about the standard gauge railway land has been on the Notice Paper since November. My speech indicated that I wanted the Australian Rail Track Corporation to be able to bid.

What Hon Mark Nevill said is entirely in accordance with my recollection of the fact, but he has indicated that there would be a change in the outcome of this Bill should the amendments be accepted by the Chamber - a change so substantial that a member who has the controlling vote on this matter in this Chamber changed his mind, although not capriciously. He changed his mind after a thoughtful process and after what seemed to be extensive negotiation with the Government. Nonetheless, the outcome is that a single member has had the capacity to change the view of this Chamber from opposition to the legislation in its proposed form to support of the legislation in its proposed form. Given that change and its substantive nature, it is my argument that the short title should not be supported by this Chamber if for no other reason than the basis of that substantive change to the Bill. Effectively this Bill has not had a second reading debate in the form in which it currently stands. The real debate on this Bill has not occurred in this place. The real debate on this Bill has not occurred in the inquiry process of the Standing Committee on Public Administration, which was the subject of its report No 14. The real debate on this Bill has occurred in private negotiations between the Government and Hon Mark Nevill. That might not be an unusual thing. In Houses of Parliament which are finely balanced, the process of negotiation behind the Chair is common. The Australian Senate is a classic example of that kind of dealing. Indeed, we are all suffering from the deals that were done between the Commonwealth Government and the Australian Democrats which resulted in the passage of the goods and services tax legislation. Perhaps that is a good example of why we should be thorough in our dealings with the form of the legislation when it comes back to this place, because I am sure that the Australian Democrats, and even the Australian government parties, would like the opportunity to revisit some of the issues on the goods and services tax to which they had agreed behind the Chair. In many ways that agreement has caused the Government problems which could end its term in office. Indeed, for all I know, that might have been the Australian Democrats' intention - they might be more clever than I gave them credit for.

It is a concern to me that we have been through the process of a second reading debate and through the process of an inquiry by a standing committee of this House on the basis of a Bill which is substantially different. For that reason - I have said it before and I do not intend to drag it out - members of the Opposition have sought referral of this Bill in its current form with its proposed amendments, and the Chamber in its wisdom has decided not to do that. That has left us with the option of dealing with these issues in the Committee of the Whole. That is what government members have invited us to do and that is precisely where we are now. However, it will be a slow process, at least on this clause and on clause 12. I am hopeful that we will make more rapid progress through other parts of the Bill. The lack of debate on the likely form of the Act, assuming that the Bill is passed and that the amendments are carried by this place -

Point of Order

Hon M.J. CRIDDLE: We have had a long dissertation about the requirements for debate. We have not really debated anything, and it is becoming very repetitive.

The CHAIRMAN: The member, having traversed once again the failure to refer, the failure to discharge and the sundry debates on the GST in the Federal Parliament, should address the clauses at hand.

Debate Resumed

Hon KIM CHANCE: I was just about to, Mr Chairman. The lack of debate on the likely form of the Act manifests itself in a number of ways, and some of these issues are extremely serious if the answer to them is wrong. For example, why has the Government agreed to allow the Australian Rail Track Corporation to bid for Westrail's assets when, during the debate on the Bill, the Government indicated clearly that, as a matter of policy - not as a matter resulting from the effect of the Bill - no bid from a government-owned corporation would be entertained? It is not a matter in the Bill, but the minister was quite clear about it: As a matter of government policy, no bid from a government-owned corporation would be entertained. Now that has changed. Does that change apply only to the Australian Rail Track Corporation? If it does not, who else is allowed to bid? Is the New South Wales government-owned Rail Access Corporation allowed to bid? Is the French government-owned southern rail services allowed to bid? If the ARTC is to come into this process - which I wholly endorse; it is a positive move - how can we say that one government-owned corporation can bid but none of the others can, remembering that most rail corporations worldwide have some government ownership? It is only in the North American continent that private railroads are found.

Hon M.J. CRIDDLE: I return to the arrangements that Hon Mark Nevill has come to on this issue and his amendments on the Notice Paper. I gave all parties the opportunity to come to me and talk about the issue. A couple did, and we made an arrangement with one of the parties. The Labor Party had the opportunity to talk to us and chose not to. It also chose not to put forward an alternative. I think it is agreed that the Labor Party will not put forward an alternative position but will simply oppose the Bill. The provision for the Australian Rail Track Corporation is not in the Bill but is simply a policy change. The ARTC has a unique role to play as an agreed access provider. It owns the track east of Kalgoorlie. The decision has been made to allow it to be part of the bidding process.

Hon KIM CHANCE: The minister has confirmed basically what I said. I reiterate: It is a change for the better. I have already signalled that some of the changes proposed by Hon Mark Nevill are for the better. I could hardly argue otherwise because those are the positions we adopted in the second reading debate. However, I am concerned about a proposition which puts the State in a position of saying to potential bidders for Westrail, at least in respect of this part of the line, that one government corporation may bid but no other. Are we now to face action through the Australian Competition and Consumer Commission?

Point of Order

Hon MARK NEVILL: That matter is covered by the amendment to clause 12. We will go over that issue again.

The CHAIRMAN: That is the question I was about to ask Hon Kim Chance: Is this a detailed set of questions in respect of an amendment that is coming up? If so, he is out of order in speaking to it on this occasion. If it were, as it seemed to be earlier, non clause specific, it would perhaps be allowable. However, as it is the subject of a clause and an amendment, the member should proceed to his next topic of consideration that belongs under the short title.

Debate Resumed

Hon KIM CHANCE: Thank you, Mr Chairman. I am grateful to Hon Mark Nevill for bringing that to my attention. He is of course quite right; it is a matter of detail that I did not intend to go into. If it is necessary for this Bill in its proposed amended form to go into such fine detail as it does vis-a-vis train configurations, for example, why does it not deal with the absolutely fundamental question of who may or may not bid for the purchase of Westrail assets? I ask that in a general sense. Why is it a matter dealt with by government policy, and apparently discriminatory government policy, rather than being part of the Bill? I will leave that question hanging in the air.

The CHAIRMAN: I suggest the member is not leaving the question hanging in the air. If it is a substantive question in respect of clause 12, I assume that he will revisit it when we consider clause 12.

Hon KIM CHANCE: I will, Mr Chairman, but you need to understand the difficulty we are in. I am raising an issue that would normally be raised during the second reading debate. I am addressing the policy of the Bill. I have been trying to say for some time that we have not had an opportunity to address this question because the question was not before us during the second reading debate because the ARTC was specifically barred as a result of government policy.

The CHAIRMAN: Order! I suggest to the member that this change will be before him when we get to certain clauses and certain amendments and that therefore it is not in order for him to canvass that detail at this stage.

Hon KIM CHANCE: Thank you, Mr Chairman, I understand that. I was simply trying to make the point to you that normally one would expect to have the opportunity during the second reading debate to canvass matters of the policy of the Bill. This is a matter of the policy of the Bill. I have been, but I am not now dealing with the detail. We did not have the opportunity to do that in the second reading debate.

Point of Order

Hon MARK NEVILL: I do not want to be a nuisance, but the matter of the ARTC having access to the bid was debated during the second reading debate, so the member is not correct.

The CHAIRMAN: The member will proceed to discuss the short title, not give a general repeat of the policy of the Bill.

Debate Resumed

Hon KIM CHANCE: Of course, Mr Chairman. The short title should not be read again. May I answer the issue raised by Hon Mark Nevill? The ARTC's involvement in the purchase of Westrail's assets was discussed during the second reading stage only to the extent that it could not happen; it was ruled out.

Hon Mark Nevill: I said that if the Government wanted my support, it would have to bring it back in.

Hon KIM CHANCE: Okay. I shall leave that point now, Mr Chairman. I think you understand our difficulty. This is an issue that we would have wanted to debate at some length. We now do not have that capacity until we reach the appropriate clause, which is clause 12.

We have heard a great deal in this place over time about the inappropriateness of amendments that alter the policy of a Bill. We all know that the policy of a Bill is determined at the time the House agrees to the question that the Bill be read a second time. Amendments sought by the Opposition following that point have been rebuffed on the basis that upon the decision being made in the affirmative that the Bill be read a second time, the policy of the Bill is locked in and we cannot change it. Despite that, we are now embarking, with the list of amendments before us, on a series of amendments that, in our view, alter the policy of the Bill in a completely fundamental way. I do not mind that we are doing that; it is not a matter of concern to me. I am not sure that it is a matter of concern to any members on this side of the House because we have generally taken a more liberal view of the power to amend the policy of a Bill.

I cannot canvass arguments that were made at the second reading stage. I can, however, remind members that the policy of the Bill was built squarely on the two concepts of the vertical integration of the rail system post sale and the single-track manager across the whole system. If we proceed through the committee stage adopting the very amendments which have led to us reaching the committee stage of this Bill, the amendments which have been agreed between the Government and Hon Mark Nevill, we will have legislation that gives us, at least in part of the system, not vertical integration, which was the basis of the Government's argument at the second reading stage, but vertical separation, the very proposition that the Government argued against. If that is not an alteration of the policy of the Bill, I do not know what is.

Point of Order

Hon MARK NEVILL: This very same question was canvassed at great length during the second reading debate. We had a vote at the end of that debate on the policy of the Bill. The member is being repetitious. That matter has been decided by the Chair on a number of occasions and by the House.

Hon KIM CHANCE: What absolute nonsense! We did have this debate, but it was in the terms I outlined. The debate was about this side of the House calling for an explanation of the Government's preference for vertical integration. What we have before us now is the Government saying that we will not go to a fully vertically-integrated model. In other words, the debate and the rules of the debate have changed but the argument that the Government is putting is different.

The CHAIRMAN: I took the view that the member was alluding earlier to the fact that the amendments appearing on the Supplementary Notice Paper may be beyond the scope of the Bill. Clearly, the member has not raised that as a point of order, but they do not appear to be beyond the scope of the Bill - that is, the disposal of an asset. It is up to the Committee to determine whether any restrictions are to be imposed in terms of how that asset might be disposed of. The member has not raised that point of order; although this is a fair guide of what the result would be if he did. The member may proceed, and I will listen very carefully to ensure that this is a short title debate.

Debate Resumed

Hon KIM CHANCE: I am not entirely sure that I understand the ruling. I am not raising a point of order, because I am not sure it exists. I am arguing that we understand that the committee stage of debate on a Bill may not be used to introduce amendments that are outside the policy that has been determined at the point of taking the vote on the question that the Bill be read a second time. The policy of the Bill is determined at that point. I am saying that, in my view, having determined the policy of the Bill on the basis of a very clear statement from Government that the outcome would be vertical integration, we are now in the committee stage of the Bill debating another question.

The CHAIRMAN: If the member is of that view, he should raise it as a point of order. It is not a point of general debate.

Points of Order

Hon KIM CHANCE: In that case I raise the point of order. I understand the Chairman's point, but it is not the way I wanted to do it. I will use the task force evidence as an indication of government policy, what the Government told the committee and what the committee determined as a result of its raising these matters with the Government. Page 22 of the committee report states -

> 5.1.4 The Task Force also addressed the argument that vertical separation allows greater competitive benefits.

Which was the Opposition's argument. The report continues -

> The Task Force believes that the proposed rail access regime will safeguard against anti-competitive behaviour. The proposed "ring fencing" provisions have "built in" confidentiality requirements, which

ensures that the above-rail component of the business does not have access to information provided by its competitors as part of their rail track access negotiations. The Task Force concluded that any additional cost to operations due to ring fencing for a vertically integrated operator would be significantly less than would be incurred by full vertical separation.

The CHAIRMAN: Is the member getting to his point of order?

Hon KIM CHANCE: I am seeking to demonstrate the Government's argument and how I believe it locks the policy of the Bill into a question of vertical integration. I ask the Chairman to bear with me. The report continues -

5.1.5 The Task Force believes that there may be some potential advantages to separation if it results in increased on-rail competition over and above what is possible with a competitive access regime. However, it also believed that there is a significant risk of reducing the efficiency of the system, increasing costs to users, potentially losing market share to road transport, asset deterioration due to lack of reinvestment, and possibly a necessity to rejoin the ranks of railways that require a government subsidy to remain operational.

That argument was consistent with the Government's argument on that question. The point is that the Government cannot say that at any time during the second reading debate it argued there was merit in the use of full or partial vertical separation. Government policy as debated was entirely based on vertical integration for the reasons I have just outlined. That was the nature of the debate and it was on that question we took the vote on the second reading. Now we have a proposition that combines the essence -

The CHAIRMAN: I rule that there is no point of order. The member may proceed with his short title comments.

Hon KIM CHANCE: I am sorry you would not let me finish the point, Mr Chairman.

The CHAIRMAN: The member fully explained his point and I understood the basis of it. There is no point of order. The member did not need to proceed any further. The member may now proceed on the short title debate.

Hon KIM CHANCE: We are left in a position whereby as an outcome of this Bill, we are likely to have not, as we expected, a single track controller, but more than one track controller. I raised this as a point of order. I believe that the policy of the Bill was determined around the operation of a single track controller. It seems clear to me that we may have two or more track controllers. I understand that the minister -

Hon Mark Nevill: We may have one.

Hon KIM CHANCE: Yes. I thank the member for that interjection. When I raised this matter earlier, the member interjected that that could not happen. I wondered whether he had thought that through.

Hon M.J. CRIDDLE: On a point of order, we are debating clause 12; we are having a long debate -

Hon Kim Chance: I have been debating a point of order.

The CHAIRMAN: Hon Kim Chance raised a point of order. He should bring his comments to a conclusion. We are not spending the afternoon on single points of order. If he does not conclude his point, he will find that a ruling is made in the middle of his point of order once again.

Hon KIM CHANCE: Having concluded the debate on what I and everyone else believed - that is, that there would be a single track controller - we now confront the possibility of more than one track controller. That makes the proposed amendments beyond the general policy of the Bill as determined in the second reading speech.

The CHAIRMAN: I rule that there is no point of order. The member may proceed with his short title comments.

Debate Resumed

Hon KIM CHANCE: It is possible that arising from the amendments that we have before us in a general sense, we will have a mix of private and government ownership controlling our lines. From our understanding of the Bill, that seems to be enabled. However, the extent to which government ownership will be entertained will be limited to the Australian Rail Track Corporation. As I said, this is despite the fact that the Government has told us we need private ownership in order to guarantee adequate capitalisation. Does that mean that that argument has now been abandoned by government?

Hon M.J. CRIDDLE: This is repetitious. We have been asked that question and I have covered it.

The CHAIRMAN: I will pay attention to the member's comments again.

Hon KIM CHANCE: I could not disagree with the minister more. I do not believe the Government has demonstrated at any stage during debate on the short title that the question of capitalisation will be addressed. I believe we talked about the sale price, but not about capitalisation. The Government argued that we need a single track controller - a single buyer - in order to guarantee adequate market capitalisation. Indeed, we were told that of course we could sell off the east-west standard gauge line, but when we came to sell the rest of it we would be - expletive deleted - lonely at the auction for the rest of it. Now we are being told that it does not make any difference and later financial information indicates that the separate management - the separate sale possibly - of the east-west standard gauge line will not make any great difference to the final price the State achieves for the sale of Westrail.

Hon Ken Travers: The regulator will not cost any more!

Hon KIM CHANCE: Quite. We are dealing with these changes at the only point at which we can deal with them. That is why I have asked for a little latitude in the short title debate. On matters pertaining to clause 12 I was happy to say we will deal with them when we debate clause 12. However, we cannot deal with some of these issues in any other way than this.

The debt dynamics of Westrail is a central consideration in this Bill. The Government has repeatedly asked what the Opposition would do if we did not sell Westrail. Would we let its debts go on compounding? What do we know about the debt of Westrail freight?

The CHAIRMAN: Order! The member is revisiting the second reading debate. He appears to be revisiting the question of whether Westrail should be sold or not on the basis of the return. The decision has been made in terms of the policy of the Bill to dispose. It is in order for the member to point out that a combination of clauses may mean that there is a lesser return than expected. However, he cannot canvass once again whether the sale should or should not go ahead on the basis of the financial return. That decision has been made and the member should desist from that line of argument.

Hon BOB THOMAS: Last night some debate occurred on the transition package. Unfortunately I was unable to get the call at the time. However, during this debate on the short title, will the minister give me an assurance concerning the transition package? I enjoy train travel and I have spoken to a number of people who work for Great Southern Rail, the passenger service that has been privatised. It is my understanding from anecdotal evidence that some of the operators on those cabins who used to earn $50 000 a year are now employed under workplace agreements and are earning $35 000 a year. They are working longer hours and have fewer operators per train. Four operators have been taken off each train and those stewards, I suppose they are called, are working longer hours and earning about 70 per cent of what they previously earned. I would like the minister to answer yes or no. Will he guarantee this will not occur under this private arrangement for Westrail freight? Can he elaborate on what he thinks "no disadvantage" means?

Hon M.J. CRIDDLE: Last night we spent a couple of hours debating the matter. It is in the *Hansard*.

Hon Bob Thomas: It is not unequivocal.

Hon M.J. CRIDDLE: I suggest Hon Bob Thomas read the *Hansard* because I said none of those people will be disadvantaged.

Hon BOB THOMAS: I thank the minister for telling me that nobody will be disadvantaged. Can he now explain to me what he means by "no disadvantage"?

Hon M.J. CRIDDLE: I went through a series of explanations and in the end I think Hon Graham Giffard asked me exactly that: Would they be disadvantaged? I said no, they would not be disadvantaged.

Hon Bob Thomas: What does that mean?

Hon KIM CHANCE: That issue raised by Hon Bob Thomas, along with a number of other issues, is an indication of the difficulty the Opposition has with this Bill. The concept raised by Hon Bob Thomas was heard by members opposite yesterday for the first time.

Hon M.J. Criddle: I remember you saying you were happy when I said that.

Hon KIM CHANCE: I am happy and I am happy to reaffirm that. It is an improvement. However, we must understand what it means. That is all Hon Bob Thomas, Hon Graham Giffard and Hon Ljiljanna Ravlich were asking yesterday. The minister has been here long enough to understand that when he says something like that in Committee, he is not bound by it in law, although he may feel personally bound as a man of honour. What is said in Committee is not binding on the Government because it does not form part of the policy of the Bill.

Hon M.J. Criddle: I elaborated on it last night for more than two hours.

Hon KIM CHANCE: I know that. My personal trust in the minister is without bounds, but unless something is said in the second reading speech, it is not law. In order to make something law the minister would have to go back to the second reading stage and restate it.

Hon M.J. Criddle: I am not that good; I cannot go back to the second reading stage.

Hon KIM CHANCE: Historically, that has occurred.

Hon Mark Nevill: It has effect under the Interpretation Act.

Hon KIM CHANCE: I am conscious of your ruling, Mr Chairman, and I am trying to define my comments. I have a particular difficulty with the last two issues because of your ruling. They are the twin questions of debt and price. I am aware that your ruling was that to canvass in detail matters relating to the absolute question of debt and the reasons given for the presentation of increasing debt as a cause for the sale of Westrail is beyond the standing orders. However, the member has offered me a solution, which is to relate the changes which are involved in the amendments to the whole debt situation. I am not going to take up that offer because I am not sure just what effect those changes may have on the total debt. In other words, I have no choice in terms of my desire to proceed with examining the matter of debt, because I do

not believe the Chamber should pass this Bill until we have a thorough understanding of the dynamics of the debt and until the Chamber has found a way to discuss that matter.

As to Progress

Hon KIM CHANCE: Consequently, I move -

That the Chairman report progress.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon N.D. Griffiths	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon Bob Thomas	Hon Giz Watson
Hon Cheryl Davenport	Hon Norm Kelly	Hon J.A. Scott	Hon E.R.J. Dermer *(Teller)*
Hon G.T. Giffard			

Noes (14)

Hon M.J. Criddle	Hon Barry House	O'Brien	Hon W.N. Stretch
Hon Dexter Davies	Hon Murray Montgomery	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Peter Foss	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan	Hon Mark Nevill	Hon Simon	

Pairs

Hon Christine Sharp	Hon Max Evans
Hon Tom Helm	Hon B.K. Donaldson
Hon Tom Stephens	Hon M.D. Nixon

Question thus negatived.

Committee Resumed

Hon KIM CHANCE: I indicated that I had only two points left to make. One of those related to debt, and that has now been dealt with, and the other related to price. Last night I listened on the speaker to debate on another matter - I was not in the House at the time. It referred to an amendment which had been proposed by an opposition member on an issue which he found quite objectionable in that it left a matter to the discretion of the minister. I believe the amendment related to the possession of a certain number of marijuana plants, and the member said it was a disgrace to entrust a minister with discretion of that nature. Members should consider what we are entrusting the Government with if we pass this Bill. We do not know the industrial relations arrangements, although happily we are aware that something is being done in that area. We do not know who the buyer is going to be -

Hon M.J. Criddle: It is enabling legislation.

Hon KIM CHANCE: Exactly, the minister has put it more eloquently than I ever could. It is enabling legislation. It enables anything. The issue the member opposite raised related to a minister's powers to perform certain acts by regulation. Performing acts by regulation requires gazettal of those acts in the form of a disallowable instrument. There is no disallowable instrument that we can come back to for comfort in this matter. If a decision is made to sell Westrail, for whatever price, nobody can come back to this Parliament and say, "I am the Minister for Transport. I now table an instrument which relates to the sale of Westrail for a figure between $275m and $600m." That is the price - between $275m and $600m. I know they are broad parameters, but members should remember how much the freight division owes; its debt is around $700m. The Treasurer has given some confirmation of that. The Treasurer said that it is possible that the price we achieve for Westrail will be less than the debt of the freight division.

Trade sources have informed me that the range of prices goes from a low of $275m to a high of $575m. I will not continue to canvass this point, Mr Chairman, because I acknowledge your ruling. I have no other way of raising this matter. I believe we will be derelict in our duty as legislators if we proceed with this legislation without having some understanding of the sale. In the sale of AlintaGas we had a number to work around. It was a billion dollars with a couple of hundred million either way - they are broad parameters; but we had a number to work around. We now do not have such a number. The only statement we have ever had from government is the statement that was made by the Treasurer which indicated that the figure is somewhere under $700m. The only other statement has come from the Opposition as a result of information from trade sources.

The CHAIRMAN: The member was certainly on firm ground when he related his argument to being unable to find any disallowable instrument among the range of clauses, but he is perhaps straying from that.

Hon KIM CHANCE: Consequently, I cannot continue to debate this issue as it would be against standing orders. There is no clause that we will get to in the committee stage that will allow me to canvass the matter of price. There is no indication from government of the price and there is no way of informing the taxpayers of the price. The Government's attitude is, "Don't worry about them, they only own this asset. They have invested only $5b in this asset. We won't tell

them. We will just go ahead and sign the blank cheque." That is exactly what we are doing here. Under the provisions of another Bill, the Minister for Justice has the ability to gazette the number of certain plants that may be held by people, and at least the instrument allowing that number of plants to be held will come back to this place in the form of a disallowance motion. We will not get that opportunity with the price of Westrail to say, "No, that is too cheap, Murray, take it back and see if you can get another $100m."

Chairman to Leave the Chair

Hon KIM CHANCE: Consequently, because I cannot argue that, I move -

That the Chairman do now leave the Chair.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon N.D. Griffiths	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon Cheryl Davenport	Hon Norm Kelly	Hon Tom Stephens	Hon E.R.J. Dermer *(Teller)*
Hon G.T. Giffard			

Noes (14)

Hon M.J. Criddle	Hon Barry House	Hon Simon O'Brien	Hon W.N. Stretch
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Hon Peter Foss	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan	Hon Mark Nevill		

Pairs

Hon Christine Sharp	Hon Max Evans
Hon Tom Helm	Hon B.K. Donaldson
Hon Bob Thomas	Hon M.D. Nixon

Question thus negatived.

Committee Resumed

Hon MARK NEVILL: This wide-ranging debate on clause 1 is an embarrassment to this Parliament; it is appalling. I searched the Library about 20 minutes ago for the number of times that Hon Kim Chance has mentioned the words "national competition policy" during this debate. He has mentioned those words not once. This is one of the major issues facing Westrail in the next six months and it has not been raised once during this debate. Members in this place are playing games. They are not addressing the real issues. There has not been one amendment moved by the Australian Labor Party-

Hon Ljiljanna Ravlich interjected.

Hon MARK NEVILL: Hon Ljiljanna Ravlich can speak after me.

The CHAIRMAN: Order! Hon Ljiljanna Ravlich will come to order.

Hon MARK NEVILL: The Labor Party has not moved one amendment during this debate. It submitted a list of amendments from the Rail, Tram and Bus Industry Union. Although it is the Labor Party's right to do that, if it had given them to me, I would have knocked them into shape and submitted them to the Clerk or whoever gets these amendments. I would not have put them in their present form as a few of them have a good chance of being rejected. The Labor Party has not done any of the basic work. There has been endless repetition in this debate, but not one of the key issues has been addressed. National competition policy has not even been mentioned. The Labor Party must get real. Westrail has a $700m debt which will skyrocket under national competition policy. Where is the Labor Party's alternative? That is what I have been asking. The Labor Party asks how much we will get for Westrail. That is a silly question as the price will depend on the requirements on bidders to upgrade the track. If a bidder has to put $500m worth of infrastructure into the track, we might get a bid of $50m.

Hon J.A. Scott: You can still try to get an underlying value.

Hon MARK NEVILL: The underlying value may be very little if Westrail continues the way it has been with escalating debt, with the network deteriorating and with a rail system that is not attracting any new business. Members are wrong if they think there is any future in that. There must be a massive injection of capital into Westrail and no-one has suggested that any capital will be put in if it is not sold. I do not want to repeat the issues that were canvassed during the second reading debate. I am appalled by what the Labor Party is doing and I believe that members of the public reading this debate would like to see more constructive ideas about what to do with Westrail. At the moment we have just a negative collection of hypothetical questions. What are the alternatives? Where are the Labor Party's amendments?

Hon NORM KELLY: I do not want to prolong the debate unnecessarily; however, I take issue with one of Hon Mark Nevill's comments that none of the key issues has been dealt with in this debate. We spent a long time last night debating

the welfare and future of Westrail employees. That is very much one of the key issues of this debate. During that debate the minister introduced new information relating to a negotiated transfer package for employees. One of the benefits of this debate is that it gave a greater degree of certainty to those employees who have been asking what will occur to them after the sale.

The main point I want to speak about once again relates to last night's debate. I asked the minister about the financial impact on Western Australians of adopting this new model of the sale, as opposed to the Government's previous model, which was a totally vertically-integrated model with all the parameters to be decided after the passage of the Bill. As the minister said, it is simply enabling legislation. The minister's response was that it would have no impact, or very little impact, and that the financial advice he received expressed that opinion.

Can the minister provide us with the flesh on the bones, some more detail, about the impact of the variations that were presented to him through that financial advice? During previous discussions, the minister and his officers were forthcoming in providing me with whatever information was possible. They were willing for me to meet with their financial consultants to receive their estimates of the sale price and the like. However, that information was to be provided on a confidential basis and I did not believe it appropriate for me to receive such advice in those circumstances. We are now at the crunch point and it is appropriate that we are informed of the range of estimates and the financial advice the Government has received, not only about the impact of the Government-Nevill model - as opposed to the Government's previous model - but also the impact of the sale of this valuable asset.

Hon LJILJANNA RAVLICH: I do not really care whether Hon Mark Nevill is appalled. He may not like the simplicity of the questions asked by members on this side of the Chamber, but they are important. As representatives of our constituents, we must get some answers. We appear to be going round in circles because we are not satisfied we have received the answers. Hon Mark Nevill had an opportunity to mention national competition policy in any contribution he made to this debate, but I cannot remember his contribution having such a strong focus. I am not convinced that the Government is taking this action as a result of national competition policy. However, it is irrelevant because the decision has been made and we must now deal with what is before us. Although Hon Mark Nevill thinks it is silly for us to ask how much revenue the Government anticipates receiving from the sale, I think it is fundamental.

Hon Mark Nevill: What is the Opposition going to do about the problems?

Hon LJILJANNA RAVLICH: As pointed out by Hon Kim Chance, the escalating debt of this asset is responsibility of the Government.

Point of Order

Hon M.J. CRIDDLE: Once again, we are debating an area canvassed during the second reading debate. This issue has been dealt with numerous times, including last night. We are revisiting the whole issue again. It is repetitious.

The CHAIRMAN: The questions of overall debt and whether the system should be sold were canvassed during the second reading debate. Some things can be raised during debate on the short title, such as compensation packages for employees, but the fundamental questions about the sale of the asset were legitimately canvassed in the second reading debate. Even if they were not canvassed in that debate, they cannot now be canvassed during the short title.

Debate Resumed

Hon LJILJANNA RAVLICH: Am I to understand that we cannot ask for information about the Department of Transport's engagement of the Macquarie Bank to produce a report on the Western Australian rail access regime? That report was an independent assessment on the maximum rate of return for the rail infrastructure. Perhaps a report commissioned by the Department of Transport contains some financial information that could assist members in the Chamber. If they had access to that report, they could make some judgments which would help them make the necessary determinations. Members are not receiving any valuable feedback from the minister about the economics of the proposition. The question about the price remains, and the Government obviously does not have a response. Can the minister advise whether the consultants who undertook this report canvassed the potential range of possible sale revenue, as was the case when the Deutsche Bank undertook the economic analysis of the proposed AlintaGas sale?

Hon M.J. CRIDDLE: The member's question about access relates to the Government Railways (Access) Bill, not the Rail Freight System Bill. The Department of Transport produced a report for the access Bill. The other issue raised by the member also has nothing to do with this Bill.

Hon NORM KELLY: Can the minister answer my questions and provide some detail about the financial advice he received for the two models and about the overall value of the asset?

Hon M.J. CRIDDLE: A whole range of prices are expected. A privilege motion was moved against me when I tried to provide some realistic financial guidance about the funding amounts. In this case, I do not think it wise for me to provide an indication to the member.

Hon Ljiljanna Ravlich: So, the minister does know.

Hon M.J. CRIDDLE: No, I do not.

Hon Ljiljanna Ravlich: Does the minister have some idea of a ballpark figure?

Hon M.J. CRIDDLE: The only indication the Government will get is when we receive the tender documents and the information is in front of us. Then we can make a considered decision on the price.

Hon Ken Travers: Would the minister sell his house if he did not know how much it was worth?

Hon M.J. CRIDDLE: That is irrelevant. The Government is asking for expressions of interest in the sale of the Westrail freight business. The Government will have some indication of what members are asking when the expressions of interest - and then the tender documents - are received. What is the relevance if it is $500m or $1b?

Hon Kim Chance: The relevance is that the Government wants us to make a decision now.

Hon Ljiljanna Ravlich: Why does the Government not call for tenders now and then bring the Bill into this place?

Hon M.J. CRIDDLE: The Government cannot do anything unless the enabling legislation is in place. It is as simple as that.

Hon KEN TRAVERS: I seek the Chairman's guidance after his earlier ruling that the Chamber cannot deal with Westrail's debt during this clause. Will there be an opportunity for that later in the debate if clauses are passed that significantly change or impact upon what was debated during the second reading debate?

The CHAIRMAN: Members have the opportunity to argue at this stage, or during various clauses of the Bill, whether a sale model has changed, is likely to earn more or less as a result and, therefore, whether the amendments ought to be adopted. Members may also debate the issue raised by Hon Kim Chance; that is, whether there should be some instrument to refer the final proposed sale back to the House. All those are legitimate matters that may be considered during committee. It is not legitimate to revisit arguments relating to the disposal in the general terms that have already been canvassed. Obviously some financial matters can be canvassed in relation to models or particular clauses, but they must be related to clauses.

Hon KIM CHANCE: I wanted to place on the record something I said by way of interjection following the discussion between Hon Ljiljanna Ravlich and the minister. What the Opposition finds difficult to deal with in the absence of an indicative figure for the sale of Westrail -

Hon M.J. Criddle: You said a range between $275m and $600m-odd. What is the relevance of that?

Hon KIM CHANCE: It might be irrelevant, but that is the scope of indications I have received from within the rail industry. What makes it difficult for us is that the Government is asking us to make a decision to sell -

Hon M.J. Criddle: No, we are asking you to allow this legislation to be passed.

Hon KIM CHANCE: Yes, but that is the last say we have in it. The minister has choices and decisions beyond this point, presuming the Bill is passed.

Hon Barry House: If you win government, you will have them, too.

Hon KIM CHANCE: That is a fair comment and I accept that. However, the Government is asking us to grant it the authority by way of an enabling Act to do something on the basis that we will have no ability by way of an instrument to come back into this Chamber to determine whether that price is acceptable to the people of Western Australia.

Hon M.J. Criddle: Governments do that all the time. What about AlintaGas and the pipeline?

Hon KIM CHANCE: I made the point with AlintaGas. We had an indicative figure of $1b in that case.

Hon W.N. Stretch: It is a different situation.

Hon KIM CHANCE: It is a different situation, but can members not see our point of view as well?

Hon W.N. Stretch: Can you not think of the future of the State and not take just an ideological stance on it? You are wasting time and stopping progress.

Hon KIM CHANCE: I am disappointed that Hon Bill Stretch thinks that, because we are thinking of the interests of the State.

Hon W.N. Stretch: No, you're not.

Hon KIM CHANCE: The member should think it through this way: The Government has an asset in which the people of Western Australia have a $5b investment. It is carrying a debt of $700m, which has grown from $260m to that figure in the member's term of government. I want to know why. If debt is what has driven us to the point that we must sell this state asset -

Point of Order

Hon M.J. CRIDDLE: Once again we are revisiting this matter.

The CHAIRMAN: The member will make his comments pertinent to the short title.

Debate Resumed

Hon KIM CHANCE: I should not have been misled into responding to an interjection. My point nonetheless stands. However, I will let that slide for the time being.

While I was out of the Chamber returning a telephone call, I understand that Hon Mark Nevill raised one or two points to which I must respond. I am of the understanding that he said that he had researched what I had said about this Bill and that at no time during the debate on this Bill had I mentioned the national competition policy principles. Hon Mark Nevill is probably right; I did not. The reason I did not mention national competition policy principles is that they are, and have been up until the involvement of the ARTC, totally irrelevant to this Bill. The matters concerning national competition policy involve the Government Railways (Access) Act, not the Rail Freight System Bill. It is not a matter for the NCP; it has nothing to do with the NCP. I am amazed that Hon Mark Nevill, with all his experience, cannot perceive that. National competition policy does not become an issue until such time - I mentioned this matter about the Australian Competition and Consumer Commission yesterday - as the ARTC becomes involved on an exclusive basis.

Hon M.J. Criddle: What about access?

Hon Mark Nevill: What about competition for Westrail?

Hon KIM CHANCE: That is dealt with in the access Act. Does the minister not understand that either? I am amazed that Hon Mark Nevill does not have his head around it, but I am absolutely befuddled that the minister does not understand it. Competition is in the access Act, not in the sale Bill. This is to do with the sale of Westrail. I am seriously concerned that the Government and Hon Mark Nevill, who are the principal architects of the proposition we have before us, do not understand how the national competition policy principles relate to the sale of Westrail.

Hon M.J. Criddle: That is a stupid remark!

Hon KIM CHANCE: Well, they do not. Hon Mark Nevill has created an enviable reputation in this place for his intellectual diligence. He is a thorough professional in every way and, again, it is disappointing that he did not check the facts when he decided to take a cheap shot at me about my professionalism in the presentation of the amendments proposed by the Australian Rail, Tram and Bus Industry Union. I do not have any right to criticise Hon Mark Nevill's attitude to those amendments, which I think were pretty good. However, Hon Mark Nevill said that I introduced them in the form in which they were given to me by the union and that I should have taken them away and put them into a form suitable to be presented to the Parliament.

Point of Order

Hon M.J. CRIDDLE: What does this have to do with clause 1?

Hon KIM CHANCE: I am responding to a point which has been raised, and I am entitled to do so.

The CHAIRMAN: As the member pointed out that the relevant competition policy argument is not relevant to this Bill, he should constrain himself to items that are relevant to this Bill.

Debate Resumed

Hon KIM CHANCE: I had finished my contribution to the short title debate before Hon Mark Nevill decided to make comments, but I felt constrained to respond. For the accuracy of the record, I point out that we delivered to the Table amendments in an appropriate form. Had Hon Mark Nevill been listening at the time, he would know that I explained that the form of those amendments was deemed to be beyond the policy of the Bill and that we accepted that advice and withdrew the amendments. We did not present to the Table the list of amendments which we handed to the minister and Hon Mark Nevill as a matter of courtesy. They were presented in a proper form. I am somewhat resentful that my professionalism should be impugned in that way without the courtesy of even a question. I have noted your ruling, Mr Chairman, on the matter of further discussion of debt. I am grateful for it and I will take up the opportunity to comment on that matter at the appropriate time.

Hon LJILJANNA RAVLICH: I understand your ruling, Mr Chairman, on the matter of debt. However, the minister provided us with some information about the possible range of revenues we might expect. If we were to sell this asset for $275m, why would the Government not just give it away?

Hon M.J. Criddle: They were Hon Kim Chance's figures. I never mentioned that.

Hon Kim Chance: That is true, but they came from trade sources.

Hon LJILJANNA RAVLICH: Has the minister ever heard $275m mentioned?

Hon M.J. Criddle: I picked it up from Hon Kim Chance.

Hon LJILJANNA RAVLICH: So the minister has never heard that that could be the range.

Hon J.A. SCOTT: An extremely wide-ranging debate has taken place. Many questions have been raised relating to the uncertainties about price and so on. However, what concerns me is prior to the amendments that were put forward there was certainty in what we were to do. It is true that we had no indication of price at that time; we knew only that the Government was hoping to retire as much debt as it could. We now have a situation in which we do not know how Westrail freight will be sold, because the Government cannot say through which model it will be sold. We have a hugely wide range of possibilities before us. Many different models have been proposed. The question that must be asked is how this Chamber can decide on whether this is a good Bill when the Bill does not say anything. The only certainty that comes out of this Bill is that the Bill seeks to sell or lease Westrail for a long period and to sell the Westrail freight business. The rest

of it has dissipated into some nebulous cloud and, as a result, we do not know what we are doing. We are putting so much trust in the Government that we as an upper House, to whom people look for some sort of -

Hon Derrick Tomlinson: Lunacy.

Hon J.A. SCOTT: I will leave dreaming aloud to the member opposite.

I believe our job in this place is to ensure that the interests of our community are looked after. That means not merely looking after how much money we get, but also ensuring we have an efficient system at the end of the process. Many people, such as farmers and those in the mining industry, also have the same interest in making sure -

The CHAIRMAN: The member would have to make sure that he is not canvassing the general second reading debate again.

Hon J.A. SCOTT: The model we have before us, which is different from the previous one, is not a model with any certainty. I will give an example of uncertainty in other areas of government business. Recently the Department of Environmental Protection had to redraft a whole set of conditions that it had applied to a project in this State because it was pointed out that those conditions gave no certainty to either the developer or anyone else.

The CHAIRMAN: I am sure the member will bring to our attention the relevance of this to the short title.

Hon J.A. SCOTT: The relevance is that here we have a piece of legislation that says virtually nothing. It says that the Government can sell it some way or other.

Hon Kim Chance: It says two things - "I enable".

Hon J.A. SCOTT: That is about all it does. I put on record that I do not think that is good enough.

Clause put and a division taken with the following result -

Ayes (14)

Hon M.J. Criddle	Hon Barry House	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Dexter Davies	Hon Murray Montgomery	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon N.F. Moore	Hon Greg Smith	
Hon Ray Halligan	Hon Mark Nevill	Hon W.N. Stretch	

Noes (13)

Hon Kim Chance	Hon N.D. Griffiths	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon Cheryl Davenport	Hon Norm Kelly	Hon Tom Stephens	Hon E.R.J. Dermer *(Teller)*
Hon G.T. Giffard			

Pairs

Hon Max Evans	Hon Christine Sharp
Hon B.K. Donaldson	Hon Tom Helm
Hon M.D. Nixon	Hon Bob Thomas

Clause thus passed.

Sitting suspended from 3.47 to 4.00 pm

[Questions without notice taken.]

Clause 2: Commencement -

Hon KIM CHANCE: This is the principal clause. I say "principal" because subsequent clauses hang of this clause. Subclause (1) reads -

> Except as otherwise stated in this section, this Act comes into operation on a day fixed by proclamation.

Assuming passage of this Bill by the first week of the next sitting week and things fall according to plan, what is the approximate time scale for the implementation of arrangements; in particular, can the minister relate that time scale to the 2000-01 harvest?

Hon M.J. CRIDDLE: The intention is to go ahead with the proclamation of the Act as soon as possible, because we intend to go ahead with the sale. I intend that would happen before the next harvest, because the Government hopes to get the sale process through prior to that. The harvest starts in my part of the world in October-November. We intend to get into the sale process as early as possible.

Hon KIM CHANCE: I would like to defer consideration of clause 2. I move -

> That clause 2 be considered after clause 12.

I have spoken with the minister behind the Chair about the questions concerning the debt and price of the asset. While we have no agreement - and I am not indicating that the minister has given me any undertaking - I would appreciate some time to consider whether the Chamber may wish to attach to clause 2 a condition requiring a report to be made to the House

about those matters of price and debt before the legislation commences. I foreshadowed this during the short title debate. The Chamber may deem that such an amendment is not possible. However, I would appreciate some time over the break to discuss with the minister what might be achievable and whether we could come to an understanding that might satisfy some of the concerns that have been expressed, particularly those relating to price. The minister has given me no undertakings and I do not pretend that he has. I have outlined to him that one of our reasons for concern is uncertainty about the price. It might be possible after the break to consider an amendment to clause 2, which would mean the minister is required to report to the House prior to the commencement of the legislation.

HON M.J. CRIDDLE: I do not see a reason why the member would defer this clause on the basis of a financial arrangement. I do not see the relevance.

HON KIM CHANCE: There are two ways to achieve the ends I have described. It seems sufficient to attach the requirement to the clause dealing with the commencement of the Act. Clause 2(1) states "this Act comes into operation on a day fixed by proclamation". A hypothetical amendment might be "on a day fixed by proclamation upon considering a report from the minister on the sale price". That seems a neat and tidy way to achieve the requirement for a report. It is putting me under some pressure to provide an indication of what the amendment might be. However, that is the shape of the amendment I envisage and why I have proposed the requirement be made in clause 2. There may be other ways of doing it. Such amendment would defer what could be a lengthy debate during the third reading stage. Clause 2 could be reintroduced to the Chamber after some consideration, and the Chamber would then do with it what it wants. Taking some time for consideration may save a lot of unnecessary debate.

Hon N.F. MOORE: The member is seeking to delay consideration of this clause on the basis that he wishes to use the proposed forthcoming break to obtain more information. I am wondering if this legislation will ever have a commencement date; it seems it will be discussed in this Chamber forever and a day. I am trying to decide whether the Chamber will actually take a break over the next three weeks or whether members will remain here to finish the Bill. I do not seek to curtail the member's debate. I do not mind how long he wants to debate this, as long as it is positive debate and not simply filling in time. I have a sneaking suspicion that up until now, the debate has been filling in time. I may well be wrong, so I will not make that allegation. However, I would like to know from the member in charge of the Bill for the Opposition whether there is an end point to all this. Could he give me a rough indication of when we are likely to reach that? If that point is six or twelve months away, I will be happy to use the next three weeks to finish the Bill a little quicker.

Hon KIM CHANCE: I am pleased to respond to that question. Predictions of this kind are hard, but my view is that the committee stage could be completed in two more sitting days. That is my best guess; however, I am not in a position to make promises. The Leader of the House is aware that the Labor Party is only one of three different political entities in the opposition. I spoke with the minister about this matter during the afternoon break and I indicated to him that the principle clauses the Opposition wished to debate were clause 1, which has now been completed, and clause 12.

Hon LJILJANNA RAVLICH: The Leader of the House wants a speedy resolution. We are taking our time for good reason.

The CHAIRMAN: Order! I remind members that the motion before the Chair is to defer consideration of clause 2 until after clause 12. Comments must be relevant to that motion.

Hon LJILJANNA RAVLICH: I support the motion; it is a good motion. The commencement date for this legislation should be considered only after members received some vital financial information, which we have not yet been able to obtain. The Opposition is not delaying this process. If it were, Hon Kim Chance would have moved that consideration of clause 2 be delayed until after the last clause, which is clause 102. He has not done that; he has moved for a deferral following clause 12. The intent of the motion is to ensure that information is obtained so the Opposition can make the right judgment on behalf of the people it represents. If that process happens to take time, so be it. I, for one, will not abrogate my responsibilities to the people I represent by enabling the minister and the Leader of the House to ram this legislation through without proper scrutiny.

Hon KIM CHANCE: I have had some discussion across the floor with the minister and he believes such a requirement can be achieved in a different way.

Motion, by leave, withdrawn.

Clause put and passed.

Clause 3: Definitions -

Hon KIM CHANCE: The third definition in the clause reads -

> **"corridor land"** means land that is designated as corridor land under Part 3;

The word "designated" can obviously be described differently from the word "defined", because in part 3 there is no definition of "corridor land". There is perhaps a description, but there is not a definition. Have I read wrongly the word "designated" for the word "defined"? It seems strange, given the importance of corridor land and the fact that it is central to the purpose of this Bill, that we do have a definition of corridor land. It seems to me that at some time in the future there may be a dispute about what the words "corridor land" mean.

Hon M.J. CRIDDLE: Clause 34, which is headed "Designating government railway land as corridor land or land other than corridor land", states -

The Act Minister may, by order notice of which is published in the *Gazette*, designate government railway land identified by the order as corridor land or land other than corridor land.

Hon KIM CHANCE: That illustrates my difficulty, because while it states that the minister may designate government railway land identified by the order as corridor land, it does not say what corridor land may be; it merely describes how corridor land may be created in law. I am not sure that it needs to be defined, but we need to bear in mind also that this Bill will impact on the Land Administration Act 1997 and that a later clause of this Bill largely sets aside the requirements of the Land Administration Act, except with regard to section 178(5) of that Act. Therefore, we may hinder the clarity of what the words "corridor land" mean if we do not have a definition.

Hon M.J. CRIDDLE: The definition is simply that it is the land that is used for the corridor; and it will be about 40 metres wide.

Hon LJILJANNA RAVLICH: It might have been implied in the answer just given by the minister, but can the minister advise whether land can be designated as corridor land subsequent to the successful passage of this Bill?

Hon M.J. CRIDDLE: Yes. Clause 35(1) states that "the commission is to give to the Act Minister a description of the land sufficient to identify it". It is also defined in clause 36, which is headed "Additional land for corridor land".

Hon KIM CHANCE: The definition of "Commission's rail freight business" in clause 3 contains the words "and it includes carriage of freight by road and other activities of the Commission that the business and operations involve". Therefore, Westrail's road freight business will also become part of the definition of the commission's rail freight business. The minister said by way of interjection that that is a matter of logistics, but the Chamber needs some explanation from the Minister of what limits will be placed on the ability of the new owners to carry freight by road under the definition of conducting the commission's rail freight business. This is particularly significant when one considers the outcome of the grand strategic plan which identifies certain railhead points as strategic receival points.

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

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 1999

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Attorney General), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [4.57 pm]: I move -

That the Bill be now read a second time.

The introduction of the Conservation and Land Management Amendment Bill 1999 and the Forest Products Bill 1999 signals a watershed in forest policy in Western Australia. Responsibility for management of the State's conservation reserves, wildlife conservation and commercial forestry operations has been the province of the Department of Conservation and Land Management since March 1985 when the Conservation and Land Management Act 1984 came into operation.

Despite the many strengths of an integrated forest conservation agency, there has been an increasing level of community concern at the perceived conflict of interest in having the same agency responsible for conservation and commercial timber harvesting activities. The Government has heard these concerns and has determined that a new regime of forest management will apply in Western Australia. There are a number of dimensions to the change being signalled by the Government, including new approaches to silviculture management and a greater emphasis on managing our forests for their community and social values as well as their economic values. While some of the changes will take time to bring to fruition, developing a legislative and policy framework for change is critical to success. The legislative framework for this new approach is being progressed through the Conservation and Land Management Amendment Bill 1999 and the Forest Products Bill 1999. These two Bills being introduced today will ensure that the often competing needs of land conservation and commercial forestry will be kept completely separate. As a consequence the existing controlling bodies - the National Parks and Nature Conservation Authority, the Lands and Forests Commission and the Forest Production Council - will be abolished. In addition, the Department of Conservation and Land Management will be renamed the Department of Conservation and its functions and powers will be modified.

The separation of forest conservation and management functions from responsibility for forest products harvesting and sale contracts will also be addressed at ministerial level. The administration of the Forest Products Act will become the responsibility of a minister other than the minister administering the Conservation and Land Management Act.

Establishment of the Conservation Commission of Western Australia: A key feature of the Bill is the establishment of a new conservation body to be known as the Conservation Commission of Western Australia. The Conservation Commission will be the pre-eminent ministerial advisory and policy development body and will act as the vesting body for all terrestrial conservation areas, including state forests and native timber reserves. Of particular note will be the role of the Conservation Commission in advising on ecologically sustainable land and forest management and on monitoring and auditing the land management practices of the revamped Department of Conservation and the newly established Forest Products Commission, under the relevant management plan.

The Conservation Commission will comprise nine members appointed by the Governor on the nomination of the minister.

Members will be appointed on the basis of their relevant levels of expertise with regard to the commission's functions and not on the representative basis which presently applies to membership of the National Parks and Nature Conservation Authority. The legislation stipulates that the executive director, the directors of Forests, Nature Reserves and National Parks and staff members of the Department of Conservation; and the commissioners, general manager and staff members of the Forest Products Commission will be ineligible for appointment as members of the Conservation Commission.

If a person holds a current Forest Products Commission contract or a current interest in such a contract, they will be ineligible for appointment to the Conservation Commission.

The Bill also sanctions a new arrangement whereby the Conservation Commission has a right to the water that exists on those reserves as if it were an occupier of private land for the purposes of the Rights in Water and Irrigation Act 1914.

Role of the Department of Conservation: The Department of Conservation will be responsible for -

The integrated management of conservation land and waters, including all state forests and timber reserves;

nature conservation, recreation, ecotourism and astronomical services;

preparation of management plans for consideration by the Conservation Commission;

preparation of advice on management of native flora and fauna;

preparation of scientific advice and drafting of policy for ecologically sustainable management of land including sustainable levels of production of forest resources; and

promotion and facilitation of community involvement.

Importantly the Department of Conservation will have no role in the cutting, hauling, stockpiling or selling of timber. However, the department will have the capacity to recoup costs associated with timber production, regeneration and forest management for timber subsequently harvested by the Forest Products Commission. The Forest Production Council, an advisory body with no reserves vested in it, will also be abolished.

Existing functions: The present vesting, advisory and management planning functions of the Lands and Forest Commission and the National Parks and Nature Conservation Authority will become functions of the Conservation Commission. Similarly, existing functions of the Forest Production Council, except those applicable to the use, processing and marketing of forest produce, will become functions of the commission. In addition, the Conservation Commission will be responsible for developing guidelines for monitoring and assessing management plan implementation by the department and for setting performance criteria with regard to the carrying out of management plans. The minister will receive advice from the Conservation Commission on the ecologically sustainable management of state forests, timber reserves and forest produce throughout the State. Advice will also be provided to the minister with regard to the production and harvesting of forest produce on a sustained yield basis.

Staffing of the Conservation Commission: The Conservation Commission will be provided with appropriate powers and resources to carry out its functions. To facilitate the implementation of its functions, the Conservation Commission will employ its own staff. It will also be able to contract for professional, technical and such other assistance as it considers necessary. In addition, for administrative efficiency it will be serviced and assisted by the department. Staff appointed to the Conservation Commission will be under the direct and sole control of the commission. A management audit unit to be established as part of the commission's staff will monitor and assess the implementation of management plans by the department against performance criteria set by the commission.

Preparation of management plans: Although both the Conservation Commission and the Forest Products Commission will have functions applicable to the appropriate management of state forests and timber reserves, the Bill provides for the joint preparation of management plans for these reserves by these two bodies. This plan will in the first instance be jointly drafted by the Department of Conservation and staff of the Forest Products Commission. The draft plan will then be submitted to the Conservation Commission and the Forest Products Commission for approval to release for public comment. At this stage the plan will be subject to assessment by the Environmental Protection Authority, which will recommend appropriate ministerial conditions. The Minister for Forest Products and the Minister for the Environment will be responsible for approving the management plan. Should the respective ministers be unable to agree upon the plan, the matter will be determined by the Governor, following a recommendation by Cabinet.

To ensure public water supplies are protected, the Waters and Rivers Commission and relevant public water utilities will have a joint role in the preparation of management plans where a public water catchment area coincides with a Conservation Commission reserve.

State Forest and Conservation Reserves: Areas of state forest and timber reserve identified in the Regional Forest Agreement for conversion to conservation reserves, such as national parks, will be assigned the new forest conservation area classification provided for in the Bill as an interim protective measure before the new conservation reserves are established under the Land Administration Act. Also, some areas in state forests and timber reserves are identified in the Regional Forest Agreement as areas where timber harvesting will be precluded. These areas will remain state forests and timber reserves but will be assigned forest conservation area classification.

The Bill provides other safeguards for forest conservation areas by preventing the granting of a forest produce licence,

permit or contract which applies to these areas and by providing an offence for unauthorised removal of forest produce from a forest conservation area. Commercial timber harvesting is not permitted in forest conservation areas.

In accordance with a commitment made in the Regional Forest Agreement to protect forest conservation areas, the Bill will also establish that any proposal to amend or cancel a forest conservation area cannot proceed unless it has been laid before each House of Parliament so that Parliament can resolve whether the amendment or cancellation proposal can proceed by notice published in the *Government Gazette*.

To assist in addressing safety issues, forest products temporary control areas are also provided for under the Bill. They will be applied only in state forests and timber reserves for the purposes of public safety or for the safety of persons working in the forests in the activities of harvesting or stockpiling forest products, or road construction or maintenance under Forest Products Commission contracts. These areas will not be established unless recommended by the Minister for Forest Products.

Managing the change: As a consequence of the Forest Products Commission taking responsibility for contracting for the harvesting and sale of forest products under the Forest Products Bill, the Conservation and Land Management Amendment Bill includes a number of amendments of a largely administrative nature. These remove similar existing functions from the powers presently assigned to the Executive Director of the Department of Conservation and Land Management.

Management and protection of the forest will be a responsibility of the department and carried out under the relevant management plan. Arrangements for access to the forests by Forest Products Commission contractors and the performance of the department's functions will be the subject of a memorandum of understanding between the department and the Forest Products Commission. This memorandum of understanding will also address the processes that will be applied to the development and implementation of logging plans. A memorandum of understanding will also be entered into between the department and the Conservation Commission. This will address how they will work together, including matters such as access to information applicable to the development and implementation of logging plans and the processes applicable to approving access by external researchers to land managed under the Conservation and Land Management Act.

With regard to timber sharefarming agreements, the executive director will no longer be responsible for negotiating and entering into commercial timber sharefarming agreements. Responsibility for all aspects of commercial timber sharefarming agreements will be a function of the Forest Products Commission under the proposed Forest Products Act. Revenue from the sale of forest products will no longer be available to the department and conservation activities presently provided on the basis of that revenue will be appropriately funded from the consolidated fund. Revenue from managing activities such as ecotourism, wildflower picking, beekeeping and other minor income will remain with the department for use for conservation purposes. On land managed under the CALM Act, such activities remain subject to management plans and independent audit. As a consolidated fund agency, resources allocated to the department's functions will be transparent and open to public scrutiny.

Tourism initiatives, licences, permits and contracts: A business unit is to be established within the Department of Conservation to manage tourism in accordance with competition principles laid down in national competition guidelines. The business unit will operate on the basis of management plans developed through the Conservation Commission, with primary consideration given to ecologically sustainable practices. In developing the business unit, the Department of Conservation will consult with the Western Australian Tourism Commission as well as with Treasury. In addition the Department of Conservation will be required to consult with the WA Tourism Commission during the development of management plans.

The scope of licences, permits and contracts applicable to forest produce under the Conservation and Land Management Act will change as the meaning of forest produce will be limited by the Bill in respect of those authorisations, so that it excludes forest products. Forest products excluded from the meaning of forest produce in this regard include trees, timber and woodchips.

In addition, the granting of the limited forest produce licences, permits and contracts on state forests and timber reserves will be subject to consultation with the Conservation Commission and approval by the minister. Proposed leases on state forest and timber reserves are similarly affected and, when granted, will have to be tabled in Parliament in the same manner as leases on other reserves that the Conservation and Land Management Act applies to are required to be tabled. These changes are consistent with the consultation and approval regime, and tabling requirements that presently apply to authorisations to enter and use other reserves such as national parks that will be vested by the Bill in the Conservation Commission.

A process for considering whether the community's water resources on conservation reserves should be made available for use does not presently exist in the Conservation and Land Management Act. The community should not be denied the use of that water if it is shown that removal of the water will not have a detrimental effect on the relevant reserve and the management plan applicable to the reserve identifies removal of water as an acceptable use of the reserve.

In this respect, the Bill provides that authorised access to water on reserves vested in the Conservation Commission for the purpose of taking the water through the granting of a permit, will also be addressed though the consultation and approval regime applying to other permits. However, access to take water can be considered only if this action is provided for in the relevant reserve management plan and granting of the permit will not limit the operation of the Rights in Water and Irrigation Act 1914. The functions of the department will also be amended by the Bill with respect to the policy applying to water on reserves.

Transitional Provisions: A number of transitional provisions are included in the schedule to the Bill to cover matters that are presently the responsibility of the department but will fall under the ambit of the Forest Products Commission. The transitional provisions apply to transfer of forest products contracts, all rights, obligations and powers under timber sharefarming agreements and rights and obligations under other agreements. A transfer of staff from the department to the Forest Products Commission is also provided for.

With regard to the Forest Management Regulations 1993 made under the Conservation and Land Management Act, the transitional provisions establish that the regulations applicable to harvesting and sale of forest products will operate as if they had been made under the Forest Products Act.

Establishment of the Conservation Commission as the body in which the reserves of the existing Lands and Forest Commission and the National Parks and Nature Conservation Authority will be placed, is also addressed in the transitional provisions.

Conclusion: The changes to be effected through this legislation are significant and are premised on increasing levels of openness and accountability. They clearly delineate between the conservation and native timber harvesting functions, emphasise a greater role for the community and highlight the need to manage our forests according to the principles of ecologically sustainable forest management.

The introduction of the Conservation and Land Management Bill 1999 heralds a new beginning in forest management. It provides the overarching framework for policy development in the future in a process that is based on restoration of trust, greater openness and strengthened accountability mechanisms. I commend the Bill to the House.

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

FOREST PRODUCTS BILL 1999

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Attorney General), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [5.07 pm]: I move -

That the Bill be now read a second time.

The Forest Products Bill 1999 represents the second tier of fundamental changes to forest management policy in Western Australia. It complements the Conservation and Land Management Amendment Bill 1999. Together, the Bills mark the emergence of a new direction in forest management policy in Western Australia. This new direction will be characterised by recognition that our forests represent a range of values and must be managed accordingly. The Forest Products Bill will give effect to the Government's policy objective of separating commercial native forest management responsibilities from conservation objectives. There is a perception that an integrated approach places undue emphasis on commercial activities - often at the expense of conservation functions. Such claims underestimate the very real benefits of integration - benefits the Government is keen to maintain as we embark upon a process of change.

This Bill establishes the Forest Products Commission, a statutory authority with responsibilities including contracting for the harvesting of forest resources from public land and timber sharefarm land and the selling of those forest resources. The Forest Products commission will become responsible for all aspects of existing timber sharefarming agreements that have been entered into under the Conservation and Land Management Act, and will be able to enter into timber sharefarming agreements in its own right. Responsibility for maintaining and establishing state plantations and forest product nurseries will also be undertaken by the Forest Products Commission. The Forest Products commission will become responsible for research activities presently undertaken by the Department of Conservation and Land Management into management and production of forest products in plantations, and the use of forest products; that is, timber technology.

To further delineate commercial activities from conservation objectives, the Forest Products Act will be administered by a minister other than the minister responsible for the Conservation and Land Management Act. Notwithstanding, the avoidance of duplication and need for administrative efficiency has been used as the basis for the new legislation. Mechanisms such as memorandums of understanding will be used to clarify responsibility, improve administrative efficiency and minimise duplication. Staff of the Forest Products Commission will be employed by the commission and will in no way be the responsibility of the Department of Conservation or the Conservation Commission. However, such arrangements will not preclude the Department of Conservation providing a bureau service for the Forest Products Commission where it is more efficient and effective to do so.

Operational issues: The Bill provides that the Forest Products Commission will participate in the preparation of management plans for state forests and timber reserves, and provide advice to the minister about changes to timber reserves and the establishment of forest products temporary control areas in state forests and timber reserves. The harvesting of forest products by contractors of the Forest Products Commission on state forest and timber reserves can be carried out only under contracts that are consistent with the Conservation and Land Management Act and the relevant management plan approved under that Act. This Bill also provides that such contracts have no effect after the relevant management plan has expired.

The Forest Products Commission will be required to present government with a commercial price for its operations, including the price to be set for timber. The commercial functions of the Forest Products Commission will be operated on a similar basis to existing government trading enterprises such as the utility corporations. In keeping with those models, the Bill provides that the Forest Products Commission will be required to develop an annual strategic development plan and an annual statement of corporate intent which will have to be approved by the minister and the Treasurer. The financial and economic objectives, operational targets, policies and other matters that must be included in these annual statements will be subject to the scrutiny of the Treasurer. The overall direction of the commercial activities and other responsibilities of the Forest Products Commission will therefore be matters that the minister and the Government can address through the approval process for these annual statements.

The Bill provides that the commission must try to ensure that a profit is made from the use of forest resources consistent with its operational and performance targets. A very strong caveat on such operational objectives will be that the commission, in endeavouring to make a profit, cannot operate in a manner that jeopardises the long-term viability of the forest products industry or the ecologically sustainable management of indigenous forest products located on public land.

The "profit" that the Forest Products Commission must endeavour to make is not a profit from its operations, but the appropriate return to the State from the use of the State's forest products produced on public land. The royalties presently levied under the Conservation and Land Management Act will be replaced by this return to the State, which will be paid by the Forest Products Commission to the consolidated fund in the form of dividends and tax equivalent payments. As a statutory authority, the Forest Products Commission is subject to the Financial Administration and Audit Act with regard to its financial administration, auditing and reporting requirements.

Apart from its commercial functions, the Bill establishes that the Forest Products Commission will have other responsibilities applicable to the use of a valuable public resource and the continuation of a viable timber industry. A promotional role will also be provided to the commission with respect to employment in and development of the forest products industry, and sustainable use of indigenous forest products consistent with state forest and timber reserve management plans.

Interim arrangements: The Government is proceeding with the establishment of a new division in the Department of Conservation and Land Management to carry out, as far as it is practicable under present legislation, the functions the staff of the proposed Forest Products Commission will perform. This is being done to ensure that the Forest Products Commission will be fully functional when the Forest Products Bill comes into operation.

Conclusion: In effect the Bill provides for the continuation of a viable timber industry, clearly separates the commercial and conservation spheres of activity and reinforces the role of ecologically sustainable forest management. I commend the Bill to the House.

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

ADJOURNMENT OF THE HOUSE

Special

On motion by Hon N.F. Moore (Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 2 May.

Ordinary

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.12 pm]: I move -

That the House do now adjourn.

Parliamentary Recess - Adjournment Debate

Hon N.F. MOORE: As I indicated during the committee stage of the Rail Freight System Bill, I contemplated whether the House would continue to sit beyond today or have the three-week break. I have no intention of, as was suggested by one member, in any way curtailing debate by anybody on any Bill but I wanted to know roughly whether there was some end point to all of this. If there was no end point, then I should make available as much time as possible so we could use that time to not reach an end point, if that makes any sense to anybody. I thought we could sit for a few more weeks to try to reach an end point. However, I acknowledge the comments of Hon Kim Chance who said he felt that a couple more days of debate is roughly in the ballpark as far as he is concerned and I interpreted that to mean that there is actually an end point to this and that the House will come to some conclusion on the Rail Freight System Bill. On that basis, I made the decision to move the previous motion that the House adjourn until 2 May so we can all have a well-earned break.

Cockburn City Council - Adjournment Debate

HON J.A. SCOTT (South Metropolitan) [5.13 pm]: Earlier today I asked a question about the Cockburn City Council, when it is likely to be reinstated and when the results of the inquiry would be made public. This is an important question at this time. Basically the answer to the question was that the minister would table the report as soon as possible after receiving it, which would need to be before the end of April. The local government could return to office about October-November 2000 at the earliest.

The importance of this issue is heightened when considering what is happening in that region: A significant planning change is proposed for that area, which is likely to come to fruition without a local government in place for most of that affected area. It has caused great concern to the community that the local voice has been stifled in any debate about the future of the region. It is inappropriate timing on the Government's part to be moving in this direction on such an important issue, which will map out a future for the area.

This proposal will see many people relocated or pushed out of the area and much of the present lifestyle will be lost forever. Many people have chosen to live in the area because of its semi-rural nature, and do not want a heavy or light industrial existence. People moved to the area for a reason. People to the north will also be affected by a change in the air shed and the need to construct many new roads. We have already seen with the construction of the Jervis Bay proposal that communities are being gradually cut-off from the traditional recreational areas in the south west metropolitan region without new areas opened up for recreation. The many meetings I attend in the region indicate a general feeling that people are selected for the worst possible outcome of any planning decision by this Government while they have no local government to represent them, to guide them in information or to lobby the State Government. These people are at a severe disadvantage.

Significant changes are happening, so this House must be particularly diligent when checking the appropriate planning mechanisms which come before it. These people's interests were not looked after in the past, and they are becoming very angry indeed and believe that anything which makes a lot of noise or smokes a lot is being put on their doorstep. Some of these people will not be in the area in the future under the Government's proposals.

This State is moving in the wrong direction in planning industrial areas, such as those in the Kwinana region and all over the State. I refer particularly to the metropolitan region. The Bullsbrook Strategic Industrial Estate is causing people concern because of a lack of consideration for local aspirations and the local ecology. I know people want to see changes to the Government's proposals.

In this day and age, most nations which have Australia's technical capabilities are harsher on polluting activities so that many industries which were previously unable to locate near populated areas now do so because of the ability to suppress noise, to have more efficient heating mechanisms and to produce cleaner fuels, etc. We therefore do not have the emissions and noise that we had in the past from old-style industry. We are moving back in time with these thoughts of forced ejections of populations, especially when those populations had local government representing their interests to ensure that they were properly catered for.

I am particularly concerned about the people in the Cockburn area as the planning blight that has afflicted them, which was imposed by government when the buffer zones were put in place which will now become industrial areas, has reduced the value of their housing. It is unlikely that financially those people will ever return to where they were before this zoning change or that they will be able to enjoy the benefits of the area in which they chose to live. I therefore urge the Government to not make final decisions on these planning issues until a local government is in place in Cockburn to represent the interests of that community.

Roebuck Plains Property - Adjournment Debate

HON GREG SMITH (Mining and Pastoral) [5.22 pm]: One has to make more noise than Hon Ljiljanna Ravlich, which is very hard to do.

The PRESIDENT: Order! That is not the case. I have a list in front of me and Hon Greg Smith is next on the list and after that is Hon Ljiljanna Ravlich; one to the left and one to the right.

Hon GREG SMITH: Thank you, Mr President. I want to discuss a matter because of a few of the issues that are currently on the agenda. Today we have been dealing with conspiracy theories, valuations, finance brokers and so on and I want to deal with some of the goings on of the Indigenous Land Corporation. In particular I want to refer to a property at Broome called Roebuck Plains. The *Sydney Morning Herald* has been running full-page stories on some of the goings on and they are happening right under our noses in Western Australia. The Leader of the Opposition, who spends quite a bit of time in Broome, does not seem to be concerned about how his indigenous friends' money is spent.

Roebuck Plains was bought for $8.2m about 12 months ago. When the ILC tried to buy Roebuck Plains there was some concern from the State Government and people around Broome as Roebuck Plains is on the outskirts of the town of Broome and is a natural site, as the town expands, for horticultural development and so on. The Pastoral Board originally knocked back the sale to the ILC because the ILC had exceeded its one million hectare ownership in Western Australia. The ILC said it would get around that. It formed another company and proceeded to purchase it in the other company's name. We then did what we could to get the State Government to purchase the property to see if we could prevent the sale. The people who were selling the property said to me off the record, "If you stop this sale going through and it is sold on the open market, it will only get $6.2m." They knew therefore that it was in the process of being sold for $2m above the market value. They said that if I did that, they would sue me. These people can say that because the whole story around this property goes back to the people in Melbourne who bought the property. This is where the conspiracy theory comes in. I believe it was a well thought out plan by some Melbourne investment advisers and lawyers to extract money from the ILC, create an enormous tax write-off and, at the end of the day, walk away with about $6m that was intended to purchase land for Aboriginal people.

The ILC has stringent guidelines for purchasing land, one of which is that it should not purchase land that has a native title

claim over it. Those who are familiar with the Kimberley will know that the Rubibi people already have a claim over most of that land, and they were not involved in the purchase of the property which was being purchased by the ILC, but not for the local native title claimants.

I now refer to an article which appeared in *The Sydney Morning Herald* under the heading "'Litany of breaches, in black land fund". When the board of the ILC changed, new people were involved and when they looked at some of the previous dealings, the alarm bells started ringing. The article by Gerard Ryle states -

> The Indigenous Land Corporation spent $8 million on a cattle station for Aboriginal people who had no prior registered interest in the land, according to a confidential report yet to be presented to Federal Parliament.
>
> The Australian National Audit Office's draft report outlines a litany of apparent breaches by the ILC of its own rules. . . .
>
> The ILC receives about $50 million a year from the Federal Government to buy land for Aboriginal people who cannot claim native title.

That is $50m per annum in perpetuity. The article refers to other properties, and then continues -

> The unrelated purchase of a second West Australia station, the Roebuck Plains cattle station near Broome for $8 million last May, takes up a special section of the report under the title "a unique acquisition".

With reference tothe report of the Audit Office, the article states -

> There was "no documented assessment on the property against" the ILC's own criteria prior to the preparation of a proposal to the ILC board. . . .
>
> The purchase price negotiations were not done in the usual way and the price paid appeared to exceed the valuation "by more than 10 per cent".
>
> "The process was flawed by not being done in response to an identified need but by the traditional owners being presented with a decision which was made by others without consultation," it says.

The people involved in this whole land deal were involved with a person called Max Green who last year was murdered in Cambodia. I will read from an article that appeared in *The Sydney Morning Herald* on 5 February, which had a full page story -

> The company which sold Roebuck Plains cattle station to the Indigenous Land Corporation has an indirect connection to the murdered Melbourne lawyer Max Green.
>
> Australian Securities and Investment Commission records show that Melbourne businessman Peter McCoy is a director of Birchwood Pastoral Pty Ltd the company which sold Roebuck Plains to the ILC. He is also a director of Waymill Pty Ltd, which the ASIC lists as a former shareholder in Birchwood Pastoral Pty Ltd. The ASIC records show that the major shareholder of Waymill Pty Ltd is Kildara Projects Pty Ltd.
>
> The directors of Kildara Projects include the former partners of the dissolved Melbourne law firm Aroni Colman and, until his death in March 1998, Max Green. Green was at the centre of a $40 million tax deferral scheme which drew investments from some of Melbourne's richest families. He was found bashed to death in a luxury Cambodian hotel and much of the money was later found to be missing. . . .
>
> "Birchwood Pastoral Pty Ltd was incorporated in late 1996 with the shareholder being Waymill Pty Ltd" McCoy says in a statement. "Both companies were purchased as shelf companies from Birchwood's then solicitors . . . Aroni Colman, who also provided a nominee service in relation to the shareholding in Waymill . . .
>
> "We understand that Max Green was the partner responsible for company incorporations and accordingly his name may appear on early corporate records of both companies.

These people leased the property for $5m for two years, which was a complete tax write-off, and then purchased it for $1.5m. Eighteen months later, they sold it to the ILC for $8.2m.

It amazes me that all this is happening on the outskirts of Broome, yet the Leader of the Opposition, who is intimately involved with the whole Aboriginal community in the Kimberley, does not know anything about this. We are all concerned about the welfare of indigenous people. If the Leader of the Opposition were concerned about the health and education levels of indigenous people, if he saw that sort of money being squandered and if knew it was going on right under his nose, I would have thought he would come into this place up in arms. However, there has not been a peep from anyone from the Opposition about valuations or the misuse of money from the Indigenous Land Corporation. I do not know whether it is out of bounds because it the ILC, but $50m a year of taxpayers' money is being spent. The indigenous land fund was established to purchase properties for dispossessed Aboriginal people who would not have the ability to lodge native title claims. It amounted to $1.2b, although I think it is about $1.37b now, and only the interest earned every year was spent. The money was to be used to buy land for dispossessed Aboriginal families and children from the generation which was adopted out who did not have links to land. The Nyoongahs, for example, should have the biggest claim to it because nearly all of the Nyoongah land is agricultural land, metropolitan areas or coastal areas. The Nyoongah people probably receive the smallest proportion of the money spent by the ILC. The ILC spent the biggest proportion of its money purchasing

pastoral properties. It purchased places like Cardabia, which is one of the best properties for tourism potential, Roebuck Plains and Badimia station. All these places had native title claims pending. The ILC was in violation of its own rules when it purchased those properties. If members of the Opposition, particularly people like Hon Tom Stephens, are genuine about delivering services and getting money on the ground to help indigenous people, they should start looking at the way some of it is spent.

Auditor General's Report - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [5.32 pm]: I do not want to take too much of the House's time, but in view of the tabling yesterday of the Auditor General's public sector performance report for 2000, it would be remiss of me not to make some comments on the report. Members would know that on many occasions I have raised my concerns about the state of the public -

Hon Greg Smith interjected.

Hon LJILJANNA RAVLICH: If the member can find complimentary remarks in this report, it shows that he has not read the report. I can assure the member that there is nothing complimentary in this report. It states that the state public sector is in crisis. Matters relating to contracting out and the role of government trading enterprises have not been addressed by the Government. Government trading enterprises and corporate entities are used in a manner in which they should not be used, as demonstrated by the Wellington Dam land issue. The issue of contracts being awarded without any competition is very concerning, because the whole underlying principle of contracting out is that, through competition, benefits will accrue to taxpayers in the form of a better quality service and a lower price. Clearly that is not happening when government agencies do not even bother to put contracts out for competition in some instances.

I will go through some of the Main Roads WA contracts. For example, Henry Walker Contracting Pty Ltd was awarded a contract which was later reduced in scale. Obviously, it was quite aggrieved by that. It was given another contract as compensation without the first contract ever going out to competitive tender. Indec Consulting was granted 22 Westrail contracts without going through any competitive tendering.

Hon B.M. Scott: What is the requirement?

Hon LJILJANNA RAVLICH: Tenders are required for contracts over $50 000. Contracts between $5 000 and $50 000 require a selective tender process in which three tenders are sought. I advise Hon Barbara Scott that only contracts under $5 000 require no tendering at all. These are major breaches of not only the Westrail purchasing policy but the State Supply Commission policy. The Government is not regulating the activities of government agencies. I believe that part of the reason the Government has problems in contracting, hiring consultants and in managing the contracting process and consultants, as well as in a range of other issues in the public sector, is because it has devolved its responsibility to government agencies. The total devolution model is fraught with problems. The situation is emerging in which some public sector agencies do not believe they have to adhere to the purchasing guidelines or policies of either the State Supply Commission or the Department of Contract and Management Services.

Western Australians are the biggest losers out of the Government's contracting out activities. The supposed benefits have not accrued. They have not been realised because the Government has lost control of the public sector and it cannot rein public sector agencies in to do the right thing.

Hon N.F. Moore: Don't be silly; that is a very broad comment.

Hon LJILJANNA RAVLICH: The Leader of the House should not tell me that. The Leader of the House should be concerned about the contents of the latest report of the Auditor General. Every single area of this report damns the Government. I have gone through this report, which is probably more than the Leader of the House has done. If I were in the Government I would be ashamed of the state of the Western Australian public sector at the moment. Members of the Government and in particular the minister responsible should hang their heads in shame. Some agencies have become a law unto themselves. They have failed to adhere to the policies and they have little or no regard for public interest. If these agencies are not seeking competitive tenders, it is a jobs-for-the-boys arrangement and the public interest is totally negated.

I believe that many government agencies lack purchasing skills; it is certainly sloppy public administration and a lack of any effective regulation. The findings of the Auditor General show that many contracts are awarded without competition, and some agencies go to extreme lengths to ensure that they do not have to go into the marketplace.

Hon Greg Smith: Where did he say that? What part of the report?

Hon LJILJANNA RAVLICH: I will give Hon Greg Smith an example. In a consultancy worth $24 000, rather than go through the tender process, the agency divided the consultancy into five contracts of less than $5 000 each, thereby avoiding or getting around the purchasing guidelines. If Hon Greg Smith bothered to read the report he would realise that is a major breach of the stated purchasing policies and guidelines of his Government.

The Auditor General states that commercial risk is not properly assessed, supply policies are not properly adhered to and the contracts are often awarded without those processes being properly gone through.

Hon N.F. Moore: Do you want to talk about the Petrochemical Industries Co Ltd project? Let us just get these things in some sort of perspective: You blew millions of dollars; and we are talking about $25 000.

Hon LJILJANNA RAVLICH: I am talking about the Auditor General's report. The Crown Solicitor's review and the ministerial consultative committee chaired by the member for Geraldton, Mr Bob Bloffwitch, reported that there should be further decentralisation and the devolution of more responsibility to government agencies. For my money that would be a retrograde step, because many government agencies cannot manage the existing processes. The minister said that he is doing a health check on 10 to 15 agencies as some sort of regulatory arrangement. In my view, that is a bit like trying to give mouth-to-mouth resuscitation to a corpse. He is doing a health check on agencies which are in constant breach of purchasing guidelines and management of consultants, not to mention other areas of poor public administration. On behalf of the Australian Labor Party, and as the shadow spokesperson on these matters, I put on record that this report is a cause for real concern and I think it is a fair assessment by the Auditor General. I have read this report and it is accurate in its description of the amazing breaches for which Government agencies are responsible when contracting out and tendering.

HON M.D. NIXON (Agricultural) [5.40 pm]: Hon Ljiljanna Ravlich's remarks should not go unquestioned. It was reported in *The West Australian* that "Government agencies cheat taxpayers". That is incorrect - perhaps the story would not have had such a sensational caption if it had been about one of the more accurate lines from the Auditor General's report such as -

> Mr Pearson said he found no evidence of a jobs for the boys culture . . .

Or better still -

> His report exposed several significant irregularities but these were exceptions. In most cases exemplary procedures were followed.

The Auditor General states on the first page of text, page 4, that -

> This report should be read in the context of the overall performance of the State public sector. I am aware of many examples of innovation and service improvement by the public sector that reflect a generally high standard of management and public administration.

The Auditor General states on page 23 -

> Occasionally the public interest may be best served without following the usual processes.

On page 28 the following appears -

> Existing policies and guidelines are not designed to strangle agencies in red tape. They have the flexibility to accommodate unusual circumstances, including the waiving of quotations and tenders under appropriate and well defined conditions.
>
> Within agencies, the ultimate responsibility for complying with policy rests with CEOs.

An example of such a case is the Henry Walker contract raised in the report, about which the Auditor General said on page 25 -

> The audit conclusion is that Main Roads acted reasonably in the unusual circumstances and **obtained value for money by exempting the second contract from competition.**

On the subject of consultants the Auditor General states -

> The audit found that the requirement to obtain quotes, call public tenders or obtain approval to waive quotations had been followed for the consultancies engaged by Department of Resource Development, Ministry of Justice and Ministry of Premier and Cabinet.
>
> In most cases where quotations or tenders had been called, guidelines for evaluating offers had been applied to select consultants in accordance with State Supply Commission policies.

The Auditor General looked specifically at some contracts which have already been in the public domain, which is why the report states -

> Examples presented are limited and selective.
>
> The examples presented do not imply that the agencies involved are poorer at complying with purchasing policies or managing contracts than the rest of the public sector.

On the subject of Main Roads WA, and remembering that it has had responsibility for road construction since the 1930s -

> On the contrary, Main Roads has, overall, good contract management procedures for the more than 1000 contracts it awards each year valued at about $350 million.
>
> A review by CAMS in 1999 concluded "In general . . . processes are thorough, justifiable, documented and controlled in a way that is a model for other government agencies."

That statement appears on page 24 of the report.

Labor's spokesperson, Hon Ljiljanna Ravlich, said on radio comments that have rejected the Auditor General's findings by saying that she believed there was more to it than an error of judgment, and in some cases, possibly incompetence by some officials. Apparently the member is demanding further inquiries. In order to push Labor's political beat up, Hon Ljiljanna Ravlich is questioning the competence of the Auditor General and his ability to discern between poor management or poor judgment and corruption. It is yet another new low in standards for Labor to now call the Auditor General an incompetent and thus demand further investigation just for the sake of a political story.

Question put and passed.

House adjourned at 5.45 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DE GOIS, MR CHRISTOPHER ANDREW, DEATH IN CUSTODY

1303. Hon MARK NEVILL to the Attorney General:

In respect of the death in custody of Christopher Andrew De Gois on November 25 1997 -

(1) Why did prison authorities allow Lee Brolly to visit Mr De Gois at Casuarina Prison when Ms Brolly had a Restraining Order in place against Mr De Gois?

(2) Were prison authorities advised by the Armadale Magistrates Court that Ms Brolly and Mr De Gois were not allowed to see or communicate with each other?

(3) If yes, when was this fax received?

(4) On how many occasions did Ms Brolly visit Mr De Gois while he was in prison and on what dates did these visits take place?

Hon PETER FOSS replied:

(1)-(3) Section 59 of the Prisons Act 1981 gives prisoners the right to have visits from family and friends, subject to the power given at Section 66 of the same Act to ban visitors for security reasons. Consequently, prisoners have an inalienable right to have visitors. A Restraining Order taken out against an individual does not bind the person who applied for the order. That is, a restraining order on Mr De Gois would not have prevented Mr Brolly from contacting him or visiting him.

(4) It is not appropriate to provide individual details of individual prisoners and their visitors. Further, it is not considered appropriate to release information not already released by the Coroner in his Investigation into the Death of Mr De Gois.

CAMP KURLI MURRI

1305. Hon MARK NEVILL to the Attorney General:

Further to Question on Notice 946 of 1999 -

(1) What were the main reasons why Judge Newman found that Camp Kurli Murri failed to provide an effective sentencing option?

(2) Even if (1) is correct, how does the Ministry for Justice know how effective the program was for the offenders in medium and longer term, with some basic research?

Hon PETER FOSS replied:

(1) The location was too remote to allow any contact with family or significant others to take place.

The location was culturally inappropriate for Aboriginals from the metropolitan area.

Quality work opportunities were not available in such a remote location.

The location made it costly to provide sound professional support services.

The Responsible Citizenship program was unsuitable for Aboriginals.

The program format had little emphasis on restitution through community work and changing offenders' thinking and behaviour.

(2) A comprehensive follow-up study has not been undertaken. The Ministry of Justice cannot comment on the effectiveness of the program for offenders in the medium and longer term, but 20 out of 44 offenders have subsequently been imprisoned. This figure is comparable with the recidivism figure for the correctional prison system.

CAMP KURLI MURRI

1306. Hon MARK NEVILL to the Attorney General:

Further to question on notice 946 of 1999 -

(1) How many offenders were sent to Camp Kurli Murri?

(2) How many of these offenders were charged with an offence that resulted in imprisonment in Western Australia within two years?

(3) How many of these offenders were imprisoned in Western Australia for offences since the two year period in (2) above?

(4) How many of these offenders were convicted but not imprisoned of an offence since being release from Camp Kurli Murri?

Hon PETER FOSS replied:

(1) 44

(2) 15*

(3) 20*

(4) 25* were supervised on Community Based Orders which does not include Fines or other less severe penalties.

* It should be noted that these are not distinct individuals as some have been imprisoned during both periods and have also been supervised on Community Based Orders.

QUESTIONS WITHOUT NOTICE

BOCS TICKETING, HALF-TIX PROGRAM

988. Hon TOM STEPHENS to the Attorney General representing the Minister for the Arts:

Given that the buyer of the privatised BOCS Ticketing and Marketing Services has abandoned the Half-tix program which provided unsold tickets on the day of a performance at half price, what new schemes will the Government introduce to enable seniors, youth and the disadvantaged to have cheaper access to the arts, and when will it do so?

Hon PETER FOSS replied:

The preferred proponent, Ticketek Pty Ltd, which is currently in contract negotiations for the purchase of BOCS Ticketing, has not abandoned any Half-tix program. A decision to sell tickets at half price is that of the event promoter. No provisions in the proposed ticketing agreement with the buyer of BOCS Ticketing would prevent such arrangements in future. The Leader of the Opposition is wrong.

MAROOMBA AIRLINES, MARGARET RIVER SERVICE

989. Hon TOM STEPHENS to the Minister for Transport:

I refer to the new service provided by Maroomba Airlines to Margaret River and ask -

(1) How much funding will be provided from the Government's regional airports development scheme to -

(i) upgrade the Margaret River runway; and

(ii) devise an airport development plan with the Shire of Augusta-Margaret River?

(2) What subsidy is currently provided to Maroomba Airlines?

(3) Does the Government have any other funding arrangements or contracts with Maroomba Airlines?

(4) If yes, will the minister table details; and if not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) (i) The contribution from the regional airports development scheme to widen the Margaret River airport runway and provide an additional parking area for the passenger aircraft and for the Royal Flying Doctor Service of Australia aircraft is $48 500.

(ii) The airport development plan is included in the $48 500 cost to improve the airport.

(2) The current subsidy of $60 000 was provided to the Shire of Busselton in June 1999 to manage the Busselton-Margaret River air service operated by Maroomba Airlines since May 1998. The subsidy is managed by the Shire of Busselton and is allocated on a shortfall basis after Maroomba Airlines has taken the risk for the first three passengers on each sector. At the present time, approximately $20 000 remains before funds will be exhausted.

(3) Transport does not have any other ongoing funding arrangements or contracts with Maroomba Airlines.

(4) Not applicable.

Last Monday evening I was at Margaret River. The service will be extended so that it will operate in the morning on weekdays, as well as on Wednesday and Friday afternoons. In March, 399 passengers had been carried on that service,

which is proving to be a bonus for that area. This is just one of the benefits we are getting from RADS. I was also in Hon Tom Stephens' electorate the other day and announced the north west regional service, which will go from Broome to Port Hedland, Karratha and Exmouth. The people in that area are excited about that service linking the north west because it will mean they do not have to go to Perth to get to those destinations.

PORT OF BUNBURY, TOWAGE LICENCE

990. Hon N.D. GRIFFITHS to the Minister for Transport:

In relation to the awarding of an exclusive licence for towage services at the port of Bunbury, I ask -

(1) How will the awarding of an exclusive licence, as opposed to a non-exclusive licence, improve competition in the provision of services?

(2) Can a guarantee be given that there will be a net gain in services to users in relation to -

(a) costs;
(b) tug power;
(c) backup; and
(d) continuity of services?

(3) If yes, will the minister specify the nature of those gains?

(4) Have any users expressed concerns to the port authority or the Government about the proposed exclusive licence?

(5) If yes, what was the nature of their concerns?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The Federal Court of Australia found that offering an exclusive licence was pro-competitive. All parties agreed that Bunbury could only service a single towage provider.

(2)-(3) (a) Towage costs will decrease by a minimum of 5 per cent on the standard advertised rates that currently apply in the port of Bunbury. The proposed charges will be held for a period of two years.

(b) The tender required two tugs of 42 tonnes bollard pull. The proposed tugs will meet this requirement.

(c) A standby tug will be guaranteed.

(d) The exclusive licence requires guaranteed continuity of service. A surety of $100 000 is required.

(4) The Perth branch of the Australian Chamber of Shipping, which does not represent all shipowners, and Mitsui O.S.K. Lines (Australia) Pty Ltd.

(5) The Australian Chamber of Shipping stated that it preferred a non-exclusive licence. However, I am advised by the Bunbury Port Authority that in discussion with the chairman he advised that not all members were against the exclusive licence. Mitsui O.S.K. claimed in a letter that based on information provided to it by Adsteam, the current towage provider, it would incur cost increases of 24 per cent. At this stage no information has been provided to support this claim, even though it was asked to do so by the authority.

COCKBURN CITY COUNCIL, INQUIRY REPORT

991. Hon J.A. SCOTT to the minister representing the Minister for Local Government:

In light of the fundamental planning changes proposed for the Cockburn region -

(1) At what stage is the inquiry into the Cockburn City Council?

(2) When will the results of the inquiry be made public?

(3) Has the inquiry uncovered any serious deficiencies in the operation of the suspended council?

(4) Will the Minister for Local Government ensure that a democratically elected local government is reinstated to represent the people of Cockburn as soon as possible; and if so, when?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The report of the inquiry into the City of Cockburn will be delivered to the Minister for Local Government at or before the end of April, as required by the relevant instrument.

(2) The minister will table the report as soon as possible after receiving and considering it, taking into account any advice from the inquirer about its release.

(3) Not known.

(4) In the first instance, the question of reinstatement or dismissal is one upon which the inquiry will recommend. If the inquiry recommends reinstatement, the minister must reinstate; if it recommends dismissal, the minister may reinstate or dismiss. Under either scenario, there will need to be regard for the necessary time frame for elections for half the council, if the remainder of the councillors are to be reinstated, or the entire council, if it is dismissed. Under either option, under the Local Government Act the earliest date for an elected council to return to office would be about October-November 2000.

SCHOOL EDUCATION ACT, REGULATIONS

992. Hon HELEN HODGSON to the Parliamentary Secretary to the Minister for Education:

Some notice of this question has been given.

(1) Has the drafting of the regulations for the School Education Act now been completed?

(2) If not, when does the minister anticipate drafting will be completed?

(3) If drafting has been completed, will the draft regulations be made available for public comment prior to gazettal?

(4) When will the regulations be gazetted?

Hon BARRY HOUSE replied:

(1) No.

(2) It is anticipated that drafting will be completed by the end of June 2000, subject to the availability of resources from parliamentary counsel.

(3) Not applicable.

(4) It is anticipated that the regulations will be gazetted by 1 August 2000.

OSBORNE PARK HOSPITAL, WARD 5

993. Hon G.T. GIFFARD to the Attorney General representing the Minister for Health:

(1) Is ward 5 at Osborne Park Hospital currently closed?

(2) If yes, when was it closed, why was it closed and when will it be reopened?

Hon PETER FOSS replied:

(1) Yes.

(2) The ward was initially closed on 20 December 1999 consistent with normal reduction in Christmas time activity. Ward 5 has been used for some years to meet peak demand. Therefore, it is periodically opened and closed according to the need for rehabilitation and post-operative care. With the introduction of the Government's wait list strategy, and the significant effort put into the management of the wait list for orthopaedic surgery, ward 5 was used throughout 1999 to take patients from Sir Charles Gairdner Hospital following hip and knee replacement surgery. Sir Charles Gairdner Hospital is now able to undertake orthopaedic wait list work, and provide the necessary recuperation period within its own bed capacity.

(3) Ward 5 will be reopened when there is a need to redirect additional funded activity to Osborne Park Hospital.

ATHLETICS STADIUM, TOWN OF CAMBRIDGE

994. Hon TOM STEPHENS to the Minister for Sport and Recreation:

On behalf of Hon Tom Helm, I ask -

(1) Is there a proposal to build a new athletics stadium outside the municipal boundaries of the Town of Cambridge?

(2) Has the minister or his office held any discussions with the Town of Cambridge regarding funding for such a stadium, and will he or his office be holding any further discussions?

(3) Does the Government expect the Town of Cambridge to contribute towards building the stadium; if yes, can the minister advise from where the Town of Cambridge is expected to get the millions of dollars in funding that will be required?

(4) How much will be spent on the new facility, and where is it planned for; in particular, is it planned for the Curtin University of Technology?

(5) Will the Government put in any money for any other athletic facilities and, if so, where and how much?

Hon N.F. MOORE replied:

(1)-(5) Discussion have been held with the Town of Cambridge about the future of the sporting facilities located at Perry Lakes. Discussions are continuing and there is no finality on any matters being examined.

WA CIVIL AND ADMINISTRATIVE TRIBUNAL, GUARDIANSHIP AND ADMINISTRATION BOARD

995. Hon CHERYL DAVENPORT to the Minister for Justice:

(1) Following the completion of the 1997 Law Reform Commission review of the criminal and civil justice system, does the minister intend to create a WA civil and administrative tribunal?

(2) If so -

(a) will the Guardianship and Administration Board be included in the tribunal; and

(b) would such a tribunal guarantee that the rights of people with decision-making disabilities and their carers are protected, as well as being as accessible and informal as the existing guardianship board?

(3) If not, will the guardianship board remain as it is presently constituted?

Hon PETER FOSS replied:

(1)-(3) The final report of the review of the criminal and civil justice system in Western Australia recommends fundamental reform and reorganisation in its 447 recommendations. The recommendations relating to the creation of a civil and administrative tribunal will, along with all the other recommendations, be further considered by a special implementation committee, which I recently announced will be chaired by Mr Dan Barron-Sullivan, MLA, the Parliamentary Secretary to the Minister for Justice. Therefore, I am not yet in a position to comment on timing or the form of implementation of the various recommendations. However, I am pleased that many aspects of the operation of the Guardianship and Administration Board were favourably commented on in the collected consultation drafts upon which the commission based its final recommendations.

COLLIE DISTRICT HOSPITAL, STAFF REDUNDANCIES

996. Hon J.A. COWDELL to the Attorney General representing the Minister for Health:

(1) How many staff have been offered redundancies at Collie District Hospital?

(2) What is the basis of the redundancies?

(3) What is the cost of the redundancies?

Hon PETER FOSS replied:

(1) Four.

(2) The positions are surplus to requirements

(3) $76 481.

BUSHPLAN, EXTENSION TO PEEL REGION

997. Hon CHRISTINE SHARP to the Attorney General representing the Minister for Planning.

(1) When is the Perth Bushplan to be extended to include the Peel region?

(2) Given that the rate of development in Mandurah exceeds the national average, and that remnant vegetation is rapidly diminishing, can the minister assure the community that serious consideration is being given to the environmental protection of these areas of unique resources?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(2) There are no plans to extend the Perth Bushplan to the Peel region. The Western Australian Planning Commission is currently considering the Peel region scheme, which identified over 33 000 hectares of land as parks and recreation reserves to be preserved in perpetuity. This will facilitate the preservation of remnant vegetation and environmentally sensitive land. The Peel region scheme is likely to be finalised before the end of the year.

"COUNT ME IN" YOUTH SURVEY

998. Hon NORM KELLY to the Leader of the House representing the Minister for Youth:

(1) What is the budgeted cost of the "Count Me In" youth survey?

(2) Which individuals or companies were involved in the design and analysis of the survey?

(3) What were the values of contracts given to these individuals or companies?

(4) When will the results of the survey be fully collated?

(5) When results of the survey have been collated, will the information be made freely available to individuals and interested groups?

(6) If no to (5), how does the minister justify the use of taxpayers' money for secretive opinion polling?

Hon N.F. MOORE replied:

The member should just ask Brian Burke how he did it, if he wants to know!

(1) It was $65 000 for questionnaire design, data analysis, preparation of a report and project management. In addition, in excess of $500 000 of sponsorship and in-kind support has been contributed by major media outlets and other corporate sponsors for promotion, publicity, layout and graphic design, and collection of the survey form. I will table attachment A shortly.

(2) It was members of the Youth Media Survey Committee, Research Solution and the Creative Links Foundation, which trades as Westrek. Membership of the Youth Media Survey Committee is attached, and I will table that also at the end of the question.

(3) It was Research Solutions, $7 250; and Creative Links Foundation, $39 300.

(4) It is anticipated that the results of the survey will be collated by 30 June 2000.

(5) The report of the results of the survey will be made available to members of the Youth Media Survey Committee for dissemination and preparation of media stories about young people. The data will also be used to assist in the development of a state youth strategy.

(6) Not applicable. I seek leave to table attachments A and B.

Leave granted. [See paper No 862.]

EDUCATION DEPARTMENT, RM AUSTRALASIA PTY LTD CONTRACT

999. Hon E.R.J. DERMER to the Parliamentary Secretary to the Minister for Education:

(1) Were any technical infrastructure requirements specified at any stage in the procurement process which resulted in the Education Department of WA contract with RM Australasia Pty Ltd?

(2) If yes, did these technical infrastructure requirements specify a requirement for accommodation of the industry standard firewall software which schools use to protect their data from unauthorised access?

(3) Did any requirement for the procurement process that resulted in the Education Department's contract with RM Australasia Pty Ltd specify a requirement for accommodation of the industry standard firewall software which schools use to protect their data from unauthorised access?

Hon BARRY HOUSE replied:

I thank the member for some notice of this question.

(1) Technical infrastructure requirements that were relevant to the operations of the application were specified in the request for proposal document for the supply of schools management system software; for example, workstation and server environment, network operating system and telecommunications carrier technologies.

(2) No. At the time of evaluation no industry standard firewall software was used in schools. Data was protected through user authentication by the network operating system on the administrative server.

(3) No. At the time of evaluation no industry standard firewall software was used in schools.

SUBURBAN RAILCARS, LEASING

1000. Hon KEN TRAVERS to the Minister for Transport:

I refer to the advertisement in *The West Australian* on 26 February 2000, seeking expressions of interest from organisations interested in leasing railcars for use on the Perth suburban network.

(1) Why was the period for expressions of interest only two and a half weeks?

(2) Is this an example of the tactic of setting short deadlines, which was criticised in the Auditor General's report yesterday?

(3) What organisations have expressed an interest?

(4) Did anyone involved in the process of calling expressions of interest have any discussions with these organisations about the lease prior to the advertisement being placed?

(5) Why has the Government changed its policy to leasing rather than purchasing railcars?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The expectation was that a limited market existed for the lease of suitable railcars, and that the information sought in the expressions of interest did not warrant a longer period to obtain a response. Subsequent addenda extended the closing date by a further two weeks.

(2) No.

(3) A partnership of Walkers, ADTranz, and Queensland Rail.

(4) Yes.

(5) The Government has not changed its policy on purchasing railcars. The decision to lease is based on a short-term requirement to meet current demand prior to the formulation of long-term procurement plans.

PRISONS, HEPATITIS C AND HIV

1001. Hon MARK NEVILL to the Attorney General:

What precautions are in place to limit the spread of hepatitis C and HIV in the WA prison system, and to limit the future medical costs and legal exposure of the State Government as a result of the spread of these viruses?

Hon PETER FOSS replied:

A policy has been developed for this. The best way to deal with this question is to place it on notice and I can then provide more detail to the member.

LAND CLEARING, MARGARET RIVER

1002. Hon GIZ WATSON to the minister representing the Minister for Primary Industry:

With regard to the clearing of native vegetation in the Margaret River area in the past four years, I ask -

(1) Have all the proposals in the past four years to clear land for viticulture purposes been referred by Agriculture Western Australia to the Commissioner of Soil and Land Conservation for determination?

(2) If no, why not?

(3) Has Agriculture Western Australia advertised all these proposals by way of a notice of intent?

(4) If no, why not?

(5) How many hectares of native vegetation have been cleared and how many proposals were involved?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(4) Regulation 4 of the Soil and Land Conservation Act requires landowners who wish to clear more than one hectare for a change in land use, not Agriculture Western Australia, to notify the Commissioner of Soil and Land Conservation of their intention at least 90 days before they intend to carry out the clearing. Since the memorandum of understanding for the protection of native vegetation on private land was announced in April 1997, the commissioner has requested landowners to advertise their intentions to clear land in their local newspaper and in *The West Australian*. Prior to that time, the commissioner informed the shire council and the land conservation district committee of land clearing notices of intent.

(5) In the past four years in the Margaret River area, the commissioner has assessed four notices of intent to clear land for viticulture purposes and has issued letters of no objection for the clearing of 35.9 hectares.

CENTRAL METROPOLITAN COLLEGE OF TAFE, DEFICIT

1003. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

(1) What is the projected operating deficit of the Central Metropolitan College of TAFE in 2000-01?

(2) What component of this accounts for unfunded depreciation?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The projected operating deficit for the Central Metropolitan College of TAFE in the calendar year 2000 is $6 729 385. The college operates on a calendar year basis, not a financial year basis. It should be noted that in 2000 the college has projected net assets of approximately $124m, which includes approximately $4m of cash reserves.

(2) The component is $4.719m. The depreciation appears as unfunded because of timing differences in the recognition of capital revenue at the time of purchase or construction, and recognition of depreciation expense over the life of the asset. Therefore, much of this apparent loss is attributable to accounting conventions which apply to all government agencies which have significant capital investment. The operating deficit exceeds the unfunded depreciation, largely because the college has embarked on the first year of a five-year strategy, which includes initiatives designed to position the college to address emerging training needs. The college expects financial returns from this strategy over the five-year cycle.

DAIRY INDUSTRY, DEREGULATION

1004. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:

I refer the minister to his answer to my question on Tuesday this week in relation to a request received from the Western Australian Farmers Federation, seeking the cooperation of the Minister for Primary Industry in proceeding with the deregulation.

(1) Is the letter that was tabled along with the answer to that question, the only letter received from the Farmers Federation dealing with the results of the recent poll of dairy farmers?

(2) If another letter was received from the Farmers Federation on this matter, who signed it and did it make the same request?

(3) Will the minister now table this other letter?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(3) The Minister for Primary Industry received a letter on 29 March 2000 from the WA Farmers Federation, dairy section, signed by the president of the dairy section, formally requesting the removal of the Dairy Industry Act 1973. This letter followed an earlier information letter received from the general president of the WA Farmers Federation. I seek leave to table the information letter from the general president.

Leave granted. [See paper No 863.]

EARLY CHILDHOOD INTERVENTION PROGRAMS, FUNDING

1005. Hon TOM STEPHENS to the Parliamentary Secretary to the Minister for Education:

(1) Will the Minister for Education table a list of government programs aimed at early childhood intervention programs, in response to the special needs of children with learning difficulties?

(2) What funds are available for these programs in 1999-2000?

(3) How many education psychologists are currently employed in government schools across Western Australia?

Hon BARRY HOUSE replied:

I thank the member for some notice of this question.

(1)-(3) In addition to system-wide initiatives, districts and schools develop and implement early intervention programs to meet the needs of students. Compiling comprehensive information will take significant time, and I ask the member to place the question on notice.

CAR PARKS, BUSPORT AND PERTH CONCERT HALL

1006. Hon HELEN HODGSON to the Minister for Transport:

In respect of the proposed changes to the exit and entry ramps from the Mitchell Freeway to Riverside Drive, will the car parks at the busport and the Perth Concert Hall sites be retained; and, if so, how will they be accessed from the northern suburbs?

Hon M.J. CRIDDLE replied:

That question requires a very detailed answer and I need to provide the member with a clear explanation. I understand that these car parks will be accessible from the northern suburbs, and motorists must drive through a complicated way to get into that area. If the member is happy to accept a briefing from me on this issue, she will get a more concise understanding of exactly what will happen.

The Government will release a document next week which will provide information to households throughout Perth, so that they clearly understand the ramifications of the changes.

Several members interjected.

The PRESIDENT: Order! Many members are interested in the answer to this question.

Hon M.J. CRIDDLE: The Government is going into an education and communication phase -

Hon Ljiljanna Ravlich: You are going into a campaign phase I think.

The PRESIDENT: Order! Do members not want to listen to the answer?

Hon M.J. CRIDDLE: Members must understand that information must be distributed so that motorists know how to handle the new traffic flows through Perth. I appeal to members opposite to recognise that this is a change in the way people will travel around Perth. Half the traffic will go along Riverside Drive, and it will make a big difference to that area. This is an important issue, and it is a great initiative by this Government. It has put in place one of the best initiatives for the road

system in Perth over the past 25 years and people need to understand how it will work. Hon Helen Hodgson has asked a very valid question, and I thank her for the opportunity to explain the situation. We will conduct an education program, so that people will know about the traffic flows.

Several members interjected.

The PRESIDENT: Order! It is pretty important, because some members here will want to know how to get home at night.

NORTHBRIDGE TUNNEL, SMOKE TEST

1007. Hon TOM STEPHENS to the Minister for Transport:

(1) Has a smoke test been undertaken to test the Northbridge tunnel's air exhaust systems?

(2) If yes, will the minister table the results of that smoke test and the results of any other similar tests?

(3) If it has not yet been undertaken, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. I am pleased that the member took up the opportunity for everyone to travel through the tunnel and experience the good road system through the Perth metropolitan area.

(1) Yes.

(2) The tests were conducted early this week and Main Roads has not yet received the results. This information is currently being prepared by the Fire and Emergency Services Authority, which was involved in conducting the test.

(3) Not applicable.

QUESTIONS ON NOTICE 966 AND 568

1008. Hon TOM STEPHENS to the Attorney General representing the Minister for Health:

(1) Can the minister assure the House that the answers previously provided to question on notice 966 on 14 March 2000 and question on notice 568 on 16 November are correct in all their detail?

(2) If not, will the minister provide details of any discrepancies?

Hon PETER FOSS replied:

(1)-(2) The member's question without notice 568 on 16 November 1999 was clarified in the minister's answer to question without notice 620 on 23 November 1999. The answer to the member's further question 966 on 25 November has been confirmed by the Office of Aboriginal Health as correct. It would seem that the member has a point to make given the number of questions he has asked on this and associated issues. To help the member get to the point, I advise that on two occasions some staff of the Office of Aboriginal Health were guests of the Dockers in a corporate box. This occurred after the removal of the corporate box from the contract.

Hon N.F. MOORE: I ask that orders of the day be resumed.

Points of Order

Hon TOM STEPHENS: At the end of a session of four weeks, on the Notice Paper are five pages of postponed questions on notice that have remained unanswered, many of which were asked of the Minister for Transport who declines to answer questions on notice. Many of these are from last year. When, if ever, are ministers of the Crown required to answer questions in this place that are placed on notice, or are they left simply to go unanswered forever - on the part of the Minister for Transport especially, and some of his counterparts?

The PRESIDENT: Order! There is no point of order. The correct time to raise this issue, if you want to draw it to the Government's attention, is during the adjournment debate or meetings you might have with the Government. The Leader of the Opposition has raised the issue, and for the benefit of other members, there is no standing order that requires a minister to answer a question within a specific time. That has been the case for as long as Hon Tom Stephens and I have been members.

Hon TOM STEPHENS: It is a convenient time to say to you, as Chairman of the Standing Orders Committee, these pages of unanswered questions indicate we now need a standing order. This has never occurred before.

The PRESIDENT: Order! There is to point of order.

Hon Tom Stephens interjected

The PRESIDENT: Order! I am not recognising the Leader of the Opposition, because there is no point of order.

Hon N.F. MOORE: My point of order is that the member was speaking when there is no point of order.

The PRESIDENT: Order! From time to time it is not unreasonable for members to seek the indulgence of the House to seek clarification of a matter. If the Leader of the Opposition wants to raise a matter with me, he can in due course, but there is a proper time to do that and now is not the time.

We are about to deal with order of the day No 5, in committee, with a question before the Chair.

Hon N.F. MOORE: I have a point of explanation. The Leader of the Opposition has asked a number of ministers questions without notice of which some notice has been given on this issue. He has chosen not to ask those questions. He now seeks to make a political point at the end of question time. If he wants to know the fate of the questions on notice he has asked, all he needs to do is ask the questions he has given us without notice of which some notice has been given. He will then be told why there is a delay on some questions, and that some of the questions he wants an answer to were only asked, in my case, on 22 March, which is about two weeks ago.

The PRESIDENT: Now members will understand why there was no point of order for the Leader of the Opposition and certainly no point of order for the Leader of the House. It surprises me that at times we must use the time of the House to conduct what I understood were matters and issues that would be raised in the management committee or in discussions between the two leaders.
