



Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Wednesday, 24 May 2000

Legislative Council

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

SHIRE OF MOORA LOCAL GOVERNMENT PROPERTY LOCAL LAW - DISALLOWANCE

SHIRE OF DALWALLINU LOCAL LAW RELATING TO FENCING - DISALLOWANCE

Orders of the Day Discharged

HON SIMON O'BRIEN (South Metropolitan) [4.04 pm]: I seek leave of the House to discharge Orders of the Day Nos 1 and 9.

The **PRESIDENT**: Is there a reason of which you want to advise the House?

Hon **SIMON O'BRIEN**: The motions for disallowance were placed on the Notice Paper by direction of the Joint Standing Committee on Delegated Legislation because enquiries regarding these two local laws had not been completed at the relevant time. The enquiries have now been completed and it has been established that neither of the local laws contravenes any of the terms of reference of the joint standing committee and therefore the committee recommends that the disallowance motions be discharged.

Leave granted.

Hon **SIMON O'BRIEN**: I move -

That Orders of the Day Nos 1 and 9 be discharged from the Notice Paper.

Question put and passed.

FINANCE BROKING INDUSTRY IN WESTERN AUSTRALIA - APPOINTMENT OF SELECT COMMITTEE

Amendment to Motion

Resumed from 11 May 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.

to which the following amendment was moved by Hon Dexter Davies -

To delete all words after "That" and insert -

the House notes the appointment and operation of the Gunning Committee of Inquiry into Fair Trading Boards and Committees and resolves to allow that committee to conclude its inquiries before giving further consideration to the appointment of a select committee to inquire into matters related to the finance broking industry.

HON B.K. DONALDSON (Agricultural) [4.06 pm]: Before debate was adjourned last week I had expressed my support of the amendment made by Hon Dexter Davies and I had given reasons why it was inappropriate at this stage to set up a committee. To set up a committee at this stage will only boil the cabbage again because the Gunning inquiry is up and running. I will give some of the outcomes. The Gunning inquiry consists of very highly respected persons within the legal profession and people with practical expertise. I do not believe that we could duplicate their expertise at this stage other than by providing a great deal of resources. I think the daily reporting of the evidence highlights very clearly some of the fundamental principles being ignored and the lack of honesty of certain people. A week ago I mentioned the reasons that I, as a layman, believed were at the base of some of the problems that exist within the finance broking industry today. It

is as much to do with dishonest valuations as anything else. That is clear. It was fine when we had a high inflation rate, as the valuations which were in excess of true valuations did not matter so much because inflation was compensating. It was when the inflation rate dropped that the real problems started to arise.

Banks do not make many mistakes when they lend money. They use a pool of valuers, selecting them on a random basis. I know a few valuers who work with a cross-section of home mortgage lending organisations and they do not know from one day to the next whether they will be working for the Commonwealth Bank or BankWest or the Challenge Bank or whatever. Very few of the home loan portfolios of most banks in this day and age have a bad debt ratio.

The greed of some brokers has come out because the industry is commission based and is aligned to money sought by borrowers. Of course the higher the loan, the higher the commission, which tempts those who are not honest in their dealings with others. As I have said before, no matter how much we might like to legislate for honesty, it is very difficult to do so.

The lack of accountability is starting to show up in such things as the legal advice given to the Finance Brokers Supervisory Board. I was amazed to learn of the advice given to the board on the role of the broker and the lender and where responsibility lies. It is incredible that the board could not get involved in some of the complaints, because it seems that the lender was the poor sucker. If a broker or anybody else deals with somebody else's money and receives a commission - it does not matter in which field of commercial practice - he has a responsibility. People are advertising for X number of dollars for first mortgages and promising the world by way of security over land, residential or commercial properties. It seems strange that over many years the system has worked effectively. Many people over time have made a lot of money from interest rates that would be higher than those of a bank or credit institution. They have also had the security of a first mortgage over a property and the valuation has been correct.

The problems have started to appear in the past few years as the inflation rate has fallen. During the heady 1980s when there was no tomorrow, I guess that it did not really matter. The practice may have been occurring then but because of the high inflation rate and the rapid growth in some property markets, it did not really show up.

Hon Ken Travers: At what date do you think the inflation rate dropped and made a difference?

Hon B.K. DONALDSON: I do not blame entirely the inflation rate. In the early to mid-1990s, we started to see a fall in interest rates.

Hon Ken Travers: I will not tell Peter Costello that it was before his time.

Hon B.K. DONALDSON: I am not trying to score political points at all. There were high interest rates of, I think, 18 per cent for home mortgages. That was a fact of life. We also had a recession. However, I return to my point on dishonest valuations, which is basically what this is all about. I keep drawing the attention of the House to what banks can achieve. We are not all lovers of banks, but they are not having such problems.

Hon Ken Travers: The problem is broader than dishonest valuations.

Hon B.K. DONALDSON: I am about to speak of the dishonesty, lack of accountability and greed inherent in some operators in the finance broker market, which has brought the whole industry into disrepute. However, many people in finance and mortgage broking are very reputable and would not cause a problem.

Hon Bob Thomas: You are adopting a very good argument for a fidelity fund.

Hon B.K. DONALDSON: I am speaking on the motion. I will get to that.

Hon Bob Thomas: Perhaps you might tell us why three of your ministers have knocked the idea on the head?

Hon B.K. DONALDSON: If the member asks them, the ministers might answer that for themselves.

Hon Bob Thomas: That is passing the buck.

Hon B.K. DONALDSON: It is not passing the buck. Is "Passing the buck" not on the ABC? Am I giving the ABC a free plug for a morning program?

We all read in the morning newspapers of the issues that are coming out of the Gunning inquiry. A pattern is developing. Since the Gunning inquiry resumed public hearings on Monday, 8 May, it has received over 45 submissions relating to finance brokers and has taken evidence from seven witnesses over five days. It is planning to sit four days a week to take evidence. It has also served notices on the Ministry of Fair Trading and the Finance Brokers Supervisory Board for the production of documents. It has received more than 14 boxes of documents to date. The Gunning inquiry is not just up and running but is well advanced in its inquiries relating to finance broking.

Hon Ken Travers: Do you know from your notes whether it will call any finance brokers before it?

Hon B.K. DONALDSON: I do not organise the inquiry. I am quoting what has been given to us about what has happened to date.

Among the important issues is the legal expertise that was made available to the inquiry. Mr John Chaney, whom members will know as a highly respected barrister in Western Australia, is counsel assisting. Its executive officer, who is a lawyer, is there to assist counsel. It has an assistant executive officer and records manager, and a receptionist and bench clerk. That

represents a very large resource base from which to operate. We could not begin to duplicate the Gunning inquiry, as much as I am a strong believer in the committee system. I have said all along that we would be boiling the cabbage twice and would be pre-empting the Gunning inquiry findings. I have also said all along that if this House decided, after careful consideration of the recommendations and outcomes of the Gunning inquiry, that those recommendations would not achieve a good outcome for getting the industry back into shape, I would support a further inquiry if necessary. My stance is not about political point scoring but is about being sensible.

The Gunning inquiry is looking at what has gone wrong in the finance broking industry, and what was known to the board or should have been known to the board, and the ministry, and the appropriateness of the response of government agencies.

Hon Bob Thomas: Whose comment is that?

Hon B.K. DONALDSON: These are the responsibilities of the finance broking industry that the Gunning inquiry is addressing.

Hon Bob Thomas: What is the document you are quoting?

Hon B.K. DONALDSON: It relates to inquiries on the amendment and to some of the workings of the Gunning inquiry which we were able to obtain. The information was obtained mostly out of the newspaper and is on the public record.

Point of Order

Hon BOB THOMAS: I ask the member to identify the document so that I may ask for it to be tabled at the conclusion of the debate.

The PRESIDENT: Hon Bob Thomas has asked the member to identify the document from which he is quoting.

Hon B.K. DONALDSON: The document is entitled "Finance Broking Industry in Western Australia - Appointment of Select Committee". It relates to the amendment put forward by Hon Dexter Davies to the motion of Hon Ken Travers. It is a briefing paper for some of us who had concerns about where the Gunning inquiry was leading. The briefing paper has been compiled from what has happened in the court. There is nothing secret about it; we put the information on paper to refresh our memories.

Hon BOB THOMAS: I ask that the member table that.

Hon B.K. DONALDSON: I presume that I must table it if I have been requested to.

Debate Resumed

Hon B.K. DONALDSON: The inquiry was looking at avenues for legal redress for investors. As members will know, 30 officers of the fraud squad are already involved, and 17 charges have been laid under the Act.

I table the briefing paper.

[See paper No 994.]

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.20 pm]: I take it that Hon Ken Travers will not speak to the amendment, in which case I am disappointed. He moved a motion to appoint a select committee and he has argued that case. The Government has since moved an amendment, which members have just been debating and which is on the Notice Paper, seeking to defer consideration of a select committee until the Gunning committee has reported. The House will be aware that the report date is, I think, 1 September - only a couple of months away.

Before I rose to speak I was hoping to hear whether the Opposition had contemplated the amendment and what were its thoughts on that. It is important for the Government to know whether the Opposition will consider what I think is a reasonable proposition. Perhaps by interjection Hon Ken Travers can advise whether he will support the amendment.

Hon Ken Travers: The Opposition will not support the amendment. As I indicated at the beginning of this debate, if the minister wants to discuss other areas with me behind the Chair on the terms of reference or the like, I am happy to do that at any time.

Hon N.F. MOORE: I appreciate the member's lengthy interjection, which gives me an indication of the Opposition's position. In view of the persuasive argument put by members on this side of the House about the potential negative impact of a select committee on the Gunning inquiry I had hoped the Opposition would agree to the amendment.

Hon Ken Travers: I will respond to the amendment before the debate closes.

Hon N.F. MOORE: I am sorry that I had to be the next person on my feet, because I was looking forward to hearing what the member had to say.

Hon Ken Travers: When coalition members are finished speaking I will close the debate and advise why the Opposition does not support the amendment.

The PRESIDENT: Order! Let us hear one speaker at a time, and I will be able to hear what is being said.

Hon N.F. MOORE: The member is entitled to speak on the amendment, which will not close the debate on the original

motion. I have spoken on the motion so I am constrained to speak on the amendment now. I had hoped that we would debate the amendment rather than the Opposition's not responding to it and hoping it would be disposed of before voting on the original motion.

Although the Government does not support a select committee - which point I argued initially - it has indicated by this amendment that it is prepared to go along with a select committee, if the House deems it appropriate, once the Gunning inquiry has reported.

Although we have argued we do not need a select committee into the matter because the Gunning inquiry is in process, we have been prepared to accept that members may well have some concerns once the Gunning inquiry has reported. If those concerns were of such magnitude the House then felt it necessary to have a select committee, the Government would probably go along with it, depending on the circumstances. I am therefore a little disappointed that I must speak now ahead of Hon Ken Travers without knowing the reasons he does not support this proposal. I know that he wants a select committee to be established now. However, I invite him to speak after I have finished on the amendment to tell us why he thinks that delaying a select committee is not in the best interests of this issue.

Hon Ken Travers: When I moved the motion I argued that the Gunning inquiry does not have sufficient terms of reference, and that view remains.

Hon N.F. MOORE: That is irrelevant to the amendment.

Hon Ken Travers: The Opposition does not want the select committee delayed; we want to get to the bottom of the matter.

The PRESIDENT: Order! I will clarify an issue that seems to be confusing some members. If Hon Ken Travers as mover of the original motion wished to speak to the amendment that would be appropriate and within standing orders. If he stands he will be given the call. In the meantime, I am interested in hearing from the Leader of the House why we should or should not delete the proposed words.

Hon N.F. MOORE: The issue we are discussing now is not the need for a select committee. In speaking to this amendment we are discussing when a select committee should be appointed. Members on this side of the House can count. We appreciate that if the original motion is put unamended there is every prospect it will be agreed to and a select committee will be established. The Government is genuinely concerned about the prospect of that. Members opposite would have heard my colleagues Hon Derrick Tomlinson, the Attorney General and other members putting their serious and genuine concerns about the issues that could result from a select committee operating in tandem with the Gunning inquiry. That is not a political view being expressed by me on behalf of the Government; it is not an attempt to prevent anyone else investigating finance brokers, because we already have an inquiry into them, which we read about every day in the newspaper.

We are not here today arguing for some political point. We are arguing to maintain the integrity and the capacity of the Gunning inquiry to get to the bottom of the issues that relate to its terms of reference. In moving this amendment, we are taking the view that if members still have concerns once the Gunning inquiry has reported, we will seriously contemplate agreeing to the appointment of a select committee to examine those other issues. I put it to the House that that is the proper and appropriate course for us to take.

We have already heard from members, but I will repeat these points because it is important that members understand them. The Gunning inquiry has sufficient powers to deal with the issues raised concerning finance brokers. The powers of the Gunning inquiry, which we read about every day, are such that people have an opportunity to raise issues in relation to the finance broking industry. It has the capacity to take evidence in public and in private. By virtue of the status of the chairman and members of the committee it can provide a very competent report on the matter. People are required to give evidence, and refusal to give evidence would be an offence. Witnesses will not be excused from giving evidence. We believe that the terms of reference for the Gunning inquiry will enable it to get to the bottom of the issues which concern Hon Ken Travers.

We have also indicated to the House that a select committee running parallel with the Gunning inquiry would have the effect of getting in the way of the Gunning inquiry, because people would have to give evidence before two inquiries and people who are required by the Gunning inquiry to undertake certain research may be disrupted and be required to give evidence to a select committee. We could also find that people who give evidence before the select committee may find themselves having to make their views known in a public way when they may wish to give evidence in a private capacity before the Gunning inquiry. It has the capacity to seriously undermine and derail the Gunning inquiry. The Gunning inquiry should be given the opportunity to carry out its work unimpeded and not be distracted by a select committee. That would happen if this House were to agree to this motion.

The Government, therefore, is firmly of the view that to proceed down the path down which Hon Ken Travers wants us to proceed may seriously disadvantage those people whom he is seeking to help. The Gunning inquiry, together with the other activities that are going on with the supervisors and the fraud squad, will deal with the matters raised by the member in his original motion, so a select committee is unnecessary. By way of interjection, the member said that he believes that the terms of reference of the Gunning inquiry are too narrow and that somehow the terms of reference of the select committee would deal with the matters he thinks are important. I have had a quick look at both terms of reference and I do not see a lot of difference between them.

Point of Order

Hon KEN TRAVERS: The member has spoken and I think he is now speaking to the substantive motion, not to the amendment.

The PRESIDENT: I have been listening to the Leader of the House carefully. Standing orders provide that when a member addresses an amendment after that member has spoken to the original motion, the member shall confine his comments to the amendment. In the first instance, the amendment says that the House notes the appointment and operation of the Gunning committee of inquiry into the Fair Trading boards and committees, and then it resolves to allow that committee to conclude its inquiries before giving further consideration to the appointment of a select committee to inquire into matters relating to the finance broking industry. Contained within the amendment are a number of elements. It is not unreasonable for a member who has already spoken on the original motion, first, to discuss the noting of the appointment of the Gunning committee; secondly, to discuss the proposed resolution that would allow the committee to conclude its inquiries; and, thirdly, to discuss those other matters that are inherent in the amendment. I am very conscious of the standing order raised by Hon Ken Travers. However, at the moment the Leader of the House is speaking to the amendment, and I am listening.

Debate Resumed

Hon N.F. MOORE: In trying to elicit from the Opposition why it will not support this amendment, the member suggested by interjection that the terms of reference of the Gunning inquiry were not adequate to deal with the issues he thinks are important. I was trying to make the point that the terms of reference for the Gunning inquiry will, in my view, do the things that Hon Ken Travers wants to do through the vehicle of a select committee. I am disappointed at the member's response to this amendment, albeit by way of interjection. I hope that before we finish debating the amendment he will reconsider his position. Putting politics to one side - it is hard to do that in this place - I urge the member to think genuinely and seriously about the consequences of what he may end up doing. We have an inquiry which is operating independently of Parliament, politicians and politics. It is working its way through a range of issues relating to the finance broking industry. At the same time, supervisors are going through the tangled web of activities and associations of the brokers, and the fraud squad is investigating a number of situations in which criminal activity may have taken place. All of that is now taking place outside the political process. There are no politics in the Gunning inquiry, in the fraud squad or among the supervisors. Bringing in a select committee made up of politicians would add a political element to this, which would be unhealthy.

We all know that opposition members are trying to make political mileage out of the finance brokers problems, and I understand that and would probably do the same thing if I were in their boots. However, bringing a political element - the member for Fremantle is making the most outrageous remarks about people - into a formalised inquiry process has the capacity to derail what is being done now. It has the capacity to seriously disadvantage the small investors whom we are all trying to help. As I said, it is difficult to take the politics out of what people say in this House. However, I will say this in the most genuine and non-political way I can: To introduce a political element has the potential to disadvantage those people whom we are trying to help. I urge opposition members to support the amendment or, if they are not prepared to do that, to at least tell us why they will not. We are entitled to know why they will not support it in greater detail than the interjection of Hon Ken Travers at my earlier request. I repeat: I seriously and genuinely ask the Opposition, including the Greens (WA) and the Australian Democrats, to consider the potential problems that a select committee could cause in our efforts to deal with this issue and to look at the offer being made by the Government by virtue of this amendment, which will let the Gunning inquiry report first. If there is then a need for a select committee, we will seriously look at that. Let us allow the processes of the Gunning inquiry, the fraud squad and the supervisors to take their course. If we are not satisfied with the result, let us then consider whether there should be a select committee. That would be an appropriate time because if a select committee were then established, all the processes put in place would not have succeeded in what the Government hoped they would achieve. I ask Hon Ken Travers to seriously consider this amendment and take advantage of the opportunity he has in this debate to respond to the amendment. He should forget about determining a final speech on the motion which I hope will be put ultimately.

Hon Ken Travers: Will you allow it to be put ultimately?

Hon N.F. MOORE: I cannot stop it. I do not control everything that goes on in this House.

Hon Ken Travers: You are on the record in the media as saying you will talk it out.

Hon N.F. MOORE: I have never said that.

Hon Ken Travers: *The West Australian* reported that. If it was not said by you, it was someone in the Government.

Hon N.F. MOORE: I have never said that. How can we talk it out for six months? We do not have that many members, and only so many amendments can be moved.

Hon Bob Thomas: I do not think you have that long, anyway.

Hon N.F. MOORE: The member gives the impression that he thinks government members are talking for the sake of it. We believe emphatically that what Hon Ken Travers is trying to do is wrong, and not for a political purpose but because we think he may do more damage to the people he is trying to help.

Hon Ken Travers: Will you expand the Gunning inquiry to a royal commission?

Hon N.F. MOORE: The Opposition asked for a judicial inquiry last time, and this is a judicial inquiry headed by a judge. It has all the powers of a royal commission. The member keeps playing around with words. The Gunning inquiry, whether it is called a royal commission, a judicial inquiry or simply a public sector management inquiry, will get to the bottom of the problem. The tragedy of the Labor Party is that it attacked the integrity of Judge Gunning at the beginning. That is the disgrace of this. Let us put that to one side and let us accept - I hope the member has accepted it by now - that Judge Gunning is a reputable person who will reach a reputable conclusion. When Judge Gunning reports in September, if the member still thinks he got it wrong, he can come back to the House. Members on this side will then have no option but to support the establishment of a select committee if there is evidence that there should be one, and there are clear and obvious reasons that the Gunning inquiry did not get to the bottom of the problem.

I hope that at the end of the day opposition members want to sort out the problems of the investors and to straighten out the finance broking industry if that is necessary. I hope that is their motivation, but I suspect it is not. I suspect their motivation is political point scoring, trying to make the Government look bad, bringing in personalities, and involving Ken Court to suggest the Court family is ruining the country. I regret that is what the Opposition is trying to do. That is not the fundamental problem; it is the finance broking industry and the problems it has faced, and trying to get justice and satisfaction for the small investors who have lost money. That is what we are trying to do and we hope that is also the aim of the Opposition.

The Government is not dismissive about a select committee; let us allow the processes to complete their course which will take only a couple of months. If the processes do not deliver the goods, the Opposition should raise the matter again in this House and the Government will be hard pressed to oppose any select committee proposed at that time. This is a genuine offer to make sure we get the right result, as opposed to the political result which the Opposition may want, for the finance broking industry and the small investors who have lost money. Those are the people about whom should be concerned. I genuinely ask opposition members to seriously consider the amendment and, if they believe we should not go down that path, they should at least indicate why in response to the amendment.

HON PETER FOSS (East Metropolitan - Attorney General) [4.44 pm]: Before I start, I have a point of order.

Point of Order

Hon PETER FOSS: I had hoped someone from the Opposition would respond to the comments by the Leader of the House, but I am curious to know whether Hon Ken Travers would close the debate if he responded to the Leader of the House.

The PRESIDENT: I have already raised that issue and advised Hon Ken Travers, in particular, that if he wishes to speak to the amendment he may do so. It is his choice and should he do that, he will still have his right of reply. Hon Ken Travers is aware of that and no doubt will make his decision in due course.

Hon PETER FOSS: Hon Ken Travers may wish to reply.

Hon Ken Travers: I am reading a document which I find quite interesting.

Debate Resumed

Hon PETER FOSS: I am disappointed that Hon Ken Travers does not choose to respond at this stage.

Hon Tom Stephens: It means you must filibuster.

Hon PETER FOSS: No, I will not filibuster; but I hoped we would get closer on this point and I would not have to continue the argument on behalf of the Government. I am happy for Hon Ken Travers to provide an answer, which I think he owes to not only this House, but also the people of Western Australia. This amendment is clearly a proposition -

Hon Ken Travers: Are you going to apply these rules during question time?

Hon PETER FOSS: I notice that Hon Ken Travers interjects, but he does not seem to be able to speak. He is busy reading something so that he does not have to stand up. This amendment is clearly a question to be answered for not only this House, but also the people of Western Australia: What is the Opposition seeking to achieve by the motion? Is it seeking to achieve a return to the investors - the people who have been caught - or is it seeking personal spoils of politics for itself? Having started on this debate, it is time opposition members accounted not only to this House but also the people of Western Australia: Who are they trying to help - themselves or the investors? I have no problem with opposition members helping themselves and the investors at the same time. That is perfectly legitimate. As the Leader of the House said, by all means they should make political mileage out of helping the investors but, if they lose track of what they should be doing, which is helping the investors, they will be condemned.

In order not to repeat myself, I would like members to refer to what I said in the initial debate. I anticipated to some extent the arguments that are relevant to this debate and, rather than repeating what I said, I draw the attention of members to the headings of the points I made in this House previously. If they refresh their minds on that debate, I will not have to make those points again. I ask members to refer to page 6061 of *Hansard* for Thursday, 6 April 2000, and I will pick up some of the major points I made at that time. First, I said that to some extent we are very limited in our capacity to do anything because, of course, one of the major governmental bodies that should be concerned is the Federal Government, as the regulation of brokers for some time has been with the Australian Securities and Investments Commission. The second point I made was that, unfortunately, if that was a limitation on the Gunning inquiry, it was also a limitation on this House.

However, through the Gunning inquiry we may get sufficient information to determine whether any action is needed by this House.

The third point I raised is that a number of things are happening; that is, supervisors and liquidators have been appointed and the police are also involved. Since then a number of charges have been laid, and it must be very pleasing for members to know the criminal justice side is proceeding apace. I raised the question that considerable problems are involved in multiple inquiries proceeding at the same time. In order to reduce the number of inquiries, the Government ensured that the liquidator was appointed as supervisor under the Act which made it one inquiry instead of two. We know the police are making inquiries. We are concerned that if members opposite do not wait until the Gunning inquiry is completed, four different groups will be trying to access the same documents. I do not know whether anybody has ever had any experience of this, but when a number of people try to access the same documents, it makes it extremely difficult for any of them to carry out their job properly.

I draw the attention of members to a remark I made on the following page of *Hansard* of 6 April in which I gave the example of an action in which I was involved when the Australian Customs Service, as part of its inquiries into a sales tax matter, seized the entire working documents for the first stage of a project at a time when the second stage of that project was about to begin. I am pleased to say that the Federal Court considered this to be an abuse of the process of the Customs Act. Even though the Act gave broad powers, in the same way as the Parliament, to seize documents it was considered to be an abuse of process because these people could not continue to carry out this substantial second stage of their project when all of the documents were in the hands of somebody else. The suggestion that they should get photocopies on a daily basis as they needed them was impractical.

The problem is that three separate authorities are trying to access the same documents and witnesses, and members opposite are seeking to add a fourth inquiry to those three, so that the liquidator-cum-supervisor, Judge Gunning, and the Police Service and the courts, once the matter comes to any formal hearing, would call those people before them and they would be accessing the documents, and members opposite would add a parliamentary committee to those hearings. The interesting thing is who will take precedence in all those things. I have a slight suspicion that the Parliament would take precedence and would be able to seize these documents in priority over everybody else. That is fine from a constitutional point of view. We all accept that Parliament should be supreme. However, there are times, when one has supreme power, when one should know when not to exercise it: With supreme power also comes supreme responsibility. It would be irresponsible for a parliamentary committee to take those documents and people at a time when there are people whose full-time job is to deal with it.

If members opposite think this Parliament will do the job as fully and effectively as any of those other three groups they are kidding themselves. A parliamentary committee would meet for a couple of hours a week to deal with the matter. Probably the best result we would get out of a committee would be four hours a week. All the members of the committee would have to be there, as the committee cannot operate separately to multiply its endeavours. Members would have to meet together, and with their officers. We do not have a vast quantity of people to do this. The committee would take the documents and witnesses and work its way through in an attempt to assist the investors, and while doing so it would be interfering with the operations of everybody else involved. The difficulty the committee would have then is what it would be doing in the few hours it had. I am concerned that if the committee has only a couple of hours a week, it will not do the solid and thorough work that needs to be done to get to the bottom of this matter and to come up with a solution, and it is likely it will use political shenanigans. The failure of Hon Ken Travers to reply to the suggestions made by the Leader of the House when it was opportune for him to do so, and his pretence that he was reading a document that would make matters clear to him so that he could not get on his feet at that time, and nobody else on the opposition side could stand up, indicates what members opposite are trying to do. It has nothing to do with funds being returned to investors; it is to do with creating as much havoc as they possibly can in the couple of hours a week during which they can pay some attention to it. I have serious concerns that doing so will impede the genuine efforts of everybody else, where there are teams of people involved. I cannot remember the number of people the Minister for Police said were involved on the investigating squad.

Hon N.F. Moore: It was 30 or 40.

Hon PETER FOSS: Those 30 or 40 officers would be operating independently and gathering evidence, yet members opposite think that we as a Parliament would do a better job than those 30 or 40 officers. I understand those 30 or 40 officers are not just policemen; they also include accountants and lawyers. These people have expertise that we do not have. They are busily examining all these matters, and the suggestion that somehow a parliamentary committee operating in a somewhat archaic method - as we know that it does - and taking the documents away from those officers will help these investors is wrong; it will interfere with those people who are doing something. Similarly, I understand a significant effort is being put in by the liquidator and supervisor. Again I do not know the number of staff involved, but it would be ludicrous to suggest that Parliament is appropriately geared, or should be appropriately geared, to deal with such an inquiry.

Hon Ray Halligan: Those experts have been appropriately directed by well-qualified people.

Hon PETER FOSS: They are independent of government. The Gunning inquiry is well resourced and is doing an impressive job. The inquiry has got on with the job remarkably quickly without a great deal of fuss and bother, and it is to be commended. There is always a possibility that judicial inquiries will get caught up in excessive quantities of legal paraphernalia. Whenever anybody sends things to judges and lawyers, they are always concerned that instead of getting on with the inquiry they will end up with legal points and technical objections and it will be delayed. One of the things we

can say about Judge Gunning is that he has got his teeth into this job, is getting on with it remarkably effectively and is getting to the root of the problem in many areas. Anything that would interfere with the proper conduct of that inquiry would be highly undesirable. Hon Ken Travers has seen fit to ignore this inquiry. I do not know how much more we must say in order to persuade the members of the Opposition to tell us his objections. We have not heard a word from members opposite - except by way of interjection - about what their intent is in this matter, and why they find the Gunning inquiry unacceptable. I am not certain, but notice of this motion may have been given before the Gunning inquiry was set up. It is one of those things that seemed like a good idea at the time, but subsequent to giving notice of the motion, considerable change has occurred. The public are pretty happy that the matter is being appropriately addressed, firstly, by the police, and secondly, by the Gunning inquiry. At this stage we do not quite know what the liquidator and supervisor are doing. I should correct myself: The Gunning inquiry was set up in February prior to notice of this motion being given. Members opposite have no excuse, because when they gave notice of the motion they were well aware the Gunning inquiry had been set up. They might not have realised how effective the Gunning inquiry would be or that the public was satisfied. It has provided a very effective and useful means of dealing with this matter. I started to deal with my other concern in previous debate; namely, the time limitations applicable to a select committee which would be imposed on other people involved. We need to see what other people can achieve within their rather limited constitutional capacity.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

HORTICULTURAL PRODUCE COMMISSION AMENDMENT BILL 1999

Second Reading

Resumed from 23 May.

HON B.K. DONALDSON (Agricultural) [5.36 pm]: I said two sentences before the House adjourned last night.

Hon Bob Thomas: We listened to all of it.

Hon B.K. DONALDSON: I hope the member listened carefully, because it is important. I support the Bill. Over the past few months I have had extensive discussions with the major farming organisations. It is no secret that I had some difficulty with the Bill. I acknowledge the input of the Pastoralists and Graziers Association with regard to this legislation. It has raised some very valid points. At no time did the PGA suggest that it was opposed to the Bill. Its concerns centred on two or three issues.

We must remember that the Act has been in operation for 12 years and we have had no problems. During that time there have been seven fully-operational committees covering avocado, banana, carrot, fruit, strawberry and table grape producers and the Kununurra crop pest control group. The Katanning fruit fly committee has operated on a voluntary basis. The Bridgetown fruit fly committee has not been active.

Members have been lobbied by nine country towns that want to form fruit fly committees. The pollen producers have expressed interest in forming a committee, and the potato, poultry and pig industries have also made approaches.

The PGA's concerns have some validity. One issue of concern is the broadening of the scope of the Bill to include broadacre cropping, pastoral, grazing, dairying, intensive animal production, land-based aquaculture and apiculture industries and agroforestry. Following discussions with the department and the minister, proposed amendments have been placed on Supplementary Notice Paper 18-4. These amendments are the basis of my support for the Bill. The PGA was also concerned that the Cattle Industry Compensation Act was to be repealed. That Act will now not be repealed, and I understand the minister will be making a clear statement about that issue. The High Court had some difficulty when the State started fiddling around with levies and taxes -

Hon Kim Chance: It only becomes a difficulty if someone takes on the case, and no-one ever has.

Hon B.K. DONALDSON: It is important that we as legislators ensure that that Act, which has worked very well in the cattle industry, is not taken to the High Court. I understand an amendment that takes up that issue will be considered by the Government.

Hon Kim Chance: You would be correct if we were dealing with new legislation imposing a levy. Often with older legislation it is better to leave things alone.

Hon B.K. DONALDSON: Possibly. It may come back that way. I am not a legal person. All I can say is that if it needs to be changed, let us change it, and that will protect the Cattle Industry Compensation Act. In the discussions I had with the Pastoralists and Graziers Association, it was not against the provisions of the amendment Bill, other than those specific issues. There are two sets of amendments. One is based on the lines of what the industry wanted. I think the Western Australian Farmers Federation supported the PGA and the stud stock industry. I do not think that people in broadacre farming, in the pastoral industry or dairying would ever put up their hands unless something changed dramatically. I do not have a crystal ball. Things happen in life. Who knows? They might be bashing down the door in five years. There hangs a good story.

Hon Kim Chance: The changes that are proposed in the dairy industry could happen this year. We do not know.

Hon B.K. DONALDSON: That is right. I think members in this House are all realistic and have enough commonsense to understand what primary legislation and regulation-making powers are all about.

Hon Kim Chance will well remember the small amendment concerning meat inspection fees for local government authorities that successive Governments took a long time to put forward. Under the Health Act, councils had to continue to provide meat inspections at abattoirs, when they already had a debt of considerable dollars owing to them. The councils knew that there was no way in the world they would ever recover that debt, let alone the mounting fees.

Hon Kim Chance: But they were bound by law to continue to provide that service.

Hon B.K. DONALDSON: Yes. It is not difficult in the parliamentary process to put forward a small amendment. How long did it take when it hit this House? Was it five minutes?

Hon Kim Chance: At least that long. I thought it was more like 12 minutes. It was during the committee stage.

Hon B.K. DONALDSON: It was a very short time because there was general agreement. My Government took too long to do something about, and I think the previous Government should have done something about it, because it was not something that just happened overnight. The Parliament failed at that time. A move was made to exclude certain industries from a piece of legislation. I think Hon Kim Chance recognised that. It is on public record that last night he said that prescribing those industries that may come forward is almost the normal parliamentary process. However, he said he was taking it further and responding to an industry organisation. That is fine. However, I think he recognised and admitted that he would feel reasonably comfortable with prescription.

Hon Kim Chance: That is my personal view.

Hon B.K. DONALDSON: I am not saying that is the view of Hon Kim Chance's party; it is his view. He has been around for long enough. The point he made about the dairy industry was interesting.

Hon Kim Chance: Importantly, though, I accede to the view which has been put to me, because I do not claim to be the fount of all wisdom - not all the time.

Hon B.K. DONALDSON: None of us is the sole fount of all wisdom. However, we like to think we are correct at times.

Another industry that was mentioned is land-based aquaculture. That raises a very good story, because it is in the embryonic stage in Western Australia. I had the privilege to open the marron growers conference at Pemberton last September. I know the date because it was the Australian Football League grand final day. It was a beautiful day down there, and I actually saw some trees too, which was quite surprising. Those growers were looking at a marron enhancement program, because the industry has not produced the results that we would all like to see it achieve. It also has wonderful export potential. There was an opportunity for the marron growers to submit an application for a research and development grant for a marron enhancement program - that is, breeding and nutrition - similar to that which had taken place in the yabby industry. There have been marked changes in the productivity of many yabby growers.

At one time a mosaic appearance was seen on yabbies in some farm dams. Those farm dams and properties had to be isolated to ensure that virus did not spread. Even without the amendments, the existing Horticultural Produce Commission Act deals with pests and diseases. I would hate to think that members of the growing aquaculture industry would suddenly appear before the minister in 12 months asking for an amendment to include those provisions. It is much easier to get up a regulation than to try to amend the Act, which takes a long time. If I remember correctly, members of the industry had to put in about \$20 000 of their own money and put up their hands to be counted when they made the application for the research grant. At this stage, I do not know whether it has been granted to them. However, I understand they put forward a good case and there is a strong chance they will get the funding, if they have not got it already. On a voluntary basis, a number of marron growers put up their hands. I am sure that Hon Max Evans will not mind my saying that he dabbles in marron on a property he has. After I talked to him about this matter and after he had seen the marron growers' paper, he sent some money because he realised that any research and development which would improve breeding and productivity - nutritional food could improve productivity - would benefit him, even in his amateur capacity. He would like to keep away some of the two-legged predators who unfortunately plague his property. At least if he has a marked improvement in his marron productivity within 12 months, the two-legged predators might not take all of them, as they do at the moment, but might leave a few for him.

The contribution by members of the industry was on a voluntary basis. Across Western Australia, many people are going into marron producing, are thinking about it or are fiddling around with it. They may or may not have contributed to that initial funding because it was on a voluntary basis. At the end of the day, that is the type of industry that could benefit from a levy being placed on all producers, because whether they are big or small, they will benefit somewhere along the line. Why should maybe a handful of people raise money to benefit others who will just tag along at the end of the day? That is not equitable.

Hon Kim Chance: We agree wholeheartedly on that.

Hon B.K. DONALDSON: Yes. It worries me that the proposed amendments specifically exclude that. Hon Kim Chance mentioned dairying. I mentioned aquaculture because that is one industry in which people could put up their hands at the end of the day.

Hon Kim Chance: The industry's peak body has not supported the Bill.

Hon B.K. DONALDSON: No, not at the moment. However, that could be done by way of regulation. I have made it clear to the Minister for Primary Industry and Fisheries that I would move in this House to disallow a regulation of any industry if that industry did not clearly indicate to the Government before the regulation was formulated or promulgated that it had the wholehearted support - that is, overwhelming majority support - of all members of the industry. I would make sure that I was aware of that. I am sure that members on both sides of the House would do the same.

Hon Kim Chance: The difficulty with the peak bodies is that when that occurred, you, the Minister for Primary Industry, the Minister for Transport or I might not be in this place. It might be 20 years from now.

Hon B.K. DONALDSON: Yes. From 1988 to the year 2000, the existing Act has not been a problem. Those people who have come forward and who wanted to utilise the Act have done so, and there has not been a problem. We all remember the repeal of the Carnarvon banana compensation fund. Those people were asking us to get it done so that they could get on with their lives. Although I have not been in this place for as long as 12 years, I have not heard of anybody wanting to come forward, whether it be a Government or an Opposition that may be in government one day.

Hon M.D. Nixon interjected.

Hon B.K. DONALDSON: It may. I do not have a crystal ball but I think it is a long way in the future. My memory may dim about such a thing as an Opposition. However, the most important part about it is that the Opposition is jumping at shadows. If we were to be concerned about every regulation-making power in primary legislation, goodness gracious, we would not pass any Bill in this place. With all due respect to the Pastoralists and Graziers Association, it is being pedantic because it has done very well with the changes in the Bill and I and my colleagues on this side of the House have supported those changes. That association made it clear that the various industries concerned, whether it be horticulture or whatever, did not want to see the Bill rejected. Its first concern was alleviated by the proposed changes that are being made by way of prescription. I hope the minister, in summing up the second reading debate, will indicate those industries which may or may not wish to be prescribed initially.

Hon M.J. Criddle: I shall.

Hon B.K. DONALDSON: I thank the Minister for Transport for that as it gives me great comfort. The minister is aware that I had great difficulty in supporting this Bill. There was many a meeting with the coalition rural back bench committee on this issue. The proposed amendment picks up the first concern of broadacre farming and so on because that has been deleted. The other concern related to the Cattle Industry Compensation Act which will not be repealed. That was another sticking point and was a case of very strong lobbying from the Pastoralists and Graziers Association over that particular issue.

Hon Kim Chance: They were very able lobbyists.

Hon B.K. DONALDSON: They were very able lobbyists and were aggressive and persistent. I am sure the department and the minister would agree with that description. However, they drew to our attention the wording of the Bill which was not something that really grabbed them initially. Someone read the clause referring to broadacre cropping and so on and they suddenly became alive. They recognised the need for, and the use that has been made of, the existing Act as it has been very productive. They would be the first to admit that the horticultural producers in the various growers committees I mentioned have worked very well and there has been no criticism of them whatsoever. If other industries are to be prescribed in the near future, I am sure that each and every one of us in this place will scrutinise that and ask some very pertinent questions about whether there is industry support; and I mean real industry support. I am sure if there is no support, members will receive a great number of inquiries about what is going on so that we will be well and truly alerted.

I also have faith in the Joint Standing Committee on Delegated Legislation. I spent four years on that committee and used to inquire about the explanatory notes to Bills which stated that consultation with industry had taken place. We caught out a few agencies that said they had consulted with industry. Their idea of consultation was to send a letter to industry stating what would occur; there was no consultation. At times disallowance motions are introduced into this House and the Joint Standing Committee on Delegated Legislation can further examine these issues. Half of the membership of that joint standing committee sit in this House and are fully aware of the debates that take place. When regulations are tabled in the House, inquiries can be made to ensure that the industry pertaining to the Bill has been consulted and supports the regulations.

Hon Kim Chance would be aware that a number of hoops must be jumped through to get to that stage. I am not trying to tell him something of which he is not already aware. There is enough protection now in this Bill for me to say I support it but if I had been asked two months ago I probably would not have supported it. However, we cannot afford to be pedantic. I believe we are about to create legislation that will be part of the normal parliamentary process. If we fear the shadows at all times, we will not have any powers through primary legislation to enact regulations. We do not always agree with regulations. The Opposition often moves for disallowances. Even members of the Joint Standing Committee on Delegated Legislation disagree with regulations. When I was a member of that committee I upset a couple of ministers because I disagreed with proposed regulations. A number of regulations have been disallowed in this House recently when there has been general agreement that they should be disallowed. We on this side of the House have promulgated those regulations but have not been castigated for that because at the end of the day a valid and reasoned debate has taken place on the issue and members have considered the regulations and disagreed with them. That is the reason that I do not fear the regulation process.

I look forward to the minister's response and I will be pleased to hear of the Government's intentions. In light of that, because of the proposed amendments to the Bill, I am now in a position to be able to support this Horticultural Produce Commission Amendment Bill.

HON M.D. NIXON (Agricultural) [5.57 pm]: I agree with the second reading of the Bill as, for the reasons outlined by Hon Bruce Donaldson and others, I believe there is general agreement that many of the horticultural industries in the Bill have served a very useful purpose and should continue to do so. I am also aware that in the first instance, the broadacre industries were unaware that the Bill affected them. They then took exception to the fact that they had been taken for granted and became super cautious about not getting themselves into something without proper consultation. When the industries, represented by both the Western Australian Farmers Federation and the Pastoralists and Graziers Association, are satisfied with the amendments to the Bill, I will support it. I am yet to be convinced that is the case. I read a press release today from the Pastoralists and Graziers Association. I am yet to hear from the WA Farmers Federation about whether it is prepared to accept the Bill with the amendments as indicated on the Supplementary Notice Paper. I therefore have some reservations about that area. I am obviously interested to hear what the minister has to say when he sums up the second reading debate as it is possible that I will receive the confirmation I require in order to support all the clauses in the Bill. However, at this stage I have sincere reservations about it. The main concern from industry is that it learnt the hard way about how difficult it is to get rid of costs and charges, particularly in the wool industry which has compulsory levies and the like. When those levies were imposed on the wool industry, it became an enormous burden that was much harder to get rid of than to impose. That is the reason the industry is cautious.

Another concern of the industry is the way the commission is set up. If an industry becomes prescribed, it is possible that it will not have the correct representation on the body that is organising it and operating the arrangement for which the levy is imposed. More importantly, hasty decisions can be made. I understand that up to a point it is the minister's view that it is important that a hasty decision be made. In other words, he regards it as an advantage that, in a crisis, to have a piece of legislation on the shelf that can be used to prescribe a couple of industries, if required. On the other hand, the industry takes a more cautious approach and says that before anything like that is done, it wants time to consider the minister's intention and to discuss it within the industry. Before something like that could be done, it would require at least 60 days and I believe a commitment along those lines might go some way towards alleviating the industry's concerns. I am concerned that unless the grower organisations support the proposed Bill with the amendments, I will have difficulty supporting some of the clauses.

Sitting suspended from 6.00 to 7.30 pm

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [7.30 pm]: So far we have had a very good debate on this issue. The five speakers have shown a very good understanding of the Bill and I have a clear understanding of their expectations of the Bill. I have very detailed responses from the minister which I will pass on to them. It will take me a little while but I will try to be as succinct as possible.

Hon Bruce Donaldson summed up the Government's position. There was some uncertainty at the beginning of the negotiations with the various groups. However, since towards the end of last year widespread consultation has occurred with the Pastoralists and Graziers Association and the Western Australian Farmers Federation, and although some differences came to light on the way through, we have reached a situation that is very close to their requirements. One area has caused some consternation, which we will deal with in committee. I thank members for their support.

The Minister for Primary Industry and for Fisheries stated in his second reading speech on 17 August 1999 that when this Bill was passed it was his intention to introduce legislation that would repeal four trust fund Acts; namely, the Pig Industry Compensation Act, the Potato Growing Industry Trust Fund Act, the Poultry Industry Trust Fund Act and the Cattle Industry Compensation Act, which is one of the points of contention.

I now make the following statement on behalf of the Minister for Primary Industry and Fisheries -

During industry consultation regarding the Horticultural Produce Commission Amendment Bill it has become evident that there is merit in continued availability to the animal industries of fundraising provisions for animal disease management and compensation payments, such as those provided for in the Cattle Industry Compensation Act 1965.

Provisions for similar purposes are currently also available to the grain and seed industries through the Plant, Pests and Diseases (Eradication Fund) Act 1974. Both Acts may, in time, require amendments to guarantee compliance with both national competition policy and the constitution, and improve their administrative efficiency.

Agriculture Western Australia will work closely with industry representatives to develop amendments that meet both these needs and those of industry.

I still expect the pig, poultry and potato industries to seek access to the industry self-funding mechanisms to be provided by the proposed Agricultural Produce Commission, which of course is outlined in this Bill.

The industry consultation on this Bill has helped improve the proposed Agricultural Produce Commission Act, both in terms of its operation and ensuring its application benefits those agricultural producers who contribute to the cost of any services funded under the Agricultural Produce Commission.

The minister has also agreed to some amendments which address the concerns of the industry groups and which I will

introduce during committee. One amendment will alter the definition of "agricultural industry". The existing clause specifies a range of agricultural industries which are included in the term "agricultural industry" and the amendment specifies only horticultural industry, which is covered by the Act, and provides for other agricultural industries to be prescribed by regulation. When we reach the relevant clause I am sure further discussion will take place.

This alteration provides the flexibility necessary for practical operation of the Act and caters for the wishes of agricultural industries that do not wish to join the Agricultural Produce Commission. For all industries outside the horticultural sector, the proponents of any service that could be funded under the Act will need to demonstrate that the proposal has wide industry support prior to the minister's agreeing to make available to that sector the powers under the Act.

If and when the agricultural industry wishes to use the fee-for-service mechanisms of the Agricultural Produce Commission, a regulation can prescribe that as an industry to which the Act applies. That industry can then begin the process laid down in the Act for the formation of a producers committee. If it has sufficient support, a producers committee can be formed. Unless, and until, such regulations are made, no industry, apart from the horticultural industries, can access the provisions of the Act. That point should be made loud and clear.

Regulations would not be made except at the request and with the support of the industry involved. Even then, a prescribed industry could not be compelled to form a producers committee. As a further safeguard, the Government has already given commitment to work with the commission and relevant industry groups to put in place a regulation that requires a scheme to have the support of an appropriate majority of agricultural producers from the industry sector proposing the application of the Act.

A further amendment deals with the constitution of the commission. The Bill as it stands would amend the Act to provide for the appointment to the commission of additional members, each having expertise in a particular industry. This was appropriate for the definition of "agricultural industry" that was originally proposed. With the amended definition, a broad understanding of the agricultural industry is appropriate as a general criterion for membership, together with experience in financial management or another area relevant to the commission's functions. This change also highlights the commission's cooperative governance role and its associated responsibility for overseeing the operations of the industry-based producer committees.

Some industries do not believe that a producers committee should be formed to provide services beyond pest and disease management and compensation. However, other groups want the ability to provide the full range of services the Act now allows. So that the need of all industry groups may be satisfied, an amendment will require that, prior to the establishment of a producers committee, the services to be provided are prescribed in the regulations. This will provide an additional check on the committee formation process.

A further amendment relates to the distribution of funds on dissolution of the committee. Currently, the funds are to be vested in the commission and dealt with as the minister directs. An amendment will ensure that the funds are directed to the benefit of the producers. I think Hon Helen Hodgson raised that issue. They will go to the industry from which they were collected.

These amendments address concerns raised by the various industry groups and maintain the flexibility to accommodate any agricultural industry or agricultural producers who may wish to use the legislation.

I now turn to the answers to some very definite and succinct questions asked by Hon Kim Chance. I acknowledge the Labor Party's support for the Bill as outlined by the member at the beginning of his speech. I also note his concerns about the Bill. He asked whether the commission was part of the Public Service under section 4(4) of the Horticultural Produce Commission Act. Clause 8 of the Bill repeals section 4(4) since it is redundant as there is now no Public Service Act 1978. The Agricultural Produce Commission is a separate organisation established by its own Act and subject to the Financial Administration and Audit Act 1985. Under section 9 of its Act the commission, with the minister's approval, can engage a person for the purposes of carrying out its functions. If the member looks through the Bill, he will find that explanation quite clear.

The member asked what would be the effect of the commission not being an agent of the Crown. The commission is not an agent of the Crown and as such cannot claim the status, immunities and privileges of a crown agency. The commission is subject to the legal requirements of any corporate body, including that of being sued or being able to sue. Effectively, it is evidence of being a separate body subject to direction from the minister in accordance with the FAAA.

What input will the industry have in the appointment of commissioners? Under the Government's policy, outlined in the widely distributed document "Getting on Board", appointments such as commissioners are based on relevant skills, expertise and experience. It is normal practice for the Government to invite all relevant industry organisations to submit nominations of appropriate persons to the minister.

What appeal mechanisms are provided for producers who are dissatisfied with a commission decision to refuse an election for committee members? A commission is required to hold an election when there is reason to do so, such as the nomination of more candidates than there are vacancies on a producers committee. Any person unable to progress a valid appeal with the commission would be able to take the case to the minister responsible. In practice, there have been only enough or not enough nominations for producers committees, so that issue has not arisen.

Hon Kim Chance: That may change with the larger industries.

Hon M.J. CRIDDLE: It may change and I understand the member's point. He also asked what provision existed for the return of funds to producers in the event that a producers committee were dissolved. A proposed amendment to section 15 in clause 18 on page 4 of the Supplementary Notice Paper requires that the minister direct all moneys and other assets of the producers committee for the benefit of the producers concerned. It would go back to the producers who were concerned with the raising of the funds in the first instance.

Hon Kim Chance: I do not mean to put you on the spot, but through what mechanism? How does that occur?

Hon M.J. CRIDDLE: If Hon Kim Chance is happy to do it, we can discuss that during the committee stage. He also asked what mechanism is available for a producer to appeal a decision of the producers committee or the commission. Any producer dissatisfied with a decision of the producers committee can take his case to the commission. If his grievance is not addressed, he can seek the assistance of the minister, who, in the event of not being satisfied with the conduct of the commission, could direct the commission under section 6A of the Act. In practice, the steps to establish a producers committee are sufficiently exhaustive to ensure that any major grievance will stop a scheme being established.

Can there be involvement of a selection panel in the appointment of commissioners? There is no requirement for the minister to engage a selection panel in the appointment of commissioners. However, the minister may use a nominations committee to recommend a short list of nominees to the minister. Government policy on the appointment of members to boards and commissions is set out in the "Getting on Board" document.

Does the FAAA apply to the financial conduct of producers committees as well as the commission? Yes. The commission is the body responsible for the financial conduct of all activities under the commission, including those of all producers committees. The commission shall have regard for the advice provided to it by a producers committee, but all decisions rest with the commission. The commission must require that producers committees maintain proper accounts and records in such a manner and form as the Treasurer approves.

Can provision be made to require ongoing reporting to the producer organisations by the commission and the producers committees? The committee reports annually to Parliament. Producers committees regularly liaise with relevant organisations from that industry sector; for example, information is regularly provided through the newsletter of the Western Australian Fruit Growers Association, and commissioners attend a range of industry meetings. The commission is promoting the establishment of memorandums of understanding for each producers committee with the relevant peak industry organisation.

Is it the Government's intention to provide for voting weighted according to production? The Government has already given a commitment to work with the commission and relevant industry groups to put in place a regulation which requires any scheme to have the support of producers of an appropriate majority of agricultural produce from that industry sector.

What requirement is placed on the commission to advertise the intention to form a producers committee? Under section 10(1) of the Act, the commission is required to publish its intention to establish a producers committee, with the publication occurring in a manner directed by the minister. Current requirements are published in *The West Australian* and the relevant local newspaper. The peak industry bodies plus any affiliated bodies are also notified directly.

Can regulations be structured to provide for commercial propositions to be voluntary? The process for the formation of a producers committee and an associated scheme requires that the function of the committee be specified and advertised and open to submissions from those producers who may be affected by the proposal. The commission must take account of submissions prior to agreeing or not agreeing to a poll of all relevant producers being conducted. For the commission to approve a proposal for the establishment of a producers committee, the commission must be satisfied that the proposal has adequate support from producers. Under section 10 (9) of the Act, the commission may still decline to establish a producers committee if it considers it is not desirable or practical to do so. This would include a situation in which strong opposition existed from a minority of affected producers or if the commission was not satisfied that those contributing the fees for the scheme would accrue a commensurate benefit. Section 19 of the Act provides for voluntary schemes, such as that being established for turf growers. In practice, commercial schemes are likely to be established under commercial mechanisms rather than under the Act. The member also discussed clause 6, but we will go into that in the committee stage.

Hon Christine Sharp asked a number of questions about the Bill and I will go through those answers. She asked whether the Bill would be applicable to producers, such as organic produce growers, who would not voluntarily become members of a producers committee. The Bill will apply to producers of the produce stated in the proposal who form a producers committee, which could specifically include or exclude organic produce. The Bill applies only to commercial producers from an agricultural industry except in the circumstances specifically outlined in clause 22, which inserts section 19A, which deals with non-commercial producers.

How can a person seek exemption? Producers of organic produce would have the opportunity to make submissions to the commission, to appeal under section 16 of the Act against their inclusion on a list of producers under a producers committee or to vote against the establishment of the scheme.

Does the Bill prevent coercive use of pesticides on the properties of organic producers? Except in the case of local fruit fly foliage baiting schemes, there is no ability for coercive use of pesticides on properties of organic producers. Section 17A of the Plant Diseases Act 1914 provides specific rights of entry to bait or spray for a fruit fly foliage baiting scheme established under a relevant producers committee. This provision applies only to fruit fly baiting schemes such as those seeking passage of this Bill - approximately 10 - to enable their legal establishment and operation. In any case, such

schemes would be conducted under practices outlined in the booklet "How to set up a Mediterranean Fruit Fly community baiting scheme", where a range of non-chemical control methods are available as an alternative to chemical baiting or spraying. Proposed new section 19A provides for the minister to declare, by notice published in the *Government Gazette*, a specified pest or disease for which a producers committee may be established, covering both commercial and non-commercial growers. However, the Bill provides only for the funding of such pest and disease eradication activities, and does not provide powers of property entry, spraying or destruction. Such activities could be conducted only where authorised under the Plant Diseases Act, and carried out by appropriately authorised officers.

Does the Bill provide sufficient flexibility to cope with the needs of non-commercial and organic producers where a Mediterranean fruit fly eradication program is being conducted? The Bill provides sufficient flexibility, as do any pest and disease control or eradication operations conducted under the Plant Diseases Act. That covers most of the points raised by Hon Christine Sharp.

Hon Helen Hodgson asked, in what circumstances would an election be held to establish membership of a producers committee. The commission is required to hold an election where there is reason to do so. Such reasons would include nomination of more candidates than there exist vacancies; a request from the industry peak organisations; and submissions to the commission from affected producers providing a valid case. The Potato Growers Association has already indicated to the commission that it may seek an election for members of a producers committee, for which a proposal is expected once this Bill is passed.

I have covered the questions asked by members. I know it was a long series of answers, but I wanted to cover all the issues at this stage so that members have a better understanding of the requirements set out in the Bill, and a clear understanding of its direction. I encourage members to agree to the second reading.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon KIM CHANCE: I thank the minister for his comprehensive response to the issues raised in the second reading debate. One issue raised during the conversation with Hon Christine Sharp and her effort to make an amendment fit the Bill is a side issue to that which I raise at this stage. Hon Christine Sharp is now satisfied but I do not understand what the answer is. Where in the parent Act and/or the Bill are the powers of compulsion? Where is the provision in the legislation to compel people to do things, such as allow entry to officers to carry out control mechanisms or take certain other measures, such as clean up an orchard? It may be in proposed new section 19A, but I am not entirely sure.

Hon M.J. CRIDDLE: There is compulsion only to pay the fee once it has been established. There is no compulsion with the operation of the Bill.

Hon Kim Chance: That is why I could not find it.

Clause put and passed.

Clauses 2 to 5 put and passed.

Clause 6: Section 3 amended -

Hon M.J. CRIDDLE: I move -

Page 3, lines 10 to 13 - To delete all words after the word '**industry**' and substitute the following words -
means a horticultural industry and such other agricultural industry as may be prescribed.

Hon KIM CHANCE: Members will note that I have an amendment on the same matter which appears immediately below that of the Minister for Transport. It is necessary to defeat the amendment moved by the Minister for Transport if we are to deal with my proposed amendment. I urge members to do just that. The issue looks simple enough but, indeed, the vast bulk of the toing and froing, if not outright controversy, on this Bill has revolved around those few words on the first page and the top third of the second page. It deals with the scope of the Bill.

In addressing the amendment moved by the Minister for Transport, I go back to the way in which Hon Bruce Donaldson addressed the history of the dealings on this part of the Bill. I acknowledge the work of Hon Bruce Donaldson and the coalition's rural committee in trying to reach an accommodation between the Government's preferred position and that of the industry, which had taken quite a hard line in its approach to the matter.

I know, because I have been trying to negotiate a position over a period of some months, just how hard Hon Bruce Donaldson and his colleagues have worked to try to accommodate the industry. Sometimes it is impossible to reach a compromise, which is where we are now. That is why the Australian Labor Party has brought forward amendments which on the face of it seem to do the same thing, although in essence they do something entirely different. The effect of the

amendment moved by the Minister for Transport, as described by Hon Bruce Donaldson, is that other agricultural industries can be prescribed to be covered within the power of the Act. Hon Bruce Donaldson and also the minister touched on the process by which that would occur. It is not my place to argue the Government's amendments. However, they have attractive components which do not appear in my amendments and members need to be aware of exactly what we are doing when we approach these issues. If an emergency situation developed with bovine Johne's disease which required an emergency disease response - that occurred in the lupin industry with anthracnose - and we had adopted the Government's amendment, the minister would only be required to gazette a regulation which brought that industry within the scope of the Bill, and then certain things could be done which would enable a more rapid emergency response. In the same circumstances, if we adopted the prescription which is laid down in my amendment we would require the minister to bring the legislation back into the House. Members should not think for a moment that I am arguing against my own amendment, but I want people to understand clearly what the effect will be. That may or may not be possible because the House might not be sitting or the legislation might not be able to get through the priorities which are before the House; although I would imagine that generally Governments would be responsive if there were a genuine emergency. If everything went right that process could be completed in about four weeks. That is about the fastest industry legislation of this kind can get through the two Houses and that is bearing in mind there is no drafting holdup because we simply add the name of an industry into the Bill.

The position that the ALP advocates poses dangers, and members must be aware that it could hold up a response to an emergency. Having said that, we need to be conscious of the stakeholder's view in this matter; that is, if the Government can apply compulsory levying powers on an industry by doing no more than dragging the industry into the legislation by way of regulation that poses dangers also. The Pastoralists and Graziers Association is particularly sensitive about this, and Hon Murray Nixon made the point clearly when he said that for years the industry has been trying to shed structures which were put in place which have little support within the industry and for which the industry can no longer bear the cost but they have proved to be much harder to get rid of than they were to introduce. As I said earlier, the process of negotiation does not always arrive at the conclusion we all think is the right one. It has been my view since I have had responsibility in an industry portfolio that if a legislator cannot make a clear distinction as to which is the right way to go he or she has no choice but to go with the customer. The client in this case is the industry, and the client is always right. That may not be the most courageous thing to say but one survives longer in this game if one adopts that point of view. The saying for successful retailers for a long time was, "The customer is always right."

Hon M.J. Criddle: I am one of the customers.

Hon KIM CHANCE: The minister is. However, we are looking at the broader group as represented by their umbrella bodies. This is a point I also made in response to Hon Bruce Donaldson. We should not fall for the trap of assuming that we will be here when this matter is put to the test. Legislation must be assumed to be for all time. There may be a very different Government and Opposition. There may be different members for the Agricultural Region in this place. There may be no members for the Agricultural Region in this place at a time when a decision is made to implement this legislation. Members of the Pastoralists and Graziers Association, as working farmers do, have taken a longer term view of the matter. I was talking to somebody the other day on a matter concerning farmers' time scales. I said farmers always think in time scales of around 20-year blocks. We think of getting to the end of a session as long-term planning but farmers think in long-term time scales. The Pastoralists and Graziers Association is clearly aware of the downside which is inherent in the position that we are proposing. It is prepared to accept that, because the downside in the position proposed by the Government is worse. From an administrative point of view I disagree with the association; I think we all do. However, from a legislative point of view the PGA's position is probably the right one considering its long-term view and considering the PGA's and the Western Australian Farmers Federation's relatively recent history of trying to shed what are relatively useless and expensive levy imposts on their industry. This is a case where perhaps we understand that we are accepting an administrative second best, but we may still achieve the better legislative outcome.

If I have learnt anything in this place it is that where one is dealing with an industry matter one ought never try to second-guess the stakeholders. If the stakeholders have a jointly arrived at position, it is usually a well thought out position and it is a dangerous game to try to second-guess them. This is a matter we will discuss in more detail on an item that will come back to this place from a committee in the near future.

I am conscious of the hard work that has gone into trying to make the Government's position match the industry's needs, and it does not reflect badly on the Government that we have provided an alternative position. For that reason we will not support the Minister for Transport's amendment in the hope that members will support the amendment which we will propose immediately after this.

Hon M.J. CRIDDLE: The amendment seeks to provide for horticultural and other industries to be prescribed under regulation. That is the point that needs to be clearly understood. If industries outside horticulture want to be part of the legislation or to be prescribed, they will have to be regulated through the House - everybody will have that opportunity - and that is a reasonable procedure. The other aspect is that if the numbers are right, the Act can be changed anyway, so the difficulty many people see in this clause can be overcome. If we must change the Act to include different areas of agriculture, it may well be some time before the change is included in legislation and passed by through the parliamentary process. Over the past day or so we have dealt with a few Bills that have been here since 1997, and the agricultural sector involved would be all over by the time we got through that sort of process. I encourage people to bear that in mind when considering this Bill. As I indicated in the second reading speech, a number of other mechanisms must be in place before a producers committee can be set up. It must be proposed by the industry itself and it must receive strong support from the

industry before the Government would establish a regulation to enable the industry to use the powers of the Act. That is something we would all have to be convinced of at the time. The minister would certainly have to be convinced about the need to change a regulation and it would have to be a well-known difficulty in the industry before it would be dealt with. At the establishment phase of a producers committee it must also receive supporting comment from the industry during the commission's submission, as I pointed out in the second reading speech. A series of steps must be gone through. There must be a poll of every known producer which must be funded by the industry proponents and the proposal must receive majority support from the affected producers. Any scheme resulting from the proposal would be run by a producers committee, which would be elected, if the industry sought an election. The governance of the committee would be overseen by the commissioners. The process includes a host of safety mechanisms. Some members sought reassurance on this matter, and I ask them to consider these facts before they vote against this amendment. The reasons for the amendment are plain: I am very keen, as is the minister, not to have to go back through the legislative process when there is a mechanism in place. We all know that regulations can be disallowed in this place if there are problems with them. We can jump that hurdle when we come to it, regardless of who is here and at what time in the future this comes before the Chamber.

Hon CHRISTINE SHARP: The arguments of Hon Kim Chance are generally interesting and persuasive in almost every case. I have listened to him this evening comparing the merits of his amendments to this clause with those of the Minister for Transport. For once, Hon Kim Chance has failed to persuade me, because of the history of this Bill. During my first winter in this place I received a letter from some members of my electorate in Collie requesting my urgent help to expedite the passage of this Bill through the Chamber. That was an awfully long time ago. That should serve to remind all members just how long this Bill has sat in the Chamber and how incredibly cumbersome the processes of the Chamber are when quick remedies are needed. It is not appropriate that the industries scoped by the Bill should be subject to such an extremely tedious process, which may be appropriate for very important matters but is entirely inappropriate for other matters. I much prefer the amendment proposed by the Minister for Transport. I will support that amendment.

Hon HELEN HODGSON: The Australian Democrats will not support the minister's amendment. As I indicated yesterday, we consulted the Pastoralists and Graziers Association about its attitude to the competing amendments and it was made clear to us that the PGA has a definite preference for being excluded. While I appreciate that the scheme of the legislation is to facilitate a quick response and is industry driven, I am not persuaded that there are not other ways of dealing with an urgent case of disease control and pest eradication without it necessarily having to come back to this Chamber. The agricultural industry has faced crises before and has generally found ways to deal with them. Given that the PGA, in particular, has made its views very clear on the point and I am not persuaded that we actually need to change the legislation in order to deal with a crisis in one of the broadacre cropping-type industries, the Democrats will not support the minister's amendments. We prefer the options proposed by Hon Kim Chance.

Hon B.K. DONALDSON: It is refreshing to be involved in this debate tonight because I think we are all trying to achieve the same thing. As Hon Kim Chance said in his summing up, one option is an administrative process and one is an exclusionary process. What is easy administratively for any Government is typical of a parliamentary process. The engine room of any legislation is the regulations that go with it. I know in many cases that stakeholders in different pieces of legislation are nervous about the "engine room" which is worked out after the Act is proclaimed. The primary legislation passes through Parliament and the regulations are then promulgated. Often people say that the devil is in the detail.

Hon Kim Chance: That is dead right.

Hon B.K. DONALDSON: It can be. I think we are trying to reach the same goal in this case. I would be concerned if we were to be specific about exclusions. I was most interested to hear Hon Kim Chance talk about the dairy industry being affected by these changes. I could not agree more at the moment. I cannot see broadacre cropping farmers, pastoralists or graziers wanting to be involved. I have been a wool grower all my life and I know the wool industry regards more sets of levies and regulations and bright-eyed idealists taking over the wool industry as the last thing that it needs. We have been through that system. The checks and balances are there and the minister has also indicated that if one gets the numbers right, one can do anything with a piece of legislation. A number of members in the Chamber are striving for the same goal, but what matters is how we arrive at that goal. If I feared regulations I would probably vote against every piece of legislation in this Parliament until I saw the accompanying regulations to make sure that the devil was not in the detail.

I urge the Committee to support what I believe to be a reasonable compromise. Hon Kim Chance is correct; we have been working through this for a long time and I have had a lot of consultation with him to try to reach agreement. I do not think I have convinced some of my own colleagues, although I have tried hard. What has been proposed by the minister meets the requirements, although that may not be the case in a perfect world. If we had a perfect world we could amend legislation quickly and that would not be a problem.

In the seven years I have been a member of Parliament, I have understood what a long, slow process it is to change an Act by way of an amendment. Whichever party is in government, its priorities are sometimes far removed from a simple amendment. The attitude is that it will get around to it when it gets around to it; and that concerns me. Enough checks and balances are in place in the parliamentary process to make me feel more comfortable to support the Bill and the proposed amendment by the Minister for Transport.

Hon GREG SMITH: I will reserve my decision on whether I will support the amendment. The minister has detailed how another grower body would be formed. He said a poll of the producers would be held and if a majority of the producers were in favour of it, the commission would be formed. As I understand it, he meant a majority of respondents. If only 20

per cent of people responded to a ballot and 50 per cent of those respondents supported the forming of the commission, would that mean that 10 per cent of the producers who voted in favour of the poll would impose a levy on 100 per cent of the growers?

Hon M.J. CRIDDLE: If there was a poor response, that would not be a reason for the commission to proceed. One would need a reasonable response from the industry. One certainly would not go ahead with the regulation without some clear indication of support. If there was a very low percentage of support, the commission would not go ahead with the producers' committee.

Hon M.D. NIXON: I heard the comments made by the minister and the assurances he gave but I cannot find them in the amendment. Are they spelt out in the legislation, or is it just an assurance by the minister? Members have been told that it can be a slow process to pass legislation through this place; we all know that. However, I suggest that the reason this piece of legislation has been slow is because certain sections of the industry affected by it have not signified their support at this stage. I raised that matter in the earlier part of the debate and the minister has been unable to persuade me that the amendments the minister intends to move have the support of the two major grower bodies in this State.

Hon M.J. CRIDDLE: My understanding is that the Western Australian Farmers Federation has not responded and it has indicated it will not respond. I am not sure what the member means when he talks about a wide range of personnel. The member knows as well as I do that there have been ongoing consultations with those producer groups. I could not understand the first part of the question.

Hon M.D. Nixon: The minister gave assurances that such an organisation should not be set up unless a majority of growers are involved. Where is that in the Bill?

Hon M.J. CRIDDLE: I refer the member to section 10 of the Act.

Amendment put and a division taken with the following result -

Ayes (12)

Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss

Hon Ray Halligan
Hon Barry House
Hon Murray Montgomery

Hon N.F. Moore
Hon Christine Sharp
Hon W.N. Stretch

Hon Derrick Tomlinson
Hon J.A. Scott
(*Teller*)

Noes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon G.T. Giffard

Hon N.D. Griffiths
Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill

Hon M.D. Nixon
Hon Muriel Patterson
Hon Ljiljanna Ravlich

Hon Greg Smith
Hon Ken Travers
Hon Bob Thomas (*Teller*)

Pairs

Hon Simon O'Brien
Hon B.M. Scott
Hon Dexter Davies

Hon Tom Helm
Hon E.R.J. Dermer
Hon Tom Stephens

Amendment thus negatived.

Clause 6: Section 3 amended.

Hon KIM CHANCE: I move -

Page 3, line 10 - To delete "broad acre cropping".

Page 3, line 11 - To delete "pastoral, grazing, dairying".

Page 3, line 12 - To delete "land based aquacultural".

I spoke to these amendments during my comments on the Minister for Transport's amendment. I now urge honourable members to support the deletion of those words in that amendment. The minister has suggested an alternative amendment. I have viewed those alternative words, but I have not had time to consult with anyone on them. I am taking a bit of a punt here, but in the spirit of cooperation I ask that the Chairman leave the Chair until the ringing of the bells.

Sitting suspended from 8.30 to 8.36 pm

Hon KIM CHANCE: I seek leave to withdraw my amendments.

Amendments, by leave, withdrawn.

Clause put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Section 5 amended -

Hon M.J. CRIDDLE: I move -

Page 4, line 10 to page 5, line 23 - To delete the clause and substitute the following clause -

9. Section 5 replaced

Section 5 is repealed and the following section is inserted instead -

" **5. Constitution of the Commission**

- (1) The Commission is to consist of 4 members appointed by the Minister.
- (2) A person appointed as a member of the Commission is to have, in the Minister's opinion, a broad understanding of agricultural industry and -
 - (a) experience in financial management; or
 - (b) other experience relevant to the Commission's functions.
- (3) The Minister is to appoint one of the members of the Commission to be the chairperson.
- (4) The Schedule has effect with respect to the Commission and its acts and proceedings. "

Hon HELEN HODGSON: I have no problem with the basic change that the minister is proposing to the composition of the commission. However, I have some concerns that I have addressed in a subsequent amendment on the Supplementary Notice Paper and that I foreshadow at this stage. These amendments are competing amendments, because it will be necessary to defeat the minister's amendment to accept the alternative amendment that stands in my name. There are two flaws in the minister's amendment. The first flaw is that the qualifications for appointment to the commission are extremely broad; namely, a broad understanding of the agricultural industry and experience in financial management; or other experience relevant to the commission's functions. There are difficulties in finding the right mix of skills when we are dealing with a commission that will comprise four members. However, the minister will have great difficulty in determining whether people meet these requirements, because they are too broad and too general. We all acknowledge that, in a commission of this nature, those requirements might change from time to time depending on the composition of the group. Therefore, as vacancies occur on the commission, it is important that the specific skills and criteria required be identified in a slightly more formal way. The minister should be more specific rather than simply providing the broad qualifications at the time of appointment.

The second flaw in the amendment is that the selection of candidates is at the discretion of the minister. I have addressed this matter in this Chamber previously, as has my colleague Hon Norm Kelly, in terms of ensuring that the pool is wide enough and that people know a vacancy exists and that the minister is looking for appropriately qualified people. It is important that an advertising process be undertaken to inform the agricultural, horticultural or whatever communities are included in the definition that the opportunity exists to suggest a person suitably qualified to fill one of the vacancies. Such a vacancy must be advertised and candidates invited to apply.

Those issues have been overlooked in the minister's proposal. For that reason, I will vote against the amendment. Depending on the outcome of that vote, I will put an alternative proposition.

Hon M.J. CRIDDLE: Having listened to the words of wisdom from the member, I am prepared to withdraw my amendment and support hers. I seek leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Hon HELEN HODGSON: I move -

Page 4, line 10 to page 5, line 23 - To delete the clause and substitute the following clause -

9. Section 5 replaced

Section 5 is repealed and the following section is inserted instead —

“ **5. Constitution of the Commission**

- (1) The Commission is to consist of 4 members appointed by the Minister.
- (2) A member of the Commission is to have, in the Minister's opinion, a broad understanding of agricultural industry and —
 - (a) experience in financial management; or
 - (b) other experience relevant to the Commission's functions.
- (3) The Minister shall, prior to making any appointments to the Commission, establish in writing the particular experience relevant to the Commission's functions which the Minister determines is necessary for membership of the Commission.

- (4) The Minister shall —
 - (a) publish and make available on request the selection criteria for membership of the Commission established under subsection (3);
 - (b) advertise in a major newspaper circulating in the State when there is a vacancy in the Commission's membership, and that applicants are invited to apply;
 - (c) indicate in such advertisement any conditions required of candidates for membership of the Commission including the disclosure of any possible conflicts of interest.
- (5) The Minister is to appoint one of the members of the Commission to be the chairperson.
- (6) The Schedule has effect with respect to the Commission and its acts and proceedings.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 10 to 14 put and passed.

Clause 15: Section 12 amended -

Hon M.J. CRIDDLE: I move -

Page 8, lines 22 to 24 - To delete the lines and substitute the following lines -

- (a) by deleting "Subject to any direction given by the Commission and to this section the relevant growers' committee may in relation to the horticultural produce in relation to which it is established in addition to any other functions conferred on a growers' committee under this Act provide any one or more of the following services —" and inserting instead —
" Subject to any direction given by the Commission and to this section a producers' committee may provide any one or more of the following services as are prescribed in relation to the agricultural produce in relation to which it is established —
"

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 16 and 17 put and passed.

Clause 18: Section 15 amended -

Hon M.J. CRIDDLE: I move -

Page 10, after line 14 — To insert the following lines -

- (2) Section 15(7)(b) is amended by inserting after "directs" —
" for the benefit of the producers concerned "

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 19 to 21 put and passed.

Clause 22: Section 19A inserted -

Hon CHRISTINE SHARP: I raised some concerns about the objectives and the detail of this Bill in the Chamber last night. In his summation earlier this evening, the minister provided a response to those concerns and the specific questions I raised. If my understanding is correct, commercial producers of agricultural produce who are covered by this legislation and the forthcoming Act will have an appeal mechanism available to them under new section 16. Proposed new section 19A introduces the non-commercial growers into the scope of the Bill.

In response to further questioning about these concerns by Hon Kim Chance, the minister told us that under proposed new section 19A there is a compulsion only to pay fees and no compulsion to be involved in any particular pest or disease operation. I hope I have understood that correctly.

It therefore appears that the operation of coercive pest and diseases powers that are covered by this Bill are derived from another Act entirely - the Plant Diseases Act 1914. Proposed new section 19A adds the non-commercial growers and compulsion without an appeals process. Proposed new section 19A contains many of the troublesome components of the Bill.

After thinking about this, I suppose I have come to the view that it is in proposed new section 19A that this Bill has, in a sense, attempted to marry two completely separate concepts. We have seen some strange moves in this Chamber tonight because of concerns and counter-concerns and voting thereon. We have also seen a fair degree of effort to cooperate. It seems that the tensions are reflected in the Bill in that it has the objective to enhance industries by establishing commercial producers committees. Many of the activities that come to mind in that respect are research and development, trade promotion and other matters. If those producer organisations are acknowledged under an Act of Parliament, it is strange that the Act and the amendment Bill before us tonight do not provide a component for a definite, active choice of membership of such an industry organisation. The whole thrust of the Bill is strange, as it seeks to bring people under the scope of its provisions whether or not they wish to be covered by it.

I argue that that is because proposed section 19A attempts to incorporate a completely different objective; that is, the objective of compulsory community-wide pest and disease campaigns which are necessary to protect certain commercial crops - in particular, in this case, to protect them from the Mediterranean fruit fly. The reason this Bill has caused a large amount of discomfort in many locations is that it has tried to achieve those separate objectives. If we all had our time over again, perhaps it would have been better to have had two distinct pieces of legislation to achieve the two separate objectives; that is, producers committees and wider associations with voluntary active membership. Any decision of the growers' organisation will presumably be a majority decision, and even those commercial growers who are not happy with the decision will recognise that it is a majority decision and they will be happy to be part of the organisation. Indeed, they have actively joined it. However, when pests and diseases in the community need a universal and cooperative approach to their eradication, that sort of active membership is not appropriate and should be dealt with under a completely separate piece of legislation.

We are not in that position tonight. Therefore, it is impossible to contemplate such a separation. To meet the concerns that I raised in the Chamber yesterday evening, proposed new section 19A definitely requires further clarification of what those compulsive powers refer to. If it is the view of members of this Chamber that those coercive powers can refer to the operation of pesticide strategies, or the removal of fruit trees, it is important that those members of the community who will be the operators of this Act - this is not an Act which is operated by government; it is operated in the community - understand the Act they are using.

I am led to believe that the parent Act, the Horticultural Produce Commission Act that we are amending this evening, has already been subject to community action which has been ultra vires the current powers of the Act, those powers having been misunderstood by an over-zealous community organisation - in this case, a fruit fly eradication committee. Therefore, I move -

Page 12, after line 4 - To insert the following new subclause -

- (3) For the purposes of this section and section 12(1)(b) and (h), a power to require or compel a producer to do, or refrain from doing, anything for the purpose of controlling or eradicating, or which is intended to facilitate the control or eradication, of pests or diseases, must be a power conferred by the *Plant Diseases Act 1918* and the power must be exercised in accordance with the provisions of that Act.

Hon M.J. CRIDDLE: This amendment is not acceptable to the Government. We will return to deal with the amendment to clause 6, which deals with animals as well as horticulture. If we use this mechanism, we will exclude the need to cover animals such as pigs, poultry, deer or whatever in those intensive industries. Therefore, the Government will oppose the amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 23 to 27 put and passed.

Clause 28: Various references to "horticultural" changed to "agricultural" -

Hon M.J. CRIDDLE: I move -

Page 14, after line 6 - To delete the words "section 12(1) (where first occurring)" in the first column of the table.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 29 and 30 put and passed.

Clause 31: Various references to "growers" changed to "producers" -

Hon M.J. CRIDDLE: I move -

Page 15, after line 6 - To delete the words "section 12(1) (the second place where it occurs)" in the third column of the table.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 32 to 34 put and passed.

Title put and passed.

Report

Bill reported, with amendments.

Recommittal

On motion by Hon Murray Criddle (Minister for Transport), resolved -

That the Bill be recommitted for the purpose of reconsidering clause 6.

Committee

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

Clause 6: Section 3 amended -

Hon M.J. CRIDDLE: I move -

Page 3, lines 10 to 13 - To delete all words after the word '**industry**' and substitute the following words -
means a horticultural industry and such other agricultural industry as may be prescribed but excluding broadacre cropping and grazing industries.

Hon KIM CHANCE: I am happy to indicate that I and my colleagues will support the proposed amendment. In many senses it is an effective compromise in that it leaves in some of the administrative advantages that were inherent in the Government's proposition but it does not detract from the principal concerns expressed on behalf of the Pastoralists and Graziers Association. I am bound by my indication of agreement - I hope nobody thinks I am having second thoughts - but in indicating my agreement, at the time I had in the front of my mind the views of the PGA and the Western Australian Farmers Federation's meat council - which has been my principal contact with the Farmers Federation - and the question of broadscale cropping and grazing industries. I am conscious that dairying can now potentially become part of the scope of the Bill and I am not uncomfortable about that as it is possible to see changes in the dairy industry which would make us grateful that we have the dairy industry within the scope of the Bill. I have received no expression of concern from the dairy industry, therefore I am happy that it is a win-win situation so far.

However, I forgot about aquaculture. I have a case in front of me prepared by the Aquaculture Council of Western Australia and dated 19 November 1999. I do not know whether the Government has any later information with which it might be able to help me. On 19 November 1999 the Aquaculture Council was definitely uncomfortable with its potential inclusion in the scope of the Bill. I am sorry that I did not take up that matter straightaway but I would be even sorer if I were to ignore it totally. I will refer to a couple of issues as it is clear the minister requires a little time to consider the matter.

In the letter from the Aquaculture Council of 19 November the executive director advised that a number of its members had expressed concern over the way the legislation was then passing through Parliament. That related to consultation, which I am sure has since taken place. The letter pointed out that the Bill focused levies being raised by industry on industry but the Bill encompassed only land-based aquaculture. The executive director had been advised by the minister's office that the Bill was specifically targeted at the marron and yabbie industries. The Aquaculture Council is clearly concerned that if a potential compulsory levy on aquaculture is introduced, why it should apply only to land-based aquaculture and not maritime-based aquaculture.

It is proposed under clause 6 that section 3, as amended, will read -

"agricultural industry" means a horticultural industry and such other agricultural industry as may be prescribed but excluding broadacre cropping and grazing industries.

That means it does exclude aquaculture. I made the error because I was looking at the exclusions and not the words before it, which include "such other agricultural industry". In that case, Mr Chairman, my concerns do not exist and I am happy that I have now convinced myself of that. The Australian Labor Party will support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Bill again reported, with a further amendment.

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 1999

Second Reading

Resumed from 6 April.

HON J.A. COWDELL (South West) [8.10 pm]: The Australian Labor Party will vote for the second reading of this Bill with the intent of seeking amendments during committee or to have the Bill referred to the Standing Committee on Ecologically Sustainable Development to consider the amendments prior to the committee stage. I note a number of commendable features of the Bill. The minister's second reading speech made the following points about this and its accompanying Bill -

These two Bills . . . will ensure that the often competing needs of land conservation and commercial forestry will be kept 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.

That is a worthy change. The minister secondly noted -

In addition, the Department of Conservation and Land Management will be renamed the Department of Conservation and its functions and powers will be modified.

Again, that is a commendable change. The minister commended the Bill in these terms -

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.

Again, the Opposition finds this change with a split of ministerial responsibility to be commendable. The minister further noted in respect of the establishment of a Conservation Commission of Western Australia -

Of particular note will be the role of the Conservation Commission in advising on ecological 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.

That is a commendable change with the creation of such a Conservation Commission. Further, the minister stated -

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.

Again, that is an appropriate stipulation. I also note the inclusion of a new item as a result of amendments made in the Legislative Assembly -

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.

That is an improvement on the original Bill presented in another place. Further, the minister stated -

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 Products Council, except those applicable to the use, processing and marketing of forest products, will become functions of the commission.

Again, the Opposition sees much that is commendable in this rearrangement of responsibilities in a single vesting authority. The minister stated -

. . . 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.

The minister also stated -

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.

The provision of its own staff is a worthwhile development. The minister further outlined -

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

The Opposition sees some value in the relevant water authorities having a joint role in this regard. These are the arguments presented by the minister in proposing the split. He referred to the role of the Conservation Commission, and the role of the newly proposed Department of Conservation being responsible for the integrated management of conservation land and water, including all state forest and timber reserves. The minister stated -

Importantly, the Department of Conservation would have no role in the cutting, hauling, stockpiling or selling of timber.

This limited role commends itself to the Opposition. The minister outlined some of the roles of the new Department of Conservation.

The merit of this split was perhaps outlined most clearly and forcefully some time ago in EPA bulletin 912. Of course, that bulletin could not be as frank as other commentators in the field have been; nevertheless, it was fairly clear what the EPA saw as the basis for this split. I quote from EPA bulletin 912 -

Since 1992 there have been significant changes within the organisation of CALM which have the potential to have varying degrees of impact on the approach to and funding of forest management and research . . . The key changes include:

a move to a system of "net appropriation", whereby CALM has moved from being funded by Government from central revenue, to a position of funding more of its activities from royalties collected from the sale of timber;

the introduction of business units and specialist service sub-agencies within CALM such as the Forest Resources Business Units and CALMfire; and

introduction of debt-reduction strategies, whereby money collected from royalties can be used to "retire" debt.

The comment of the EPA on this matter is as follows -

The drive to agency self-funding can have significant consequences, particularly where income from royalties earned in one sector can then be applied to other non-income, or lower income generating areas. One of the consequences can be that funds available to ensure that proper resource management can be carried out over the long term are no longer available. . . . It can also accentuate perceptions of "conflict of interest" between the various functional arms of an organisation, where an income generating area may be regarded as being "over-exploited" to maximise income generation in the short term, perhaps even jeopardising the ability of the income generating sector in the long term.

The EPA report was particularly critical of what may be regarded as the sham authority splits. It states -

The CALM Act establishes three controlling bodies for land vested under the Act. These are:-

the Lands and Forest Commission . . . Membership consists of the Executive Director CALM, and two other persons appointed by the Governor, one of whom is Chairman. . . .

the Forest Production Council . . . Membership consists of the Executive Director CALM (as Chairman), Director of Forests CALM (as Deputy Chairman), and 12 members representative of forest industries, unions and others with interest in forest production or country communities; and

the National Parks and Nature Conservation Authority . . . Membership consists of the Executive Director CALM, 3 other CALM Directors, (the Directors of the Nature Conservation, National Parks and Forests), and 11 community and expert representatives.

All the controlling bodies are dependent upon CALM for support and to carry out their functions, including the preparation of draft management plans for consideration by the controlling body. . . . Although the controlling bodies are responsible for approving management plans for land which is vested in them, the plans are prepared by CALM and are finally approved by the Minister . . .

That report highlights the underlying concerns about the unitary arrangements with regard to CALM and its supposedly separate supervising authorities. The report states -

In Western Australia, this split of the WA Water Authority into a service provider (Water Corporation), water resource manager and allocator (Water and Rivers Commission) and water industry regulator (Office of Water Regulation) has now been completed.

The report refers to this model as being the appropriate model to look to with regard to the integrated CALM structure. The report also states -

The organisational structure of CALM also leaves CALM vulnerable to accusations that it is not fulfilling its custodial responsibilities and that there are conflicts of interest not being addressed.

It states also -

The current structure and funding of CALM and the controlling bodies leaves CALM in an exposed position in relation to potential criticism and allegations of conflict of interest. A perception of conflict can easily arise from an institutional situation where a natural resource agency is the principal resource user (essentially the commercial operator) as well as the agency responsible for protecting and managing that resourcing, as well as being a key member of the independent controlling bodies and the service agency to those bodies.

The underlying concerns are apparent. The EPA put it in probably mild and restrained terms, but that conflict of interest is real. The Opposition agrees with the underlying argument for the need to split the current CALM structure.

Over the years I have expressed concern in Estimates Committee hearings about the fact that CALM had significant debt. Some of that debt was accrued because of its tree farming operations, which are very commendable, but nevertheless it had a declining community grant at the same time that it had to take on increasing responsibility for salinity and dieback. I therefore became concerned as we went from Estimates Committee to Estimates Committee in each financial year that CALM, through no fault of its own, was not receiving the appropriate level of community grant that it needed, because it was regarded as having a self-funding capacity and perhaps was being forced to rely on its own capacity more than it should. This change has been a long time in coming. The previous Minister for the Environment, Minister Foss, as early as 1995 referred to the need for a certain creative tension and to re-order the arrangements.

Hon Peter Foss: It was the first thing I said.

Hon J.A. COWDELL: I am acknowledging the minister in that regard. While the Opposition supports the general intent of the Bill and sees merit in the proposed division of CALM in the way suggested by the Government, we recognise that there are some concerns with regard to this legislation, and these concerns will need to be addressed in committee in the form of amendments.

The Conservation Commission will be the pre-eminent ministerial advisory body. It will have nine members appointed by the Governor on the nomination of the minister, which is a very direct relationship. According to the minister, the Conservation Commission will be provided with appropriate powers and resources to carry out its function. The Opposition will look for some definite assurance in that regard. In the past, these purported supervisory bodies have not had appropriate powers or appropriate and independent resourcing. I note that the new Conservation Commission will be reliant for a significant part of its servicing on the new Department of Conservation. We would not want to see it become as dependent on that department as other supervisory bodies did on the Department of Conservation and Land Management. They became almost totally dependent on information provided by CALM. There is a capacity for the Conservation Commission to contract research and to use some of its own staff - limited though it may be. I am not sure whether the Conservation Commission has the critical mass that is necessary to serve the function that is intended. I also do not know whether the Government considered attaching the researchers and scientists that will be attached to the Department of Conservation directly to the Conservation Commission. That might be considered to bolster the commission's independent capacity.

One element of concern relates to the ability of the Minister for the Environment to direct the Conservation Commission. I note that the minister has said that the chairman of this commission will be an independent chairman; that is, we will not have the executive director of CALM or CALM's representative in that role. Given that the chairman's position will be only half time, that may be an unrealistic expectation. Concerns will need to be addressed in respect of the Conservation Commission.

Another area of concern relates to the preparation of management plans. A statement issued by the Western Australian Forest Alliance on 3 May contained the following stinging critique -

Previously the Environment Minister has indicated that under the Bills (a) the Minister for Forest Products does not have the power to determine Forest Management Plans, and anyway, (b) the Minister for the Environment has the final say under the Environmental Protection Act.

The Forest Alliance commented as follows -

The WA Forest Alliance has obtained a legal opinion from the Environmental Defender's Office on the powers the Bills give to the Minister for Forest Products.

"On the basis of the legal opinion, we believe the Minister is not telling the whole truth on the first point, and is likely to be completely wrong on the second.

"There is no doubt that in practice the Bills give the Minister for Forest Products the power to intervene decisively in the formulation of the 10-year Forest Management Plans covering public forests. This is a significant departure from the current arrangement and impinges directly on the responsibilities and functions of the Minister for the Environment.

"Notwithstanding the contradictory and evasive statements of the Minister for the Environment in parliament and the media, **this is clearly the government's intention in drafting the Bills as they have.**

"This means that any gains from the 'splitting' of CALM will at the same stroke be cancelled out because the Minister in charge of forest exploitation is given the power to effectively intervene and decide the areas and volumes of logging in public native forests.

"Not only do the Bills in reality give the Minister for Forest Products the power to dictate the contents of Forest Management Plans; the same Minister could effectively dictate the conditions that the Minister for the Environment imposes on the Plans under the Environmental Protection Act (EP Act).

"This comes about because, according our legal advice, the Minister for Forest Products is likely to be a 'decision-making authority' under the EP Act, and therefore the Minister for the Environment would have to get his/her agreement for any Ministerial conditions on the management plans, or have the matter resolved by Cabinet.

"The result will be more power to logging interests, more confusion, more poor decisions, and more grief for the forests and the community.

The legal opinion from the Environmental Defender's Office was attached. A strident response was received from Hon Paul Omodei, the Minister for Forest Products, in which he flatly rejected the allegation that a veto had been set up with respect to the new management plans. He responded -

"The Minister for Forest Products will then be able to propose changes relevant to the Forest Products portfolio, but if the Minister for the Environment does not agree, the changes will not be implemented.

"If that is the veto bogey the ALP and the Greens are frightened of, they need to remember that the result of such a stalemate would be that the Minister for Forest Products has no power to produce any timber.

"Exactly the same procedure will be followed by the Conservation Commission in relation to the Minister for Water Resources when the management plans concerns water catchment areas.

I have followed precisely the debates surrounding this question and have not got to the crux of the situation relating to the procedure. It appears that a draft plan will be submitted to the Conservation Commission and the Forest Products Commission for approval. The Environmental Protection Authority will then provide some assessment. Of course, we will have those two processes running in parallel. We will have the consideration of the management plan relating to the Forest Products Commission and the Conservation Commission process. There must be a concurrence of opinion. If there is no such concurrence between the Minister for the Environment and the Minister for Forest Products, the matter will go to Cabinet for resolution, which might decide in favour of the Minister for Forest Products. However, a separate assessment, required under the Environmental Protection Act, may provide another opinion. What position would the Minister for the Environment be in if Cabinet had already made a determination? The crux of the situation is that she would have to sit in judgment by upholding or not upholding an appeal resulting from the Environmental Protection Authority's finding.

Hon Peter Foss: How would the process work if the rule was that Cabinet must agree to the decision?

Hon J.A. COWDELL: The requirement is for Cabinet to resolve the conflict.

Hon Peter Foss: Our Cabinet works on the basis that all must agree. I do not know how the Labor Party operates, but that has always been the case with us.

Hon J.A. COWDELL: I note the Attorney General's comment that the Cabinet of the current Administration works on consensus. However, I do not think that legislation should automatically assume that to be the case. There are differing legal opinions about the management plans. The Minister for the Environment and the Minister for Forest Products have expressed one point of view and interest groups have obtained legal opinions that express another point of view. This is a key area of concern, and there is merit in referring the matter to a parliamentary committee to determine which view is correct. If the view of the Greens (WA), the Labor Party and the Western Australian Forest Alliance is correct, the process for arriving at the management plans will need to be modified. If the worth of the current process cannot be established, the parliamentary committee might look for a compromise.

The Attorney General stated in the second reading speech that the process of establishing temporary reserve protection and temporary control areas was the role of the Minister for Forest Products. That may be an area of concern. The Opposition has fewer concerns about the involvement of the relevant water authorities than the Minister for Forest Products. The Department of Conservation will provide a range of common bureau services to the Forest Products Commission and the Conservation Commission. Care is needed to ensure that the independent role of those bodies is not compromised by the common service provision.

There is a sound basis for splitting the Department of Conservation and Land Management, and a reasonable argument exists for the manner and form of the proposed split. However, we have concerns about the operation of the Conservation Commission, particularly relating to ministerial direction, and the process of preparing forest management plans, especially the enhanced role and veto power of the new Minister for Forest Products. The Australian Labor Party cannot wholeheartedly embrace this Bill because of these problems of detail. It is not the model the Australian Labor Party put forward some time ago when it proposed to split the Department of Conservation and Land Management, nor is it the model it took to the last election. Little community consultation was undertaken when this model was formulated. The model has significantly changed responsibility for areas such as plantations and nurseries. Since the Bill embarked on the legislative process, the model has evolved before our eyes. The outstanding issue of debt will not be resolved through this new model, yet it will be crucial in determining the success, or otherwise, of the split. The proposed model is yet to be approved, although I understand that informal arrangements for operation within the Department of Conservation and Land Management have already been made.

I am pleased that the Government accepted some of the Labor Party's amendments in the other place. One of Labor's amendments substituted the requirement in clause 19 for the Conservation Commission to advise the minister on the ecologically sustainable management of state forest timber reserves and forest produce throughout the State with -

- (h) to advise the Minister on the principles of ecologically sustainable forest management to be applied in the management of -
 - (i) State forest timber reserves; and
 - (ii) forest produce throughout the State.

Subclause (1)(h) substituted the principles of ecologically sustainable forest management in the Bill. The principles of ecologically sustainable forest management were borrowed from the commonwealth Environmental Protection and Biodiversity Conservation Act. The Labor Party's amendments were an important step because the legislation did not provide any definition of the term "ecologically sustainable management", meaning it had little relevance. Labor's amendment requires the Conservation Commission to take into account both the short and long-term impacts of decisions. We do not always know what the long-term ramifications of decisions will be, and the inclusion of these principles heralds an important change in the future of forest management in Western Australia.

The Government accepted Labor's amendment to clause 10, proposed new section 22, which will exclude a person who has a Forest Products Commission production contract or who has a current material personal interest in a company or business with such a contract from the Conservation Commission. I acknowledge that the Government accepted that

amendment, which improves the Bill before us tonight. The amendment will ensure that the advisory and auditing functions provided by the Conservation Commission will not be tainted by a potential conflict of interest.

The Government also accepted Labor's amendment to clause 10, proposed new section 21(2), in the following terms -

Before making a nomination under subsection (1) the Minister shall publish in a daily newspaper circulating throughout the State a notice calling for expressions of interest in appointment to the office of Conservation Commission member.

That proposed subsection is in line with similar provisions in the Environmental Protection Act, and will increase the transparency and accountability of appointments to the Conservation Commission. I have recorded on the Supplementary Notice Paper a range of amendments that will not be unknown to the Government at this stage. If members refer to the Supplementary Notice Paper, they will see that those amendments refer to the objectives of the Act, and particularly to the deletion of a section on page 7 which refers to the concurrence of the Minister for Forest Products. The amendment seeks to delete "with the concurrence of" and substitute "after consultation with". That amendment is a crucial indicator of other amendments that may need to be made in respect of the management plans. I understand that my colleague Hon Christine Sharp will move amendments which will follow that line of argument of deleting "with the concurrence of" and substituting "after consultation with", which would effectively remove the veto power of the Minister for Forest Products from the process.

As I said, a range of amendments appear on the Supplementary Notice Paper. Some appear in my name, and I anticipate that others will appear on the Supplementary Notice Paper to give effect to our concerns about the regime to determine forest management plans. After considering those amendments - and there may be other amendments - an argument may be raised that a committee of this House should consider their merits. As I have stated previously, some amendments pertain to the central issue in respect of the passage or failure of this Bill; that is, they pertain to the development of the forest management plans. However, there are other worthy amendments which will perhaps require more detailed consideration than would be possible in a Committee of the Whole. Some of the amendments could be easily considered by a Committee of the Whole, but the argument concerning forest management plans requires more detailed consideration.

I note the flourish of rhetoric in the minister's second reading speech. It did not pass me by. The minister claimed that this Bill signals a watershed in forest policy in Western Australia, and he recognised that 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, through the minister, stated -

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.

The Government claimed that some of the changes would take time to bring to fruition, and it referred to a legislative and policy framework for change as being critical to success. The minister concluded his speech by saying -

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.

That is the Government's rhetorical flourish in the second reading speech - a statement of intent or commitment. One wonders how much of that is a facade. Is it an initiative and an exercise to solve an image problem to placate an angry public and Liberals for Forests in an election year? Surely not. One must wonder at the model and the perception of a problem. When the Minister for the Environment was questioned intensively about whether there was a real problem in the operation of the Department of Conservation and Land Management empire, she said, no, that it was only a perception. She said clearly that there was no real problem and there had never been a problem. She said that the Government was only dealing with public perception; ergo, it was harvesting a few votes that had gone astray. She said that it was only a matter of perception and that there was nothing fundamentally wrong. She said that the Government was going through that process. It believed in a wholly-integrated CALM, but, for the purpose of public perception, it was going through that charade obviously to get back some votes. The reason stated by the minister for the change is very interesting. One wonders how real the change will be and whether there is the political will on the part of the current Government to provide for a real change and a better outcome. This legislative change provides the potential for a better outcome, but it provides only the potential. There must be the political will.

Debate adjourned, pursuant to standing orders.

House adjourned at 10.00 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT CONTRACTS, TENDERS, COSTS AND COMPLETION DATES

1558. Hon KEN TRAVERS to the Leader of the House representing the Minister for Commerce and Trade:

- (1) In 1998/99 what contracts did Government departments and agencies under the Minister for Commerce and Trade's control award to -
 - (a) O'Keefe & Gee;
 - (b) Picton Press;
 - (c) Frank Daniels;
 - (d) Vanguard Press;
 - (e) Advance Press;
 - (f) Muhlings Print; and
 - (g) Lamb Print?
- (2) For each contract, what was -
 - (a) the original tender cost;
 - (b) the actual final cost;
 - (c) the award date; and
 - (d) the completion date?
- (3) For each contract, how many companies tendered for the contract?

The paper was tabled. [See paper No 996.]

GOVERNMENT CONTRACTS, TENDERS, COSTS AND COMPLETION DATES

1564. Hon KEN TRAVERS to the Leader of the House representing the Minister for Regional Development:

- (1) In 1998/99 what contracts did Government departments and agencies under the Minister for Regional Development's control award to -
 - (a) O'Keefe & Gee;
 - (b) Picton Press;
 - (c) Frank Daniels;
 - (d) Vanguard Press;
 - (e) Advance Press;
 - (f) Muhlings Print; and
 - (g) Lamb Print?
- (2) For each contract, what was -
 - (a) the original tender cost;
 - (b) the actual final cost;
 - (c) the award date; and
 - (d) the completion date?
- (3) For each contract, how many companies tendered for the contract?

Hon N.F. MOORE replied:

See response to Question 1558.

GOVERNMENT CONTRACTS, TENDERS, COSTS AND COMPLETION DATES

1566. Hon KEN TRAVERS to the Leader of the House representing the Minister for Small Business:

- (1) In 1998/99 what contracts did Government departments and agencies under the Minister for Small Business' control award to -
 - (a) O'Keefe & Gee;
 - (b) Picton Press;
 - (c) Frank Daniels;
 - (d) Vanguard Press;
 - (e) Advance Press;
 - (f) Muhlings Print; and
 - (g) Lamb Print?
- (2) For each contract, what was -
 - (a) the original tender cost;
 - (b) the actual final cost;
 - (c) the award date; and
 - (d) the completion date?

(3) For each contract, how many companies tendered for the contract?

Hon N.F. MOORE replied:

See response to Question 1558.

HOMESWEST, PENSIONER UNITS

1836. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Housing:

(1) How many Homeswest Rental Properties are there in -

- (a) Wanneroo;
- (b) Marangaroo;
- (c) Clarkson;
- (d) Merriwa;
- (e) Quinns Rocks;
- (f) Carramar;
- (g) Neerabup;
- (h) Yanchep;
- (i) Two Rocks;
- (j) Edgewater;
- (k) Heathridge;
- (l) Beldon; and
- (m) Kingsley?

(2) How many of these properties are pensioner units?

(3) When is it intended to construct pensioner units in the suburbs mentioned in (1) above?

Hon M.J. CRIDDLE replied:

(1)-(2) Suburb	No. Homeswest	No. Senior
Wanneroo	84	14
Marangaroo	133	70
Clarkson	80	-
Merriwa	48	-
Quinns Rock	51	-
Carramar	-	-
Neerabup	48	-
Yanchep	-	-
Two Rock	2	-
Edgewater	16	15
Heathridge	42	-
Beldon	42	5
Kingsley	31	16
TOTAL	577	120

(3) During 1999/2000 Homeswest will be constructing eight units for seniors in Marangaroo and 14 units for seniors in Quinns Rock. The 1999/2000 program also includes the construction of seven units for seniors in Padbury. These units will be located in the North West Metropolitan zone which includes most of the suburbs listed above. The total program for 2000/01 has not yet been finalised however, it will include a 23 unit seniors development to be built in Joondalup. The Ministry is actively seeking suitable development sites in the suburbs listed by the member to ensure the seniors in these suburbs have access to affordable housing.

WATER THEFT

1845. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Water Resources:

(1) How many investigations were carried out into the theft of water in -

- (a) 1996;
- (b) 1997;
- (c) 1998; and
- (d) 2000?

(2) How many prosecutions have been undertaken against people or companies for water theft in each of these years?

(3) What penalties did each successful prosecution receive?

(4) How many investigations are there which are still to be completed?

Hon M.J. CRIDDLE replied:

(1) It is estimated that the Water Corporation carries out 350 to 400 investigations each year.

1996 - 32 prosecutions
 1997 - 14 prosecutions
 1998 - 43 prosecutions
 2000 - 3 prosecutions

- (3) [See paper No 997.]
- (4) There are currently 48 properties under investigation and 4 prosecutions pending.

HOUSING, GOODS AND SERVICES TAX ON GENERAL ADMINISTRATION FEE

1875. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Housing:

I refer to the list, recently released by the Premier, of State Government charges subject to a GST. The list shows that the Ministry for Housing will charge GST on a general administration fee paid by the Country Housing Authority and the Government Housing Authority.

- (1) To whom is the fee paid?
- (2) Can the Minister for Housing provide detail of the nature of the charges and the circumstances in which they would occur?

Hon M.J. CRIDDLE replied:

- (1) The fee is to be paid to the State Housing Commission (trading as Ministry of Housing).
- (2) The fee is charged by the State Housing Commission to the Country Housing Authority and the Government Employees Housing Authority for corporate services supplied. These services include information services, human resource/payroll services and financial accounting services. It is anticipated that these fees will only incur GST in the short-term pending GST grouping in anticipation of Western Australian Housing Authority legislation.

HOUSING, PRIVATE SECTOR RENTS

1931. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Housing:

- (1) Does the Ministry for Housing monitor private sector rent increases?
- (2) If not, why not?
- (3) If yes, what has been the average percent increase in rental rates in each of the following years -
 - (a) 1989;
 - (b) 1990;
 - (c) 1991;
 - (d) 1992;
 - (e) 1993;
 - (f) 1994;
 - (g) 1995;
 - (h) 1996;
 - (i) 1997;
 - (j) 1998; and
 - (k) 1999?
- (4) Does Homeswest monitor private sector rents by suburbs?
- (5) If yes, which suburb has had the highest increase in rental rates in the last -
 - (a) one year;
 - (b) five years; and
 - (c) ten years?
- (6) What suburb has had the lowest increase in rents in the last -
 - (a) one year;
 - (b) five years; and
 - (c) ten years?

Hon M.J. CRIDDLE replied:

- (1)-(6) The Ministry of Housing does not retain historical data on private sector rental movements however, its newly created Office of Policy will as part of its role undertake general monitoring of movements in the housing sector.

SALINITY MANAGEMENT STRATEGIES, FUNDING

1958. Hon TOM STEPHENS to the Leader of the House representing the Minister for Lands:

- (1) What salinity management strategies have been included within the Department of Land Administration's operations since 1993?
- (2) What funds have been allocated specifically on those strategies?
- (3) What specific local or statewide salinity program has DOLA implemented or participated in since 1993?

Hon N.F. MOORE replied:

- (1) (i) Agreement was reached in 1988 between Agriculture WA and DOLA that soil and clearing requirements

for Conditional Purchase Leases (under section 47 of the Land Act, 1933) would be waived where there was a likelihood that increased soil salinity levels would result. This policy continues in effect in DOLA as part of its contribution to Salinity management in the agricultural region.

- (ii) The Land Monitor project provides land information to underpin the State Salinity Strategy with funding from the Commonwealth and the State. DOLA is making a significant contribution to this project with provision and processing of satellite images and detailed ground height information. The areas covered by this project extend from Geraldton to Esperance.
- (2) (i) Nil
- (ii) Commonwealth Funding \$2,493,000
State Matching Funds (in kind) \$1,400,000
- (3) DOLA actively participates in the WA Salinity Action Plan 1998 and Salinity Action 2000 through representation on the State Salinity Council.

QUESTIONS WITHOUT NOTICE

CAPITAL WORKS BUDGET, HEALTH, EDUCATION AND POLICE

1142. Hon TOM STEPHENS to the Attorney General representing the Treasurer:

I refer to the capital works budget for the Health, Education and Police Departments for the financial years 2001-02, 2002-03 and 2003-04. Will the minister provide a detailed breakdown of the projects expected to be undertaken and their detailed costs under each department for the three years?

Hon PETER FOSS replied:

A detailed breakdown of expenditure on new works and works in progress for all agencies in this budget year is provided in budget paper No 2, in addition to an indication of the estimated total cost of each project. The programs for Health commence on page 707 of the *Budget Statements*, volume 2; for Education on page 412 of volume 1; and for Police on page 1096 of volume 3. Although the total capital appropriation for all agencies in forward years is also provided in budget paper No 2, this detail is not published as the related projects are subject to review and further development on an ongoing basis.

ARTS COMPANIES, NUGENT RECOMMENDATIONS

1143. Hon TOM STEPHENS to the Attorney General representing the Minister for the Arts:

Details announced about the implementation of the Nugent recommendations indicate that Western Australia is putting up \$4.26m in order to get \$4.4m from the Federal Government for WA's four major arts companies, while South Australia received \$5.7m extra for a \$1.18m outlay, and every other mainland State also got a better deal.

- (1) How did WA get such a dud deal?
- (2) When do funds from this agreement become available to the WA companies?
- (3) Specifically, are any funds within the current state budget papers for the year 2000-01?
- (4) If not, when will the extra state funds be made available and from what source?

Hon PETER FOSS replied:

I apologise for taking a little time finding the answer, but I have 20 or 30 questions without notice on notice. I do not know whether all the answers will be given!

- (1) The financial package for WA is not a "dud" deal. The context in which it was made is far more complex and intricate than simply comparing one State's total package with that of another. The WA package was based on the recommendations of the major performing arts inquiry which examined each State's individual requirements and situations within a national framework. The inquiry dealt with 31 companies throughout Australia, with four being from Western Australia. The inquiry delivered 95 recommendations to seek a balanced and interconnected solution to stabilise the major performing arts sector in its diversity and different stages of development.

The inquiry examined funding benchmarks to establish a normalised cost base for each company, applying an artform funding ratio, a geographic adjustment factor and an understanding of the strategic role and designation of each company on a state and national basis. All the Western Australian companies will receive a substantial increase from both the State and the Commonwealth - that is, a total increase of 30 per cent across the Governments. In the case of the WA Opera, new funding will be provided through the Commonwealth. As well as the increase to base funding, all companies will receive benefits from the establishment of a reserves incentive fund. Senator Alston has also agreed to re-examine the way national touring funds are distributed, particularly in the light of Western Australia's specific requirements. All the WA companies were involved in the inquiry's consultation and with the finalisation of the WA package, and they have all welcomed the final outcome.

- (2) Year one of implementation within companies is expected to commence on 1 January 2000.
- (3) No.
- (4) The Ministry for Culture and the Arts is negotiating the additional funding with Treasury to meet the implementation schedule.

LIGHT-ALCOHOL BEER SUBSIDY

1144. Hon N.D. GRIFFITHS to the Attorney General representing the Treasurer:

- (1) Why was the \$7m for light-alcohol beer not announced in the state budget?
- (2) Where in the budget papers is the appropriation for this subsidy?
- (3) Has the commonwealth goods and services tax guaranteed payment for 2000-01 been increased to provide for the subsidy which has been made necessary by the imposition of the GST?
- (4) Will this subsidy not reduce the Government's claimed surplus of \$42m in 2000-01?
- (5) What other expenditure commitments have been entered into since the 2000-01 budget was finalised?

Hon PETER FOSS replied:

- (1) The subsidy is the continuation of an existing subsidy. In addition, confirmation that the subsidy would continue depended partly on the details of the new excise arrangements for beer, which the Commonwealth announced only two days prior to the handing down of the state budget.
- (2) The appropriations for the subsidy are in the Office of Racing, Gaming and Liquor's appropriations on page 1171 of budget paper No 2.
- (3) No increase was necessary. The State's share of the goods and services tax and commonwealth guarantee payments already fully compensates for the cessation of liquor safety net revenues from 1 July 2000, including the component that was effectively rebated to industry through light-alcohol beer.
- (4) The continuation of the subsidy was already provided for in the budget, delivered on 11 May 2000.
- (5) Not applicable.

AGRICULTURAL RESEARCH STATIONS

1145. Hon J.A. SCOTT to the Minister representing the Minister for Primary Industry:

- (1) Which agricultural research stations in Western Australia are -
 - (a) carrying out genetically modified plant trials; or
 - (b) proposing to carry out genetically modified plant trials?
- (2) Are any of the crop trials being funded or partly funded by private organisations; and, if so, which organisations?
- (3) Who made the decision to carry out genetically modified plant trials at agricultural research stations?
- (4) Was this approved by the minister?

Hon M.J. CRIDDLE replied:

- (1)-(4) To addresses the concerns expressed by the member, the Minister for Primary Industry has put in place a stewardship committee for the introduction of genetically modified agricultural organisms in Western Australian agriculture. The minister will seek the advice of the stewardship committee and Agriculture WA on the questions raised, and will advise the member in due course.

GREAT EASTERN HIGHWAY UPGRADE, MIDVALE

1146. Hon NORM KELLY to the Minister for Transport:

- (1) Is the minister aware of concerns that the upgrade of Great Eastern Highway at Midvale will prevent vehicles leaving the Midvale Trade Centre from turning right onto the highway?
- (2) Has Main Roads fully researched the option of installing traffic lights at the intersection and the impact this would have on traffic using Morrison Road?
- (3) If so, will the minister table the results of this research?

Hon M.J. CRIDDLE replied:

- (1) I am aware of concerns the local traders have about the proposed modifications to the intersection of Great Eastern Highway with Farrall Road and Horace Street in Midvale. Main Roads proposes, for safety and overall traffic efficiency reasons, to modify the intersection to prevent vehicles in Farrall Road turning right into Great Eastern Highway.

- (2) Yes.
- (3) The results of a vehicle origin and destination study have been analysed and failed to indicate that signals are necessary. A copy of this study will be made available to the member and any other interested member, rather than be tabled.

LEGIONNAIRE'S DISEASE

1147. Hon RAY HALLIGAN to the Attorney General representing the Minister for Health:

Australia's biggest outbreak of Legionnaire's disease occurred recently with 99 people diagnosed, 15 hospitalised - five critical - and three deaths.

- (1) Which places have been identified where the public may be vulnerable to this bacteria?
- (2) What has been done to ensure that WA does not have the same problems being confronted in Victoria?
- (3) What steps are being taken to encourage uniform legislation between the States on this important issue?

Hon PETER FOSS replied:

- (1) Legionella is a ubiquitous micro-organism which has the potential to affect any water-based airconditioning or waste handling system.
- (2) The Health (Air Handling and Water Systems) Regulations 1994 require all non-domestic operators or water-based cooling or heating systems to conduct routine maintenance in accordance with Australian Standard 3666.
- (3) Uniform legislation is not being progressed at this stage.

PUBLIC RECORDS, LEGISLATION

1148. Hon KEN TRAVERS to the Attorney General representing the Minister for the Arts:

- (1) When will the Government progress legislation that protects the public records of Western Australia?
- (2) Does the State Records Bill before the Legislative Assembly encompass the documents of the Gunning inquiry; and, if not, why not?
- (3) Will the minister guarantee that, in the absence of a new State Records Bill and given the alleged destruction of certain records from the Marks royal commission, all documents relating to the Gunning inquiry will be preserved through a dedicated record-keeping regime?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The minister made his second reading speech on the State Records Bill on 24 November 1999. The Bill is now ready to be debated.
- (2) Yes.
- (3) Under existing legislation - the Library Board of Western Australia Act - responsibility for records rests with the agency which has carriage of an inquiry. Section 30(2)(a) makes it clear that an agency may dispose of its records "if the destruction or disposal is in accordance with a retention and disposal schedule" authorised by the Library Board of Western Australia. The relevant chief executive officer of an agency should ensure that the agency's records are covered by an appropriate disposal authority.

ALBANY CANOLA PLANT

1149. Hon BOB THOMAS to the Attorney General representing the Minister for the Environment:

With regard to the decision for an informal rather than formal assessment of the change from mechanical to chemical extraction for the Albany canola plant -

- (1) What volumes of hexane did the proponent indicate would be stored on site?
- (2) What protocols are proposed for its use?
- (3) How, and by whom, will the process be monitored to ensure that hexane is not released at any stage of the process?
- (4) When making the decision for an informal assessment, was the minister or the Department of Environmental Protection aware that in the United States all leaks of hexane of more than 450 grams must be reported in a toxic release inventory and that in 1997, approximately 32 million kilograms of hexane were leaked into the atmosphere in the United States?
- (5) Does the minister or the DEP expect any hexane to leak from the Albany plant; and, if so, how much is expected to leak each day?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The total inventory of hexane on the plant at any time is about 100 kilolitres.
- (2) The Department of Environmental Protection advised the proponent, QEST Consulting Engineers Pty Ltd, in writing that all risk-reduction measures recommended in the preliminary risk assessment, which was conducted by a risk specialised consultancy firm on behalf of the proponent, should be implemented. A final risk assessment and safety management system - including worker safety - should be undertaken to the satisfaction of the Department of Minerals and Energy prior to commissioning the plant.
- (3) The site is required to be licensed by the DEP under the Environmental Protection Act 1986, but it will be licensed and monitored under the Explosives and Dangerous Goods Act 1961. The Department of Minerals and Energy has conveyed its requirements to the proponent.
- (4) During setting of the level of assessment for stage 2 of the canola plant - which will use chemical extraction in addition to the mechanical extraction used in stage 1 - the DEP, while not specifically aware of the leaks in the US, was fully aware of the flammable and toxic properties of hexane. Therefore, it requested the proponent, QEST, to carry out a risk assessment in September 1999. The risk assessment considered all potential leaks and off-site risk from the use and storage of 80 tonnes of not only hexane but also liquefied petroleum gas and it concluded that the plant could easily meet the individual risk criteria set by the Environmental Protection Authority at the plant boundary and at the nearest residence. Since the plant will handle more than 10 tonnes of hexane a year, the proponent is required to estimate hexane emissions and report to the national pollutant inventory annually, after the NPI extended reporting list is adopted, which will occur within the next two years.
- (5) No leaks are expected from the plant. However, there may be some emissions from the plant processing vents, totalling about 4.1 grams a second. The air modelling for these emissions showed insignificant pollution impacts on public health and odours.

MIDLAND REDEVELOPMENT AUTHORITY

1150. Hon CHRISTINE SHARP to the Attorney General representing the Minister for Planning:

In relation to the Midland Redevelopment Authority, can the minister please explain -

- (1) Why the three government appointees are all company directors fulfilling only three of the nine selection criteria with no broader experience in heritage, urban planning, housing and other affairs, as stipulated in section 7 of the Midland Redevelopment Act 1999?
- (2) Why was a community-based member not appointed despite the Midland Community Forum submitting three qualified nominees?
- (3) Why was the authority's first action the cutting down of trees and the removal of historic plaques at the workshops?
- (4) Why is the demolition of the Shell annexe proposed to occur prior to the authority releasing a concept plan for the site, which involves public consultation?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The Act defines a "relevant qualification" for a member of the authority as meaning "knowledge of, and experience in, one or more of the fields of urban planning, heritage, business management, property development, financial management, engineering, transport, housing and community affairs". The Act further requires that the three members appointed by the minister are people with relevant qualifications in the opinion of the minister. The three members were chosen by the minister because of their broad range of expertise and experience, which exceeds that required under the Act.
- (2) The Midland Redevelopment Authority includes two local government councillors, who are community based.
- (3) The trees were removed as part of tidying up the entrance to the site. The plaques - parking signs - were removed at the same time, but not at the authority's direction. They have been retained and stored securely.
- (4) The Shell annexe is to be removed as part of the site preparation work for the police project. The project was approved by the Government prior to the establishment of the authority.

LEGAL ACTION AGAINST DOCTORS

1151. Hon HELEN HODGSON to the Attorney General representing the Minister for Labour Relations:

- (1) Is the minister aware that civil legal action has begun against a number of doctors who sat on medical panels established under the Workers' Compensation and Rehabilitation Act?
- (2) If so, as the doctors were sitting on a statutory board, has the Government offered any assistance to the doctors involved; and, if so, what assistance?

- (3) If no to (1), will the Government consider offering assistance to the doctors involved?
- (4) As the action is based in part on the lack of an appeals process with the medical panel process, will the Government consider introducing an appeal mechanism?

Hon PETER FOSS replied:

- (1) Applications have been made against members of medical assessment panels through a writ of certiorari in the Supreme Court. Such applications are taken by a party on the ground that the applicant considers an error of law has been made by the panel in its determination.
- (2) The Crown Solicitor's Office represents the medical assessment panel and WorkCover on these matters.
- (3) Not applicable.
- (4) No.

RESIDENT DENTISTS, NORTH WEST TOWNS

1152. Hon TOM STEPHENS to the Attorney General representing the Minister for Health:

- (1) Will the minister table a list of the major towns within the Kimberley, Pilbara, Gascoyne and Murchison regions that are without the service of a resident dentist?
- (2) For each of these locations, will the minister indicate whether the Government will provide funds for the services of a dentist?
- (3) How much has been allocated for this purpose?
- (4) Will the minister table what funds and resources have previously been allocated to staff the dentist's position in these locations?
- (5) What steps are being taken to ensure a replacement dentist is immediately recruited and appointed to Meekatharra following the anticipated resignation of the current dentist?
- (6) What steps are being taken to ensure a replacement dentist is recruited in Newman, whose residents have been without a dental service since October 1999?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) I seek leave to table a list.

Leave granted. [See paper No 995.]

Hon PETER FOSS: To continue -

- (2) Kimberley: Wyndham - Service provided by private practitioner in Kununurra, including participation in the Government's country dental subsidy scheme, which provides subsidised services to eligible patients. Halls Creek - Funding already provided for a visiting service by a public dentist in Fitzroy Crossing.

Pilbara: Tom Price/Paraburdoo - Service provided by private practitioner from Perth. Newman - Yes.

Murchison: Wiluna - Funding already provided for visiting service by a public dentist in Meekatharra.

- (3) Newman: \$70 000 funding until 30 June 2001.

Halls Creek: Separate funding not allocated as contained within funding for Fitzroy Crossing. Fitzroy Crossing receives funding of \$160 000 on an annual basis and services various communities in the region including Halls Creek.

Wiluna: Separate funding not allocated as contained within funding for Meekatharra. Meekatharra receives funding of \$140 000 on an annual basis and services various communities within the region, including Wiluna.

- (4) I seek leave to table a list.

Leave granted. [See paper No 995.]

Hon PETER FOSS: Finally -

- (5)-(6) The vacancies have been advertised within Australia and internationally. The provision of an alternative service on a fly-in fly-out basis is currently being investigated to ensure adequate provision of dental services to this town in the interim.

SETTLEMENT ROAD, SHIRE OF PLANTAGENET

1153. Hon MURRAY MONTGOMERY to the Minister for Transport:

Can the minister indicate the cost and purpose associated with the renaming of Settlement Road in the Plantagenet shire?

Hon M.J. CRIDDLE replied:

Yes. This morning I had the opportunity of going to Mt Barker, or the Plantagenet shire, to meet with people from the City of Albany, the Plantagenet area, and various other groups in the area, to open this road. This road is a great piece of infrastructure. The first 14 kilometres of that road leading from Albany Highway was constructed by the Plantagenet shire, the second eight kilometres was constructed by Henry Walker Eltin Contracting Pty Ltd, and the remainder of the road was constructed by the City of Albany. The road is worth in the vicinity of \$6m and will complement the development of the woodchip industry. Log trucks will use that road. Livestock trucks will also have great need for that road. We also plan to develop West Kojoneerup Road and Chillinup Road to link onto South Coast Highway. That will be the shortest way through to the abattoir. It will also link in with Down Road, with is where the chip mill will be located. A new fertiliser shed is going up in that area, so it will also be used as a distributor road for fertiliser, and of course also for livestock that is going to the abattoir, which at present employs about 450 people. There is a great deal of excitement in that area with the development of the different industries. I was quite surprised at the amount of work that is being done. Down Road, which links into Settlement Road, will be used heavily at Mirrambeena by the woodchip industry and the fertiliser industry. That will also be a link for the rail into the Port of Albany, where further work is being done at this time to complement those industries. That area is in for a very exciting time, and we are putting in a lot of roadworks to complement the industries that are going into that area.

BUDGET, SOUTH WEST REGIONAL TOURISM ASSOCIATION**1154. Hon J.A. COWDELL to the Minister for Tourism:**

- (1) Of the \$2 459 000 allocated to the regional tourism authorities in the budget, how much will the South West Regional Tourism Association receive?
- (2) Is the Government satisfied with its new funding arrangement that allows for particular south west towns and regions to be zero-funded?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The total funding allocated to the 10 regional tourism associations in 2000-01 is \$1 459 000. The \$2 459 000 is made up of the regional tourism association allocation and a \$1 m allocation for the tourism development fund. Grants from the tourism development fund are made on a competitive application process on a dollar-for-dollar basis. Accordingly, there is no allocation specifically for the South West Regional Tourism Association. During 2000-01, the South West Regional Tourism Association will receive \$248 298 from the allocated \$1 459 000 provided to the RTAs.
- (2) The State Government made a decision three years ago to provide funding to regional tourism associations to allow the RTAs to decide locally how that funding is distributed to visitor servicing and marketing-promotional activities.

HEALTH DEPARTMENT, EQUIPMENT CONTRACT**1155. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Health:**

- (1) Does the Health Department have a contract for the lease of Sharp equipment from Abacus?
- (2) Has any of this equipment been taken under a volume-based agreement known as Abacus Copyclub?
- (3) If yes, how many photocopiers or facsimile machines does the agency have under this agreement or contract?
- (4) When did the agency enter into this agreement or contract?
- (5) What has been the total cost of each agreement or contract to date?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Yes, through a tender, Health Supply Commission 241/98.
- (2) No.
- (3) Not applicable.
- (4) There is a problem with this. The answer is not applicable, because the answer to (2) is no, but I assume the member now wants to refer back to the contract that we do have, and in respect of that contract it was October 1998.
- (5) Again, in respect of the contract that we do have, it is \$283 908.

SHANNON NATIONAL PARK, INFRASOUND STATION**1156. Hon GIZ WATSON to the Attorney General representing the Minister for the Environment:**

With reference to the proposed location of an infrasound station in Shannon National Park as part of the comprehensive test ban treaty verification process -

- (1) Will there be an exclusion zone around the station based on sound or other factors?
- (2) If yes to (1), what will be the size or radius of the exclusion zone?
- (3) If no to (1), what measures will be required to prevent sound or other factors from disrupting the verification process?

Hon PETER FOSS replied:

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

GASCOYNE-MURCHISON STRATEGY, FUNDING PROGRAM

1157. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:

How much of the \$40m that will be spent through the Gascoyne-Murchison strategy has been spent to date, and will the minister table details of the expenditure to date under this funding program?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. Eighteen agencies, federal and state, are involved in this program. It will take considerable time to collate the required information, and I request that the member place the question on notice.

PUBLIC LIBRARIES, PUBLIC ONLINE ACCESS

1158. Hon CHERYL DAVENPORT to the Attorney General representing the Minister for the Arts:

Given that there are 128 regional public libraries without automation and 111 without public online access, can the minister detail why, in the words of the WA Municipal Association, the Government is refusing to take responsibility for assisting councils with the infrastructure that is needed to access online services and automate their collections?

Hon PETER FOSS replied:

I have that question in the name of Hon Tom Stephens, but luckily I remembered seeing it; therefore, I have the answer. I thank the member for some notice of this question. Public library services in Western Australia are delivered through a longstanding partnership between state and local government. The State Government provides books and other materials, policy advice, consultancy services, training, catalogues, publications and other outreach services. Local government provides buildings, staff, furniture, equipment and infrastructure. In recent years, the Library Board of Western Australia recognised that there would need to be some assistance to local government in taking advantage of the Internet. In cooperation with the Western Australian Municipal Association, the board applied for, and was successful in receiving, \$250 000 from the Federal Government. This was matched by \$250 000 additional funding from the State Government. This project was known as regional libraries online and resulted in 11 regional local government authorities being able to provide, at no cost to them in the first year, two public access personal computers and a quality printer. It is not the State Government's responsibility to automate local government processes. The State Government has invested \$4m over the past five years in capital and software costs alone to provide catalogues, indexes, guides and other electronic information to the people of Western Australia. Most of the public libraries that remain without automation have collections provided by the State. These collections are available electronically via the Library and Information Service of Western Australia's web site. Internet service providers do not necessarily cover all of the State with a similar quality of service, but this is being addressed specifically by government through the Department of Commerce and Trade's statewide telecommunications enhancement program.

PASTORAL LEASES PURCHASED

1159. Hon TOM STEPHENS to the Leader of the House representing the Minister for Lands:

- (1) Which pastoral leases have been purchased by Western Australian state government departments or agencies since 1993?
- (2) Will the minister table a list of -
 - (a) the leases purchased and by which government department or agency;
 - (b) the purchase price and the basis upon which this price was determined;
 - (c) the name of the leaseholder from whom the lease was purchased;
 - (d) the purpose for which the lease was purchased by the agency;
 - (e) the basis upon which it was determined each purchase would proceed - that is, what body or agency recommended the purchase or made the decision to purchase; and
 - (f) the current management structure for each lease purchased?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The information requested is not readily available and will take some time to collate. I ask that the question be placed on notice, which it should have been in the first place.

COMPUTER SERVERS

1160. Hon G.T. GIFFARD to the Leader of the House representing the Minister for Employment and Training:

- (1) How many college computer servers are due to come to the end of their service life and require replacement by the end of this year?
- (2) How many of these servers are used for the support of the college management information system applications?
- (3) Are any CMIS servers at any colleges in need of immediate replacement? If so, which ones?
- (4) What is the likely cost of replacement of all CMIS servers?
- (5) What does this additional cost now bring the total cost of the CMIS project to?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(5) College management information systems and other related systems are not projects but are fully operational systems that enable the accurate recording and management of student information. CMIS is the principal system that autonomous vocational education and training colleges and institutions use to manage their operations. All 12 colleges, operating from over 100 sites throughout the State, use CMIS to manage college operations. In total, CMIS is used to manage some 127 000 clients, who enrol in over 700 000 modules and undertake almost 23 million student curriculum hours of training. CMIS also provides essential information to the Department of Training and Employment for reporting obligations to state and federal authorities. As with all information systems, there are costs associated with support and maintenance to ensure the ongoing, effective functioning of the system.

ROADS AGREEMENT, WESTERN AUSTRALIAN MUNICIPAL ASSOCIATION

1161. Hon TOM STEPHENS to the Minister for Transport:

The Western Australian Municipal Association has reported to local councils that the minister is encouraging the association to sign a new roads agreement with levels of funding which will lead to a \$1b shortfall over 10 years. Given this new \$1b hole in the Main Roads budget, how does the minister intend to ensure that local roads, which represent 83 per cent of the State's road network, are funded if he forces WAMA into signing the agreement?

Hon M.J. CRIDDLE replied:

It is interesting that the Leader of the Opposition says that I am forcing the Western Australian Municipal Association to sign an agreement.

Hon Tom Stephens: Jamie Edwards is on to you.

Hon M.J. CRIDDLE: He wrote to me today pointing out that his organisation will be making a decision in the near future. It will forward that decision to me and I will take up the issue when I receive that communication. We will then see the results of the negotiations.
