

ENERGY OPERATORS AND WATER AGENCIES (POWERS) AMENDMENT BILL 2003

Declaration as Urgent

MR R.F. JOHNSON (Hillarys) [6.26 pm]: I move -

That the Bill be considered an urgent Bill.

I have had discussions with the Leader of the House, and he has intimated that he will agree to this motion on this occasion. We are negotiating the possibility of reducing the amount of time for which it is necessary for a Bill to lie on the Table of the House from three weeks and one day to three weeks.

MR J.C. KOBELKE (Nollamara - Leader of the House) [6.27 pm]: We will not oppose the motion to declare this an urgent Bill. I do not think it is urgent in the sense that it is pressing. It is urgent only in the sense that time is made available on a Wednesday for private members' business, and the Opposition wishes to deal with this Bill. It is appropriate that it has that opportunity. The Bill is urgent in that sense. The standing orders require that members wait three weeks from the moving of the second reading motion before proceeding with the second reading debate. My reading of that is that if a Bill is introduced on a Wednesday, members should be able to continue the debate three Wednesdays later. However, the standing order is not explicit, and we must consider how the measure of days applies in other areas. If that measure is applied, we must wait the full three weeks and one day, which means that the Opposition - whichever party it might be - would have to wait four weeks to debate its Bills. My personal view, and I have entered into discussions with the manager of opposition business, is that for practical considerations the standing order should be that if a Bill is introduced on a Wednesday, the debate should be able to proceed three Wednesdays later. That is a matter we will take up at a more appropriate time, and we may come to some resolution on it. Clearly, the Opposition wishes to deal with this Bill now. It wants to declare it urgent, and we will accede to that request.

Question put and passed.

Second Reading

Resumed from 12 March.

MR B.K. MASTERS (Vasse) [6.29 pm]: I am pleased to be able to offer my strong support for this Bill introduced by the member for Murray-Wellington. In the six years I have been a member of Parliament for the Vasse region, which covers all of the Busselton shire and most of the western half of the Capel shire, only two government agencies have continually frustrated me and my constituents. Those two agencies are Telstra and Western Power. I would love to talk about Telstra but it would probably require a week of this Parliament's time. Telstra is not referred to in this Bill, therefore, I must reluctantly say only that it is a law unto itself. The sooner Telstra is privatised, the better. It might then be beholden to its shareholders. At the moment it is not beholden to the people of Australia, who hold 51 per cent majority ownership.

Although this Bill relates to certain aspects of the day-to-day operations of the Water Corporation, I emphasise that I have a very good relationship with the Water Corporation. Over the past six years it has been very professional in its dealings with not only me but also the vast majority of my constituents. For the most part, this Bill will only marginally impact on the Water Corporation's day-to-day activities because it has done a good job.

I wish to focus my attention on Western Power. I am not allowed to swear in this place but I am tempted to given the frustration I feel over the wide range of problems that has come across my desk as a result of the way Western Power has interacted or failed to interact with people in my electorate. I will focus on one issue to give members an idea of why I am so angry at the way in which Western Power has been conducting its operations. That one example is the Waterloo-Busselton powerline. There is no argument that the powerline is necessary in my electorate. I am not an electrical engineer but I understand that additional powerlines must be added to fast-growing areas to provide more electrons for the operation of electrical equipment such as televisions.

The community is very supportive of the need for this powerline. The landowners on whose properties the powerline is being constructed as we speak are overwhelmingly supportive of the powerline feeding into Busselton from Waterloo to improve the situation in the town and the general district of Busselton. They are also generally supportive of the line being built through their properties. The fact that their properties are being used for that purpose is not the issue. The issue is that Western Power has forced the powerline onto their properties and failed to deal with the landowners in a fair and reasonable manner. Western Power's approach has been totally unsatisfactory. I will provide more detail on that shortly. Western Power's field officer - I think his name is Alan Enright - is well respected by the people with whom he has been dealing. In dealings with me he has always been very professional and cordial. He has tried as hard as he can to ensure that everyone's interests are protected as much as possible. However, Alan's hands are tied; he is not much more than a mouthpiece for Western Power. He must do what he is told by his superiors. The vast majority of the problems

I and my constituents have faced over recent years relate to decisions or attitudes of middle management. Middle managers above the level of field officers have been unreasonable in their dealings with people. They have been less than forthcoming with information. It has literally been like attempting to squeeze blood out of a stone. On occasions they have upset many landowners in my area because of the condescending manner in which they have negotiated or dealt with those landowners.

If those three accusations are not enough, the worst I can say about Western Power is that its middle management has tried to defend the indefensible. Some of the claims that middle managers have made over the past 12 to 24 months are either so outrageously irrelevant or extremely superficial that they must be aware of the irrelevance or superficiality of those claims. Let me give one key example of how the middle managers at Western Power are a law unto themselves and are basically interested only in pushing the Western Power line and not in listening to the people they are dealing with. At the end of the day those people are just as much customers of Western Power as anyone else in Western Australia.

The one key example I shall give is that when Western Power intends to put a powerline across a farm, nine times out of 10 middle managers make the statement that the power line easement does not and will not affect agricultural productivity and ipso facto cannot have an effect on land values. In the low-value, low-productivity areas of the wheatbelt where an easement might be 50 or 100 metres wide and situated on land that may return only two bushels of a very low-value agricultural product an acre, that attitude may well be fair and reasonable. However, in the high-land-value, high-productivity areas of the south west of Western Australia, it is demonstrably wrong. For example, in my electorate it is not uncommon for land to be selling for \$15 000 or \$20 000 a hectare. Some of that land is being bought by people who wish to have a lifestyle block, on which they might spend their retirement savings or superannuation. They are prepared to pay what I believe are unreasonably high prices. Many areas of high-quality agricultural value are also selling for those sorts of prices because owners will put in place, or have put in place, very high-return agricultural activities. Viticulture is the first agricultural activity that springs to mind. The returns can be in the order of thousands of dollars a hectare. Where there might be a \$300 a hectare return for wheat in the wheatbelt, there might be returns of \$5 000 or \$10 000 a hectare for high-value land in the south west from viticulture, floriculture, horticulture and a wide range of other activities.

Mr E.S. Ripper: In your view what is the effect of a transmission line on the ability to grow vines?

Mr B.K. MASTERS: That is one example. I am trying to paint a picture. I will give a more concrete example, which I was just about to do. To be fair, in most cases those sorts of agricultural uses are not all that much impacted upon by powerlines. However, let us turn our attention to a different category of agricultural land use, which might be horse breeding, agistment, horse studs or any other activity, including horticulture and dairying, where irrigation is necessary to create and maintain the crop. The crop could be carrots, as is currently happening very close to my home, where Capel Farms is growing very large tonnages of carrots. Such a crop could also be in the area through which the Waterloo-to-Busselton powerline is going, in which centre-pivot irrigators or other irrigation systems require the operation of overhead sprinklers. My understanding from Western Power is that in those situations people cannot operate that sort of equipment within tens or hundreds of metres of a powerline because under strong wind conditions the spray of water from the irrigator, whichever form it might be, runs the risk of coming into close contact with the powerline, which means that electricity can go down that water column into the ground. Again, I am not an electrical engineer so I do not understand the full implications of it. However, the advice from Western Power to those farmers is that it will put an easement on and a powerline through their properties and that the poles for those powerlines may be as much as 350 metres apart, which is what is happening with the powerline that is being built from Waterloo to Busselton, but, sorry, they will not be allowed to conduct any form of overhead irrigation because of the risk of water and electricity mixing.

I will give another example. In my electorate a significant number of farmers on medium and lower quality soils are turning to tree plantations. They have chosen to do that because, due to the very high land values that even modest quality soils are generating in real estate sales, they must get a greater return on their investment than would be achieved through cattle or sheep grazing or another type of relatively low dollar value agricultural activity. Although tree plantations are not as productive or valuable as viticulture, horticulture or irrigation, nonetheless they are far more productive in both dollar terms and the volume of product than are grazing and other sorts of activities. Yet - the minister might not be surprised by this - people cannot put tree plantations under powerlines for obvious reasons; no-one is arguing with that. However, there is a medium agricultural value land use that cannot be applied in that easement.

Another way in which powerlines interact with and restrict landowners not so much in my area but certainly in the wheatbelt is the ability of large agricultural equipment to move underneath those powerlines. It is mainly in wheatbelt areas that very large four-wheel drive tractors tow very large pieces of equipment that might be

spraying, harrowing, ploughing or seeding. I am told that there needs to be a minimum vertical separation distance between the top of the machinery and the lowest point of the powerline. In some wheatbelt areas that separation is so great a vertical distance that, as I understand it, powerlines must be raised over alleyways or access ways through farms to allow those large pieces of agricultural equipment to pass safely under the powerlines.

I give one final example in which powerlines in an inadvertent way cause significant financial cost to landowners in my electorate; that is, through the introduction of weeds and diseases. For example, I have written to the minister fairly recently about a farmer who is very upset with Western Power because it has an easement through his property courtesy of a powerline, and there are gates in his fences at either end of that easement. It is normally a requirement of Western Power that any vehicle that goes onto private agricultural property stops and the driver or passenger checks the tyres for things such as double-gees and the radiator for seeds from noxious weeds and other species that might be trapped in the radiator grill in order to ensure there is no movement of those seeds or pathogens onto the private farm land. The particular landowner on whose behalf I wrote to the minister maintains that 50 per cent of the time the Western Power people come straight from his neighbour's property and through the Western Power gate onto his property. He knows his neighbour has double-gees on his property, yet no check is made for double-gees or other problems that they might bring onto his property.

I have talked about pathogens. A number of landowners in my electorate grow South African proteas. Proteas are very susceptible to the jarrah dieback fungus *Phytophthora cinnamomi* - I hope Hansard does not ask me to spell it, because I might have some difficulty. That is a fungal pathogen for which there is no cure. Some temporary prevention measures can be applied, but once the dieback fungus is introduced to a protea horticultural venture the disease is there for ever and from then on the landowner must apply the appropriate measures to make sure he does not lose his species of South African plants. I am grateful to the former Minister for the Environment, Hon Cheryl Edwardes, for writing down what I hope is the correct spelling of *Phytophthora cinnamomi*.

I have mentioned the direct and indirect impacts - these are real impacts - of powerlines on landowners in the south west. I hope I have convinced the minister that it does not apply to every farmer. I grant that if a farmer intends to do nothing more than graze cattle, the impact is minimal. However, because the high land values that we now have in the south west demand that landowners make better use of their land by moving to irrigation for various types of crops or for tree plantations and so on, some serious problems are being caused by Western Power.

[Leave granted for the member's time to be extended.]

Mr B.K. MASTERS: Ever since Western Power announced about 18 months ago that the powerline from Waterloo to Busselton was necessary and would proceed, something of a rearguard action has been fought by Greg Chapman and other members of the Vasse zone of the Western Australian Farmers Federation. I commend Greg and other farmers affected by this powerline for their efforts to ensure not that the powerline did not go onto their properties but that they were treated properly and fairly by Western Power. To give an example of what they were asking of Western Power, one of their requests was that if Western Power did not believe that its powerline would cause them significant financial loss, it should commission an independent technical report by someone who was acceptable to both sides of the argument and see what that independent person had to say. At a meeting that was called in the Busselton shire in, I think, early December 2001 - I have written to the minister on this issue as well - someone from Western Power stood up and said that Western Power does not do that sort of thing, and sat down again. He gave no explanation as to why Western Power does not do that sort of thing. He simply said it is not policy; it does not do it. Another comment that was made by Western Power, I think in correspondence, was that the reason it does not do it is that it has never done it before and no other government agency has ever done it before. I hope Western Power was suitably embarrassed when I wrote back to the minister and said that Western Power had got it wrong; it has been done once before, when the Department of Planning and Infrastructure hired an agricultural consultant by the name of John Wise, the former head of the Department of Agriculture in Busselton, who was employed at a cost of either \$9 000 or \$19 000 - we are not talking about goldmines or cattle stations here; it was a fairly modest cost - to knock on the door of every one of the 19 landowners around the Busselton wetlands who would be potentially impacted upon by the Busselton wetland conservation strategy.

Because John Wise took the trouble to ask the 19 landowners their opinion of what they thought about the need to protect wetlands, guess what? The vast majority of them said their goals were almost identical with those of the Department for Planning and Infrastructure. Immediately, there was so much common ground that the issue was defused. Admittedly, it has taken two or three years since then to get to the stage where, this Saturday, the draft conservation strategy will be launched in Busselton. Nonetheless, John Wise was the first person, but not the only one, I have known to be employed as an independent technical adviser to a state government agency

who has talked to people who might be affected in agricultural areas by an activity such as a planning policy. I wrote to the minister and gave this example, outlining its success. The end result was that Western Power finally gave in and agreed to employ an agricultural consultant to provide it with independent advice on whether there was an impact from a powerline easement on agricultural land.

The consultant whom it was mutually agreed to appoint was Steve Hossen. I am not sure of his background; he may have been a former employee of the Department of Agriculture. Nonetheless, he came highly recommended by all parties and his report was a very good report, which looked at the financial impact on farms of a powerline easement. He made two not surprising findings. One was that the smaller the lot, the greater and more significant the financial impact on the value of the land. If my memory serves me correctly, he said that if a power easement were put through a five-acre hobby farm, one could expect a reduction of capital value of up to 30 per cent. If he did not make that claim, I have certainly read it somewhere. His second finding was that on larger acreage farming properties, impediments and restrictions are created by powerlines and easements, and that they impact on productivity. My understanding is that he was not able to quantify that; nonetheless, he did confirm that there are negative impacts. As a result, those impacts need to be properly dealt with by Western Power before its starts building powerlines.

The explanatory memorandum of the Energy Operators and Water Agencies (Powers) Amendment Bill 2003 notes that the various government entities affected by the Energy Operators (Powers) Act 1979 and the Water Agencies (Powers) Act 1984 are given “a statutory immunity from claims arising by reason of loss of enjoyment or amenity, or by changes in the aesthetic environment, alleged to be occasioned by the placing of works on land by those statutory bodies.” I am happy to place on record that the Water Corporation to a lesser degree, and Western Power to a greater degree, should be required to take into account loss of enjoyment or amenity or changes in an aesthetic environment. I say that because it is not an issue on a large-acreage farm. No genuine farmer would say he needs to be compensated because three kilometres away at the back of his other title is a powerline. That would not happen. In the high-value south west, with many landowners living on small acreages of five, 10 or 20 hectares, to have a powerline run through such a small property will create a loss of enjoyment and amenity. There is a negative change in the aesthetic environment of such a property.

Mr J.L. Bradshaw: It also has a major effect on large rural landholdings.

Mr B.K. MASTERS: I am grateful for the interjection from the member for Murray-Wellington, because my experience is that, where a large acreage landowner has one powerline going through his or her property some distance away from the house or the main road, he or she is generally very accepting. However, in the case of the Murray-Wellington area, I am aware of farmers who have three powerlines and a water pipeline going through the one title. I would hope the minister would not need me to paint a picture to outline the aesthetic impact of three powerlines and one water pipeline on a property. Everyone is probably prepared to accept a single powerline, but not three powerlines and a water pipeline.

The Bill also confirms that compensation under the Land Administration Act 1997 is required. My understanding of that Act is that, if land is to be effectively resumed by a government agency, full and fair market values must be paid. One argument put forward by Western Power is that it is not resuming the land, but rather putting an easement on it. If that easement means that there is no financial cost to the landowner, I would be reasonably happy to accept that only minimal compensation should be paid. I hope I have convinced the minister that, at least in my electorate, but also I suspect in the electorates of Murray-Wellington, Mitchell, Warren-Blackwood, Peel, Roleystone and other areas where agricultural land values are much higher, there is a genuine and significant loss of productive capacity on some farms as a result of the powerline easement going through. On top of that, some farmers might today be saying to themselves and their families that they are comfortable just doing a bit of grazing on a particular paddock. However, five years down the track when their kids grow up and want to take over the farm, the only way the farm can provide the productive base to look after two families is if the agricultural land use is intensified, through tree plantations, irrigation, horticulture or floriculture. If the minister answers my queries by saying that Western Power only has an easement and does not purchase land, I hope he will acknowledge in the same breath that some landowners incur some significant costs. When they do not incur immediate costs - for example, when their plans are to undertake a more intensive agricultural land use some years down the track - my suggestion is that Western Power should go to those people and offer to lease the land for a peppercorn rent for the next five or 10 years. When the farmer comes to change the land use on the rest of the farm, Western Power should compensate him for the loss of the capacity to apply the new high-dollar-values land use to the section of the farm affected, not just by the powerline easement, but through being in close proximity to the powerline. For example, it may not be possible to grow quite as many trees, or to do as much overhead or centre pivot irrigation as the farmer might have wanted to.

This is a very important piece of legislation. It is very small, running to only two pages. It might be thought that something as small as that would not be all that important to people in my electorate, but I hope that in the time I

have been speaking I have convinced members that in my electorate the full and proper application of this amendment Bill will be seen as very important.

Debate interrupted, pursuant to standing orders.