Legislative Council

Tuesday, 6 December 1994

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

RULING - PRESIDENT

Appropriation (Consolidated Fund) Bill (No 1) 1994, Breaches Section 46(6) of Constitution Acts Amendment Act 1899

THE PRESIDENT: Honourable members, I have been asked to give a ruling on whether the Appropriation (Consolidated Fund) Bill (No 1) 1994 breaches section 46(6) of the Constitution Acts Amendment Act 1899. Subsection (6) provides -

> A Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

No sense can be made of this provision without reference to the overall purpose of section 46 and the consequences that may result from different interpretations and applications of its requirements. Nothing hangs on the fact that the Governments between 1985 and 1989 and 1989 and 1994 arranged the annual Appropriation Bills regardless of what the Parliament might have said in the meantime. It was open to any member to raise the matters during those times. Until then, I must assume that the House is satisfied with the arrangement of the Bills and that they are introduced and passed in proper form.

Now that the issue has been raised, I am in a position to discuss and rule on it. I regret the length of my remarks but, as I trust honourable members will come to appreciate, I need to put my decision in its proper context. It is a long and complex issue and I hope members will bear with me.

The House is entitled to presume that this Bill complies with the relevant requirements imposed on the Legislative Assembly by section 46. It needs to be said very clearly that those who argue that this Bill breaches subsection (6) have to provide the factual information that supports their argument. I said in a 1985 ruling that -

> Section 46 is the result of an uneasy settlement between the Houses reached in stages between 1890 and 1977. It by no means represents the totality of the views held by each House as to the extent of its rights and privileges . . .

Section 46 was first enacted, substantially in its current form, in 1921 and reflects what I would describe as the formal settlement between the Council and the Assembly as to their respective powers over money Bills; that is, Bills imposing taxes or appropriating revenue or other moneys constituting, for the most part, what is now, and has been since 1 July 1993, the consolidated fund.

Section 46 leaves unaffected the Council's power to reject any Bill, but deprives it of the power to originate money Bills and restricts its ability to amend some types of money Bills. Where such a Bill is open to an amendment in this House, no amendment may be made that would increase the amount of money the Assembly has agreed to vote. The Council's power of amendment is confined by subsection (3) to reducing an appropriation or changing its destination. For its part, the Assembly, through subsections (6) and (7), agrees not to impose a tax or appropriate money for the ordinary annual services of the Government as part of Bills that do other things as well. Mixing the imposition of a tax or appropriations for the ordinary annual services of the Government with other matters is commonly known as tacking. In one sense, any Bill is tacked when it contains a provision that has not the remotest connection to the remainder of the Bill. Standing Orders Nos 221(c), 222 and 226 deal with this type of tacking - namely, the inclusion of foreign matter in Bills - and guide the severity of the approach according to the nature and extent of the breach. However, use of the word "tacking" is usually confined to the inclusion in a Bill that cannot be amended by an upper House of

provisions that, dealt with in a separate measure, would be subject to amendment. The prohibition on tacking in section 46(6) is the direct result of this House's inability to amend some money Bills and not others. To include items open to amendment by the Council in a Bill containing material not capable of amendment, effectively widens the scope of matters that the Council may not amend.

In my 1985 ruling I applied Commonwealth law and practice because section 46 intentionally mirrors the language of sections 53, 54, 55 and 56 of the Commonwealth Constitution. I am aware that in legal advice given to the Government in 1989, the validity of my position was doubted. The opinion suggested that I should have had more regard to what had occurred in Western Australia since 1890. A number of reasons support the approach I took. First, as pointed out in that ruling, the particular issue had not arisen in that form prior to 1985. There was no Western Australian precedent to which I could refer. Second, in 1907 this House substituted, verbatim, the standing orders of the Senate and took the opportunity to remove any references to the forms, customs and usages of the House of Commons as guides to its own practices. Thereafter, the Council was to be free to develop its own procedures. Third, it has never been the case that Western Australia has followed the financial procedures of the House of Commons. Fourth, it can be anticipated that the Supreme Court and the High Court, faced with an interpretation of section 46, would read it consistently with the High Court's pronouncements on the interpretation of the Commonwealth Constitution's provisions.

Accordingly, I believe that it was, and remains, reasonable to have regard to the Commonwealth position in guiding my approach, but no more than that. For example, I have not adopted the usages of the Commonwealth Parliament as to capital expenditure because I have concluded that certain aspects, carried into the Victorian Constitution Act, only cloud the real intent of section 46. To describe section 46 as procedural masks the substantive law that it contains, particularly the loss of powers that this House would otherwise possess under section 2 of the Constitution Act and section 1 of the Parliamentary Privileges Act 1891.

The historical basis for the difference in powers between the Houses as to money Bills was mentioned by the High Court in a 1993 case dealing with the Commonwealth Constitution's provisions -

> Sections 53 to 55 inclusive have their origin in the resolution of the House of Commons of 3 July 1678:
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> > That all Aide and Supplies, and Aide to his Majesty in Parliament, are the sole Gift of the Commons: And all Bills for the Granting of any such Aids and Supplies ought to begin with the Commons: And that it is the undoubted and sole Right of the Commons, to direct, limit and appoint, in such Bills, the Ends, Purposes, Considerations, Conditions, Limitations, and Qualifications of such Grants; which ought not to be changed, or altered by the House of Lords
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> and the resolution of the House of Lords of 9 December 1702 in response to House of Commons' abuse of this privilege by tacking:
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> > That the annexing of any Clause or Clauses to a Bill of Aid or Supply, the Matter of which Is foreign to, and different from, the Matter of the said Bill of Aid or Supply, is Unparliamentary and tends to the Destruction of the Constitution of this Government.

The interpretation and application of the Commonwealth provisions, except section 55, is exclusively for the Senate and House to determine. The 1929 Royal Commission on the (Commonwealth) Constitution expressed the opinion that -

> . . . section 53 is for parliamentary guidance only . . .

In the 1975 case of State of Victoria v Commonwealth and Hayden the High Court said -

> Sections 53, 54 and 56 provide that the form of the proposed law must be such . . .

> that if the appropriation is for the ordinary annual services of the Government, it deals only with such appropriation. The provisions are outside the concern of this Court, which is with laws, not proposed laws. . . .

Similarly, section 46 deals with "Bills" - "proposed laws" to use the language of the Commonwealth Constitution.

The basis of the immunity of parliamentary proceedings from judicial scrutiny is Article 9 of the Bill of Rights 1689, a statement reinforced by the Privy Council's June 1994 decision in the New Zealand case of Prebble v TVNZ.

Parliament itself may expressly override that immunity as this Parliament has done by section 73(6) of the Constitution Act in relation to particular sections of that Act enumerated in section 73.

With section 46, Parliament went further than reliance on article 9 immunity. One can hazard a guess that the High Court's view in the 1960 Clayton v Heffron case about "directory" and "mandatory" requirements governing the passage of legislation, influenced the 1977 insertion of subsection (9) which validates an enactment passed in breach of section 46. That much is clear from the second reading speech of the then Leader of the Government in this House.

As it turns out, last year the High Court described sections 53 and 54 of the Commonwealth Constitution as being directory rather than mandatory. The effect of that judgment, for section 46 purposes, is that there must be substantial compliance with its requirements. Inadvertent failure will not invalidate a resulting enactment. That decision accords with a consistent view of the High Court that the Commonwealth provisions, except section 55, are to be applied according to the usages of the Parliament and not the opinion of the courts. It is also the approach taken by our Supreme Court in the ALS case regarding compliance by this House with certain provisions of the Parliamentary Privileges Act 1891.

However, to assert that section 46, because it is non-justiciable, may be set aside where, or because, it creates inconvenience is unacceptable. Both Houses have acted in conformity with its division of powers. Their disagreements have arisen from divergent interpretations of what the section says, not the fact that it exists. Although enforcement of section 46 lies with the Houses, rather than the courts, its binding nature is unaffected by the means of enforceability.

An appropriation Act has a twofold purpose. It has a negative as well as a positive effect. Not only does it authorise the Crown to withdraw moneys from the Treasury, it "restricts the expenditure to the particular purpose". No doubt the Government believed that the 1993 amendments to the Financial Administration and Audit Act 1985 creating a "consolidated fund" marked the end of, and the necessity for, the traditional two annual appropriation Bills, one for consolidated revenue and the other for the capital works and general loan fund. Thereafter, there need be one appropriation Bill for one consolidated fund. However it was not solely the existence of those two distinct funds that required separate appropriation Bills. That much should be apparent from my 1985 ruling. The additional requirement for two Bills was, and remains, section 46(2) and (6).

The question in 1985 required me to give meaning to the expression "the ordinary annual services of the Government" and it is again required in this ruling. The difference between the two cases is that the previous ruling dealt with an entire Bill to which subsection (6) did not apply; the question of tacking was not an issue. Now I am asked to say whether line items in a Bill, apparently for the ordinary annual services of the Government, are in fact, appropriations for those services. To that extent, what I declined to do in 1985 - namely, saying what is, or is not, an ordinary annual service of the Government - now becomes crucial. First, I need to exclude some appropriations that clearly are not for the ordinary annual services. As the High Court has said -

> . . . the Parliament foregoes its annually-exercised power over expenditure by government when a law containing a standing appropriation is enacted. Standing appropriations need not be included in annual appropriations.

Standing, or permanent, appropriations to which the court referred include, in Western Australia, salaries and allowances appropriated under the Salaries and Allowances Act 1975, and those made by enactment that make an appropriation for the specific purposes of that enactment. Another example is section 65 of the Constitution Act, which permanently charges the consolidated fund with the costs and expenses incurred in, or incidental to, the collection of revenue. For the Commonwealth, it has been reliably estimated that annual appropriations account for about a third of commonwealth expenditure. I am told that the division would be similar for Western Australia.

In order to answer the question, a fairly close analysis of the expression "the ordinary annual services of the Government" becomes necessary, particularly if this ruling is to act as a guide in future years. One thing is clear: A Bill for the ordinary annual services must not make an appropriation for more than one financial year. The reason, stated by the High Court, is clear -

> Historically, the need of the Executive Government to seek annual appropriations of the Consolidated Revenue Fund "for the service of the year" or "in respect of the year" has been the means, and it remains one of the critical means, by which the Parliament retains an ultimate control over the public purse strings, . . .

Importantly, to "control over the purse strings" one could add "and therefore policy". A Government can determine any policy it thinks fit, but implementation, so far as expenditure is concerned, relies on parliamentary approval.

Any reading of section 46 so as to ascertain the meaning of the expression "the ordinary annual services of the Government" must take account of the connection between policy and expenditure. It seems to me that "annual" has two effects: It quantifies the duration of funding for the service and qualifies its nature. The service cannot last beyond the maximum length of the period for which money is appropriated - a year. If expenditure is exhausted before the expiry of the year, the service nevertheless lapses. That leaves aside additional funding that may lawfully be provided under the authority of the Financial Administration and Audit Act.

If something is ordinary, that thing is usual, regular, customary, normal, and not unexpected. As a general rule, the Government is, or should be, the judge of which of the services it provides are ordinary in the sense I have stated. I have already given some credence to that view in saying that proof of tacking lies with those who argue that the Bill is tacked. For section 46 purposes, however, the Government's opinion is not conclusive, if, and only if, a challenge is made to the content of a Bill for the ordinary annual services. "Ordinary" describes an annually funded service of a type that a Government must provide by law, or which is provided by a Government in the course of giving effect to its policy. Logically, it excludes the extraordinary or the unexpected. I can see no reason to read into "ordinary" anything that goes beyond its ordinary meaning.

At its widest, "services of the Government" encompasses all aspects of public administration that rely for their continuation on annual appropriations. The precise boundaries of what comes within the description will vary, depending on contemporary attitude and expectations of the role and functions of a Government in a democratic society. Services are not to be confused with methods of service delivery. How a Government provides its services is not a matter encompassed by section 46. If the whole of the public sector were to be privatised, such an action would have no effect on the existence of services so much as altering the status of the service deliverer and, most likely, the means of delivery.

The appropriation Bills for this year are divided between recurrent expenditure and capital expenditure. The division reflects the existence of the two funds - consolidated revenue and capital works and general loan - which were abolished on 1 July 1993. Until then, separate Bills were required. However, once the consolidated fund was established, that requirement ceased. As previously stated, the continued obligation for two Bills now rests entirely on section 46(6). Section 46 makes no mention of "capital" and is therefore silent as to the inclusion in a Bill for the ordinary annual services on the purchase of capital items as part of providing established government services.

If the Government, for reasons unconnected with parliamentary requirements, directs that such purchases be included in a Bill that is not for the ordinary annual services, the Government accepts the risk that such a Bill may be amended by this House. However a service may be classified or identified for accounting or other purposes, its appropriation is properly included in a Bill for the ordinary annual services if it is part and parcel of the maintenance of those services that are ordinary, annual and of the Government. For example, an acquisition of land or of buildings by a department in the course of administering an existing service is, I think, equally as much a part of the ordinary annual services as the purchase of a box of elastic bands, where both purchases are completed within the year of appropriation. The fact that the land acquisition ranks as the purchase of a capital asset is irrelevant for the purposes of section 46: It is either a purchase made as a part of the ordinary annual services, or it is not. No sound distinction is made between recurrent and capital expenditure if that distinction is said to arise from section 46.

What I have said departs from the practice of the Commonwealth Parliament, arising from the 1965 compact outlined in my 1985 ruling; neither does it accord with section 8(4) of the Victorian Constitution Act 1975, which excludes from a Bill for the ordinary annual services appropriations for -

(a) the construction or acquisition of public works land or buildings; and

(b) the construction or acquisition of plant or equipment which normally would be regarded as involving an expenditure of capital . . .

The Commonwealth and Victorian arrangements deem capital expenditure, or acquisition of capital, as outside the scope of the ordinary annual services, whether or not individual transactions involving such expenditure or acquisition could be seen for the reasons I have given as forming part of the ordinary annual services. Whether the Government of this State retains the existing "capital/recurrent" division is not for me to decide; it is not a matter dealt with by section 46. The point I make is that whatever else section 46 may do, it does not require appropriations to be divided according to whether the expenditure so authorised is of a capital nature or not. However, the Government will need to have regard to the undertakings set out in the message from the Legislative Assembly to this House in 1989. The undertaking was a response to a request made by this House at the first reading stage of the Appropriation (Consolidated Revenue Fund) Bill 1989. Again, this is not a matter I need to decide. I simply draw attention to the fact of the undertaking, and the effect it may have on the content of any future Bill for the ordinary annual services.

I should now flesh out the statement I made about new policy in 1985 when I indicated that expenditure funding new policy should not be included in a Bill for the ordinary annual services. The Victorian provision quoted earlier goes on to exclude from the ordinary annual services -

(c) appropriations for services proposed to be provided by the Government which have not formerly been provided by the Government . . .

The reason for the exclusion is clear. Unless discrete legislation authorising a new program or service has been enacted, or some other method of parliamentary endorsement has been obtained, the first opportunity Parliament has to debate the policy giving rise to the program or service is when Parliament is asked to provide the necessary funds. Moreover, an appropriation is being sought in relation to a service that, being new, is neither ordinary nor at this stage annual. Section 46 is not to be read as depriving the Legislative Council of its constitutional functions, including that of scrutinising government policies and administrations. The equal right of each House to pronounce on the merits of government policy proposals is, and must be, unaffected by section 46. Using section 46 by including new policies or programs in a Bill for the ordinary annual services is neither contemplated nor authorised by its provisions. The question is to determine what suffices by way of prior parliamentary approval to warrant inclusion in a new policy or program within appropriations for the ordinary annual services.

Given its global non-specific form of appropriation a Supply Act would not be sufficient. Supply is a holding measure whose appropriations are subsumed into the appropriations Acts when they commence. The creation of something by legislation necessitating or involving public funding is clear authority - for example, a government agreement Act - whereas anticipation of parliamentary approval by including an appropriation in respect of a service yet to be authorised by separate enactment cannot provide that authority.

The most difficult question is to decide what is new policy rather than a variation of existing policy. I need to indicate how I intend to approach this issue. Subsection (9) of section 46 embodies two distinct, albeit related, constitutional principles. First, it recognises and preserves the exclusive right of the Crown to initiate expenditure of public money. Second, it maintains for the Assembly the privileges of the Commons to approve expenditure so recommended.

This House retains the pre Parliament Act 1911 privileges of the House of Lords to concur in or reject expenditure recommended and demanded by the Crown and approved by the lower House. The Crown's recommendation must be had not only for new appropriations but also where the intent is to increase, decrease or alter the destination or objects of the appropriation. The Estimates do not flag that detailed information. It is obtained, if at all, during the hearings conducted by the Estimates Committees. One test would be to take a line item and ask the question whether, considered in isolation, the service provided for in that item would or would not require a Governor's message other than that applying to other services within the same vote. In other words, is the service in its current form one that has received previous recommendation from the Governor? I stress that it is the existence and nature of the service that determines the issue, not the form or method of delivery.

In summary I define the ordinary annual services of the Government as -

(a) services required to be provided by a Government or provided as part or in the course of implementing and administering its policies;

(b) the services so provided must have existed prior to the period for which the appropriation is to be made or have antecedent, separate, parliamentary authorisation; and

(c) the appropriation cannot extend beyond one financial year and the service to which it relates must lapse when expenditure of the money appropriated is exhausted or at the end of that year, whichever occurs sooner.

I will not rule on each item raised by the Leader of the Opposition but will rule on three of those items, each of which illustrates a different facet of the question. The Fisheries Department estimates contain a new subprogram 1.4, aquaculture development, that provides funding of $1.822m and 10 FTEs. It is agreed on all sides that this is a new service, a new policy, and as such Parliament is being asked to vote money to fund an activity where the Legislative Council, by reason of the inclusion of the amount of the No 1 Bill, has not been given an opportunity to decide whether it will agree to the policy for which those funds are sought. The service is of the Government, is annual - in the sense that its funding is for the financial year - but does not appear to be ordinary. It is nonetheless properly included in the No 1 Bill because the policy relating to aquaculture was specifically approved as part 8 of the Fish Resources Management Act 1994, assented to on 2 November this year.

Under the Health vote money is earmarked for the setting up of a liver transplant unit at Sir Charles Gairdner Hospital. It is a matter of public record, including ministerial comment in this House, that it was the Government's intention to provide this facility in Western Australia. On that basis, it could be said that funding for the unit may be included in the No 1 Bill. Moreover, the setting up of the unit may be seen as no more than a demand driven extension of the usual health services provided by the Government. I cannot agree. As I understand the situation there is a proposal put by the Government to the hospital which is still under negotiation. Under that proposal, funds would be made available this year at the rate of $72 000 per patient for 10 patients. The per patient

rate includes the cost of the operation, recuperation, post-discharge treatment, and drugs for 12 months. Despite prior notice of the Government's intention the Parliament has not had an opportunity to express its opinion about the actual proposal, its structure and matters such as policy governing patient eligibility. Viewed in isolation, the unit is a service that has not been provided before and requires an appropriation in its own right.

This case illustrates the point that tacking occurs where the Council is put in a situation of having to accept the introduction of a new service - the liver transplant unit - and the level of funding to be provided. Given that negotiations about the unit are still under way, I think that this House should be placed in the position where the amount actually voted by Parliament is a true reflection of its attitude towards the proposal. Equally, I do not want my comments to be taken as a criticism of the way in which the amount of the appropriation has been determined. Estimates of expenditure are simply that; the full amount of the appropriation may be expended or it may not. Parliament needs to be satisfied that the funds sought have a reasonable connection with anticipated expenditure.

Another service brought into question is the counselling to be established by the Ministry of Justice to inform and assist next of kin during coronial inquiries. The Leader of the Opposition has not been able to state the amount of the appropriation. From what he said I understand that this information was denied him by departmental officials. Coronial courts are administered in the Ministry of Justice although I can find no separate reference to the coroner in this year's estimates. The Coroners Act 1920 makes no provision for such a service, which suggests that this year's appropriation Bill is intended to authorise and fund it.

The purpose of section 46(6) in this situation is reflected in the reasoning of the High Court in Brown v West -

> Though the terms in which an appropriation is made may, on one reading, appear to appropriate moneys in excess of the limits imposed by existing legislation, there may be insufficient indication of an intention to override that legislation. In such a case, it is erroneous to treat the appropriation as being made for a purpose inconsistent with the existing legislation.
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> The Appropriation Act must be read in the context of the existing legislation which, unless repealed by the Appropriation Act, requires that the purposes to be found in the broad terms of the Appropriation Act be limited to accord with the existing legislation.

Accordingly, if the service is one not provided for in the Coroners Act, and no amendment authorising or contemplating the introduction of the service has been made to that Act, the No 1 Bill must be read, when enacted, not as an amendment extending the scope of the 1920 Act but subject to it. On the information available to me, provision for this service should not be made in the No 1 Bill.

One line appropriations: I need to deal with the argument that section 46(6) is rendered effectively inoperable by the practice of this Parliament appropriating one amount - a "one line appropriation" - for the service of the year arranged under ministerial portfolios and scheduled to the No 1 Bill.

The Legislative Council, so it is argued, is not permitted to dissect the services included within that appropriation. If, whatever the reason, it disagrees with the amount to be appropriated the Council either requests the Assembly to alter the vote by a specified amount or rejects the Bill in its entirety.

There are a number of reasons for rejecting this argument. Clause 4 of the Bill appropriates $4.5b from the consolidated fund "for the recurrent services and purposes expressed in Schedule 1 and detailed in the Estimates for the year". The Estimates are referentially incorporated in the Bill by reason of clause 4.

As a matter of statutory construction, this House is entitled to take notice of the information provided in the Estimates, tabled separately, in making sense of the one line appropriations. I would be hard pressed to rule out a requested amendment that is intended to have effect at the level of the Estimates.

Additionally, Parliament is not obliged to accept the form in which appropriations are laid before it by the Government. For example, the Assembly could delete schedule 1 as printed, and substitute the printed Estimates.

The form of appropriation cannot be used to nullify the effect of section 46(6). While one line appropriations may have administrative value and provide a degree of flexibility in managing or providing services, the financial powers of, and the relationship between, the Houses governed by section 46 cannot be compromised by the form in which a Government seeks appropriations for the services of the year.

Before I answer the question, I should like to say something about section 46 as it stands. Section 46 and its commonwealth equivalent pre-date the Parliament Act 1911 of the United Kingdom Parliament. They reflect the respective powers of the British Houses before the 1911 Act deprived the Lords of their ability to defeat money Bills and, consequently, force a premature dissolution.

Between 1890 and 1994 Australia has developed and adapted the Westminster model to suit its own constitutional environment and development at both state and federal level. In reaching the ruling I am about to give, I have had to ask myself what section 46 actually intends and how effective it is, in its form, in achieving that intention.

When the Constitution Act commenced in 1890, section 66 required Bills of appropriation and taxation to originate in the Legislative Assembly. Section 66 made no reference to Bills for the ordinary annual services of the Government; there was an omnibus appropriation Bill. No mention was made of the powers of either House to amend such Bills, and no restrictions were placed on the Council's powers of amendment. The President, Sir Thomas Campbell, ruled on the basis of the practice of other Australian colonial Parliaments, particularly South Australia, that section 66 was to be read so that the Council was restricted to accepting or rejecting taxing or appropriation Bills, or returning them to the Assembly with suggestions, or requesting a conference of managers. In retrospect, the 1891 ruling was probably this House's first mistake. The concession made by the President was enlarged by degrees, culminating in section 46 as it now is. It was the Houses' claims and counterclaims that reduced the purity of section 66 in the belief that greater detail would solve the problems. Even the recent history of section 46 destroys that belief.

Left unstated was the principle that guided the President; namely, that the Government continues in office for so long as it enjoys the confidence of the Legislative Assembly and that expenditure of public money must not only be authorised by Parliament but be first approved and recommended by the Government. Parliamentary authorisation alone is insufficient.

It seems to me that the rights and powers of this House in relation to government expenditure are a moveable feast depending on what interpretation is given to the expression "the ordinary annual services of the Government" and the consequences that flow from a service wrongly included in a Bill to which section 46(6) applies. It is not fanciful on my part to say that now the question has been raised, I can anticipate similar questions relating to next year's Budget and the year after that and so on. Having to categorise each challenged item is a time-consuming and difficult task and it is doubtful that items that are challenged exhaust the field. To my mind, the real question is whether each item for which an appropriation is sought merits that funding. The Government's primary obligation is to acquaint the Parliament with the reasons for the continuation or introduction of the service as the case may be.

I am not suggesting that we abandon so much as simplify the intent of section 46 such that appropriations stand or fall on their merits rather than on whether they are, or are not, for the ordinary annual services of the Government. A return to section 66 but expressed in such a way as to reflect present day acceptance of how Governments are formed and dismissed would seem preferable to the technicalities of interpretation that section 46 can require. The constitutional balance struck between the Houses, and between the Houses and the Government, should be transparent and not a source of division.

Finally, the principles of parliamentary government that I believe section 46 reflects are so fundamental as to warrant more substantive treatment than that now provided in a directory provision. Perhaps it is now appropriate that Parliament take the opportunity not only to clarify the law but to cast it in a form that meets the consensus of agreement underlying representative and responsible government and gives it some form of entrenchment.

I uphold the Leader of the Opposition's point of order and rule that the Appropriation (Consolidated Fund) Bill No 1 1994 breaches section 46(6). It is for this House to decide whether, and to what extent, it will insist on its powers and privileges; but under the circumstances, I think the matter should be referred back to the Legislative Assembly for its consideration of the two items I have ruled are not properly contained in the Bill rather than have me rule the Bill out of order.

Hon PETER FOSS: Having heard your ruling, Mr President, I have a small difficulty on which I would like your assistance. You have ruled the liver transplant unit -

The PRESIDENT: Order! There is no provision for any comment to be made.

Hon PETER FOSS: I do not wish to comment. I am asking for a ruling. You have ruled that the liver transplant unit is not part of the ordinary annual service because it is new policy. I am worried we may get the problem back again. You also ruled that a service had not previously been provided, but the method by which it was provided was not a new one. I draw your attention to a factual matter which may not be before you: We have always provided liver transplants and they have been paid for out of the ordinary annual service -

The PRESIDENT: Order! Hon Peter Foss is not asking me to clarify anything. He is making some comment about a state of affairs that at this stage does not require me to make any comment. I am commenting on the questions that were asked of me on the evidence provided to me. I have ruled that that provision is out of order. Unless this House does something to the contrary, that is where the matter lies. I have made a recommendation to the House. I take it that the House will give some consideration to what I have said in due course. I am not expecting members of this House to absorb and understand my mammoth ruling now; however, I am sure that when they do take the time to read it, to study it, and to apply it to the situation that was presented to me for clarification, they will feel that the decision I have made is a proper one.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [4.20 pm] - by leave: Mr President, on behalf of the Opposition I thank you for your extensive and thorough ruling. This House and this Parliament must review very seriously the questions raised in your ruling. I highlight them: How do we define the annual services of the Government? What do we do about definitions of "capital" and "recurrent"? Do they need to be there at all? More particularly, we must look at the respective powers of this House and the other place.

In your ruling you referred to the reforms of the pre-1911 situation in the British Parliament, compared to the one in that Parliament now, and you suggested fundamental and quite significant changes about how these Houses operate. I speculate that many members would read into your statement - I do not mean this to be offensive in any way - that there may well be a new role and new rules in this House for the Appropriation Bills. Perhaps we could get to the stage where the powers of this House are restricted in rejecting Bills, and amending them in one-line appropriations. Whether my interpretation at this moment is correct or otherwise is a matter for both Houses and members to decide.

On behalf of Opposition members, we thank you, Mr President, for your efforts in this matter. It has needed to be clarified for some time. Your ruling gives considerable guidance about what the Houses should do and, perhaps, what the Government should do, and about the role of the Opposition.

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.23 pm] - by leave: I take note of the alternatives; but we must keep the running of the Parliament simple.

The alternative, as stated in your ruling, Mr President, is that we will go through every line of expenditure so there can be no mistake, whether it is ordinary annual business or capital expenditure - we will go right through the whole lot. Unless there is a constitutional change, that is our only alternative. As I have said before in other forums, there will be no such thing as debating Appropriation Bills, we will go through every item just in case it is wrong. We do not want an amount to be tacked onto another item. It may take a month to complete the appropriations, but we will proceed on that basis.

PETITION - METROPOLITAN REGION SCHEME 950-33

The following petition bearing the signatures of 570 persons was presented by Hon Alannah MacTiernan -

> To: The Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled:
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> We the undersigned residents of Western Australia respectfully oppose the MRS950/33 due to the unacceptable risks to the natural environment and Perth's ground water supply and the negative impacts on important Heritage area's and existing communities.
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> Your petitioners, therefore humbly pray that the Legislative Council will disallow the major amendment to the Metropolitan Region Scheme (MRS) 950/33.
>
> And your petitioners as in duty bound, will ever pray.

[See paper No 618.]

PETITION - SWAN VALLEY AND WHITEMAN PARK

The following petition bearing the signatures of 503 persons was presented by Hon Alannah MacTiernan -

> We the undersigned residents of Western Australia respectfully oppose the urbanisation of the Swan Valley and Whiteman Park.
>
> Your petitioners, therefore humbly pray that the Legislative Council will ensure that the boundaries of the proposed Swan Valley legislated area be extended westwards to include Whiteman Park and Bennett Brook and also include the Caversham Air Base in the core of the Swan Valley Policy area B.

[See paper No 619.]

STANDING ORDERS SUSPENSION - BILLS TO PASS THROUGH ANY OR ALL STAGES AT ONE SITTING

On motion without notice by Hon George Cash (Leader of the House), resolved with an absolute majority -

> That for the remainder of this session standing orders be suspended so far as will enable any Bill to pass through any or all stages at one sitting.

SITTING TIMES - EXTENDED BEYOND 11.00 PM OR 6.00 PM

On motion without notice by Hon George Cash (Leader of the House), resolved -

> That for the remainder of this session the House on any sitting day be enabled to sit beyond 11.00 pm or 6.00 pm, as the case may be.

MOTION - METROPOLITAN REGION SCHEME AMENDMENT No 950-33 NORTH EAST CORRIDOR, DISALLOWANCE

HON A.J.G. MacTIERNAN (East Metropolitan) [4.38 pm]: I move -

> That the Metropolitan Region Scheme Amendment No 950-33 North East Corridor published in the *Government Gazette* on 28 October 1994 and tabled in the Legislative Council on 1 November 1994 be, and is hereby, disallowed.

A motion in similar terms was put, debated and lost in the Legislative Assembly two weeks ago. Given the track record and, indeed, the notorious lack of independence of spirit that has characterised this House of Review, I would normally expect this motion to suffer the same fate as that in the Legislative Assembly, no matter how meritorious the arguments put forward to support the disallowance of this amendment. However, in the intervening two weeks, there has been a development of enormous significance; that is, the release of the report of the Legislative Assembly select committee on metropolitan development and ground water supplies. This report has been received with great enthusiasm in Perth, and is seen as bipartisan, courageous, and placing the long term wellbeing of our community beyond the short term political expediency. In particular, I refer to some comments in the editorial of *The West Australian* on 3 December. It says that the select committee's report -

> should be remembered by future generations as a critical turning point in the protection of Perth's uniquely pristine groundwater reserves.

It goes on to say -

> In its unequivocal warnings about the potential for damage to groundwater mounds by development, the committee has given a clear signal to the community and the State Government that stringent new standards of protection are needed urgently.

It further says -

> A failure by the Government to do so would jeopardise the quality of water in the Gnangara and Jandakot mounds and hence the well-being of present and future generations.

It also says that mistakes have been made in the past and that the measures recommended by the committee to ensure Perth's priceless supply of pure water is not threatened further, would be painful for a Government that is largely driven by the development ethic to put in place. The editorial continues -

> They would not only curtail development over the mounds but also would involve big outlays on buying the worst sources of pollution and undeveloped private land to prevent uses that could pollute the mounds.
>
> But they are essential and timely.
>
> Perth people cherish their blessings of a superb climate and environment. They will not tolerate the threat to their lifestyle of any pollution in their drinking water.

That characterises the comment we have seen in the media and throughout the community since just last week when that report was released. It is seen as a watershed in thought about the protection of our ground water supplies and as a clear indication that from now we will put the long term benefits before the short term gains and ensure that no matter how painful they may be, we will take steps to ensure that the water supply in both the Gnangara and Jandakot mounds is protected.

In this disallowance motion we present to the Government its first opportunity to show it intends to meet the challenge so clearly put by the committee's report; that is, to keep urban development out of the important areas of the Gnangara mound now and forever. Unfortunately in the Assembly, the expression of the Opposition's concerns on the environmental consequences were met with cries from government members that we were just as bad when in government. We will not accept that, but if it helps the debate, I will acknowledge that since this report has been released it is quite clear that Labor made a fundamental mistake in approving the Thomsons Lake development over the Jandakot mound. However, it is important that we now embrace the Board report and that we do not add to the potential pollution of our precious ground water resources by allowing this metropolitan region scheme amendment to proceed.

There are two essentially distinct issues we must grapple with. We are not dealing here with the sum total of the environmental consequences, but focusing on how this

amendment can undermine the quality of our ground water supplies. The first of the two quite separate, essentially distinct, issues with which we must grapple is the rezoning of a substantial area of priority 2 and priority 3 ground water areas from rural to urban deferred. The second distinct issue is the reservation of the Perth-Darwin highway over priority 1 ground water. I will examine both those issues in the light of the recommendations, firstly, of the Environmental Protection Authority's advice and of the Board report. We focus on this aspect of the debate because at the time, the Government and the Opposition in the Assembly did not have the opportunity to consider the recommendations of the Board report. I believe this should cause substantial rethinking on this issue.

I refer now to rezoning of rural land to urban deferred. By my calculations approximately 800 hectares of land is proposed to be so changed. About half of that land is due east of Whiteman Park and the other half is south to south east of Whiteman Park. Approximately one-third of that 800 ha which is subject to rezoning from rural to urban deferred is classified as priority 2 under the Water Authority's ground water classification. A slightly lesser amount - perhaps a little less than one-third - is classified as priority 3. Focusing narrowly on the impact on our ground water supplies rather than the broader environmental impact, the Environmental Protection Authority advises, inter alia, that -

> Based on the need to protect Priority 1 and 2 groundwater areas and other concerns raised in this Bulletin, there is insufficient information to conclude that the proposed rezoning from Rural to Urban Deferred in the North-East Corridor could proceed and be environmentally acceptable.

The Environmental Protection Authority acknowledged in its assessment "that this position, if accepted by the Government, may have implications for land available in the metropolitan region. However, it is concerned that allowing land to be rezoned 'urban deferred' would create the expectation that urbanisation would follow, irrespective of the outcome of studies, in particular if those studies showed that urban development in these areas was unacceptable."

In my view that is the crux of this whole debate. The advice from the EPA is clear: Insufficient information is available at this time on which to proceed with rezoning that land to urban deferred. It goes on to comment that the rezoning itself will create expectations of future urban zoning, which will create competing interests to environmental considerations, in particular if, as the EPA believes, it is likely that future studies show that urban development in those areas is unacceptable. This issue might be getting a bit complex for some, but it is important to understand it because, as I say, it is at the very crux of the problems surrounding this amendment.

The Minister, Mr Lewis, said in the Assembly and every time he has gone before the public on this issue that he does not know what people are worried about. He said the Government does not propose to rezone the area urban, but urban deferred; that means the Government will not allow any urban development on it for at least another 10 years - into the early years of next century; so, according to him, we do not have a problem. The Minister completely misses the point, notwithstanding the fact that it was pointed out to him very clearly by the EPA, that by rezoning land urban deferred we understandably set up a very strong expectation among the persons who own that property, and land adjacent to it, that at some future stage the area will be zoned urban. The financial consequences impact immediately on the landholders in those areas. Once their land is rezoned from rural to urban deferred they almost invariably find themselves paying higher rates.

In the past these areas have suffered from rural blight to some extent because their prospects in the long term as rural properties were limited, and the amount of capital that would normally be invested has heavily declined. Once we hold out to the landowners the considerable sum of money they stand to gain from such a division, we have a powerful group that will lobby and fight for the eventual change of the zoning from urban deferred to urban. If we did not transfer this land to urban deferred, and attempted

to do the environmental protection studies advocated by everyone who has looked at this issue, and waited until those studies had been completed before we adopted a rezoning, rather than doing it as the Minister proposes - that is, rezoning first and studying later - we would not have any of those problems.

In looking at the two possible ways of approaching the matter - changing now and doing the studies later - we have set out the disadvantages that will generate; namely, the financial disability to the current landowners which will create many problems for Government should it be found, as we believe it will be in this instance, that it is environmentally unacceptable to proceed with urban development. If the Minister chose the other way - that is, doing the studies first before changing the zoning - there would be no disadvantage.

It is not possible to point out one benefit that arises from proceeding with the way the Minister proposes over the way we propose; that is, to simply leave this area zoned rural, and if the Minister is keen to look at a future urbanisation of the land, let us do the environmental studies first. The Minister has said that he has noted the advice of the Environmental Protection Authority; however, clearly he has not acted on it. I repeat this to make sure everyone understands; certainly the Minister does not: The EPA advice is categorically that the area should not be rezoned now, not simply because further studies need to be done - the Minister said he would do the further studies after the rezoning - but because it will create expectations and financial disabilities that may not be able to be met once those studies have been undertaken.

Now that the Board report has come out it is even less likely that this area which is being rezoned from rural to urban deferred will ever get approval for urban development, even once the studies are approved - that is, if the Government is prepared to act on these recommendations - therefore, it will not be able to be rezoned from urban deferred to urban. The reasons for that are contained in the Board report. The report found that Perth was the last city to have retained a pristine underground water supply, and that we must jealously guard it. I turn in particular to recommendation No 8 at page 172 that -

> An Interdepartmental Committee be established, under the provisions of the State Planning Commission Act, to consider all draft legislation and planning decisions, including amendments to the Metropolitan Region Scheme in relation to or which impact on groundwater catchments.
>
> The proposed Committee's mission is to give the highest priority to the protection of water supplies for present and future generations on a sustainable basis when considering development on public water supply groundwater sources. The Committee should adopt the precautionary principle, when considering proposals for developments over groundwater mounds, of taking into consideration that the State of Western Australia is land rich and water poor.
>
> The Committee should be equally represented by planning, water and environment agencies.

The theme coming through the Board report is that there needs to be a whole of government approach to this area; that the Government is proceeding with amendments to the metropolitan region scheme which have not been sufficiently coordinated and have been dominated by one agency - the planning agency - over the other agencies, such as the Environmental Protection Authority and the Water Authority of WA. If the Government intends to act in the spirit and in the letter of the Board report - as the community unequivocally wants it to - this recommendation must be taken note of, and this amendment, which has not yet been put into effect, must be withdrawn until such an interdepartmental committee has been formed to enable it to be reassessed in the light of the ethic that is set down in that recommendation; that is, the ethic of the precautionary principle that where there is a conflict, priority is given to the protection of the ground water over the development of land.

The Board report goes on to consider specific threats to the quality of our ground water supplies. It took a considerable amount of evidence, locally and overseas. The

Commonwealth Scientific and Industrial Research Organisation gave evidence that ground water in urban areas had considerably increased levels of chloride, sulphate and general nutrients. Both the Water Authority and the CSIRO gave evidence that their extensive studies had established that very high levels of nitrates leach into the ground water, particularly in summer, and that these nitrates were clearly sourced from fertilisers applied to urban lawns. However, it is not just fertiliser which is a problem. Dr Ray Steedman, the Chairman of the EPA, noted that the pollution records from the EPA showed that as soon as urban development takes place, trichlorethylene, pesticides and hydrocarbons are found. Overseas experiences endorsed these submissions from our local scientists.

After considering these submissions at some length the select committee concluded that land use control was an integral part of any plan to protect ground water supplies on our major aquifers. As we all know, the Gnangara mound, the aquifer which will be affected by these amendments, is the most important aquifer within the metropolitan area. In order to give effect to that, the committee established some clear classifications of activities that were acceptable and unacceptable in priority catchment areas. The determinations made in the Board report were clearly referable to those of the scientific submissions I outlined earlier. About one-third of the 800 hectares we are talking about are priority 2 areas.

[Questions without notice taken.]

MINISTERIAL STATEMENT - MINISTER FOR HEALTH
Questions, Answers Tabled Without Approval Approved

HON PETER FOSS (East Metropolitan - Minister for Health) [5.33 pm] - by leave: On 30 November 1994, answers to parliamentary questions 1189, 1190, 1191, 1272, 1273, 1274, 1309, 1311, 1349, 1351 and 1462 were tabled in the House without my approval. It is my policy, which I believe is the correct policy, that answers to questions directed to me as Minister representing another Minister in the other House only be tabled with my approval. I have subsequently reviewed the questions which were directed to me as the Minister for Health representing the Minister for Labour Relations; Works; Services; and Multicultural and Ethnic Affairs, and approve of the answers that were tabled. I have also taken measures to prevent a recurrence.

MOTION - METROPOLITAN REGION SCHEME AMENDMENT No 950-33 NORTH EAST CORRIDOR, DISALLOWANCE

Resumed from an earlier stage of the sitting.

HON A.J.G. MacTIERNAN (East Metropolitan) [5.34 pm]: This proposal is to rezone 800 hectares of land from rural to urban deferred. Approximately one-third of the area under examination for proposed rezoning has been classified under the Western Australian Water Authority ground water classification system as priority 2.

Hon Derrick Tomlinson: What area does it cover?

Hon A.J.G. MacTIERNAN: It is the area south of Park Street. It is a little hard to specify exactly. However, it is an area from Park Street down probably to Youle-Dean Road.

Hon Derrick Tomlinson: In the Ellenbrook area.

Hon A.J.G. MacTIERNAN: No, it is in the Henley Brook area. We are definitely not talking about the Ellenbrook area.

Hon Derrick Tomlinson: South of Gnangara Road?

Hon A.J.G. MacTIERNAN: Definitely. There is an area directly south of Gnangara Road and another area south of Park Street.

Hon Derrick Tomlinson: Are you talking about the northern part of -

The PRESIDENT: Order! The member will address the Chair.

Hon A.J.G. MacTIERNAN: I am sorry, Mr President. It is a little confusing. Unfortunately, we have not been provided with any maps that overlay the two areas covered by the proposed rezoning. I was trying to assist the member opposite because it is a very important issue. My source of information for the ground water classifications is contained in the EPA advice on the amendment. It is a question of matching those with the map that has been tabled in the Parliament which outlines the rezoned areas. Roughly, it is the Henley Brook area immediately to the east of Whiteman Park. The other areas further south of Whiteman Park and south of Harrow Street are primarily priority 3 areas - some parts have no priority at all. Fundamentally, we are talking about the Henley Brook area which is classified as priority 2.

The Board report sets out clearly and unequivocally the sorts of activities that are acceptable uses. They include all of those uses that are included in priority one areas such as conservation zonings, nature reserves, national parks, areas for scientific research, etc. However, further acceptable uses are added for priority 2 areas and include rural use limited to extensive grazing with low applications of fertilisers and special rural use with a minimum lot size of 2 ha with certain clearing limitations and limitations on the use of chemicals and no commercial use for the storage of fuel or chemicals. More importantly, it lists activities absolutely unacceptable in priority 2 areas including, relevantly, urban uses and residential uses with lot sizes of less than 2 ha. Unfortunately, the zoning that is proposed in this amendment is in direct contravention of those recommendations. The zoning that is eventually anticipated here is urban because there would be no point in rezoning to urban deferred if at some later stage it was not intended to zone urban.

It is important to note that this priority 2 area within the rezoned segment contains already two fully operational Water Authority bores. One bore is on the boundary of this area. However, its catchment extends well into the area proposed to be rezoned. That bore is numbered 282. On the latest figures we could find, that bore is drawing 340 000 cubic metres per annum. The other bore, No 182, is right in the heart of the proposed priority 2 area. Its annual production each year is 240 000 cu m. They are not the biggest bores in the area, but they are certainly bores of a substantial size. Their existence brings home to us the importance of protecting the priority 2 area because they are substantial suppliers of water to the metropolitan area. The priority 2 zoning in this case is not notional; these are areas that are well and truly in production already.

I will reiterate the argument because it is very clear that the Minister for Planning does not understand it: The fundamental point is that one should not rezone land from rural to urban deferred unless the very strong possibility exists that at the end of the day the land will be zoned urban, because of the immediate financial impact on landholders in the area and the expectations that will be created by the rezoning. The EPA report threw grave doubts upon the capacity of this area ever to be rezoned, not simply for reasons to do with ground water but also, as my colleagues will set out later, for a range of other environmental reasons. With the very clear and unambiguous report and recommendations of the Board inquiry, which outline what is and what is not acceptable in priority 2 areas, it is almost impossible to imagine that this area could ever be zoned urban. It is quite irresponsible and improper for the Minister for Planning to insist that this area should be rezoned urban deferred.

We also have slightly lesser concerns, which I will flag now, in relation to priority 3 areas, and they lie further to the south and the south east of Whiteman Park. The Board report acknowledges that in certain circumstances one can have residential areas over priority 3 areas. However, it indicates that they should be designed using water sensitive design principles and should be accompanied by education on the use of water and of fertilisers and pesticides. Evidence suggests that some priority 3 areas in this plan are of extreme sensitivity and that it is unlikely we will ever be able satisfactorily to develop a drainage system that would enable this area to be developed in such a way that would minimise pollutants reaching the water catchment area. Anything we did in that direction would probably result in those nutrients being flushed into the Swan River, which is

hardly an acceptable option. It is important to understand that evidence given to the Board committee suggests an unequivocal connection between the introduction of urban areas and the contamination of water supplies. The clear message in the report is that these priority 2 areas require protection; that urban land uses are not to be approved over priority 2 areas; and that a great deal of sensitivity must be shown in relation to priority 3 areas. My colleagues will recap on my remarks later in the debate.

I will outline briefly the second issue of major concern with this amendment; namely, the location of the Perth-Darwin highway. This is a much more problematic area than the first one. What the Minister is doing with urban deferred zoning lacks any logic, but one must acknowledge a certain amount of sympathy for the Government with the conundrum it is facing in finding a suitable route for a Perth-Darwin highway given the competing fragilities, given a statement by the EPA on the location of the Tonkin Highway route and given a great deal of reluctance to move the road further east because of the impact on the Swan Valley. It must be acknowledged that the present route is located in a more sensitive area than those we discussed in the previous segment of this debate. It is in a priority 1 area. Priority 1 areas are those which have truly major concerns for water supplies in the metropolitan area and which require the highest degree of protection possible.

We have had reports from the Water Authority of Western Australia, the EPA and now the Board inquiry, all commenting on the significant risk to ground water posed by the transport of dangerous substances on roads. They have all reported, and it is a view repeated time and time again, that accidents involving the spillage of chemicals and fuels are common occurrences. I will quote a passage from the Board report because it summarises the issues very clearly -

> The transport of dangerous substances on roads presents a significant risk to groundwater, and accidents involving spillage of chemical and fuels are a common occurrence ... The standard clean up procedure is to attempt to neutralise the substance and wash the remainder into the nearest drain. On a groundwater catchment this practice can cause significant contamination of groundwater and the Water Authority requires the removal of any contaminated soil. In the case of a major spill in an area of low depth to water, clean up of a spill site may be difficult and expensive, if not, impossible.

It is clear that the area we are discussing here has a very high water table, which is the same as being an area of "low depth to water" and that the capacity for a spill to quickly result in contamination is very high. Some estimations suggest that if there were such accidents on this proposed route there would be a leeway of only five minutes before the spill would need to be intercepted before it contaminated the water supply. In other than the most fortuitous of circumstances, this deadline would simply not be met.

This whole question of the cartage of hazardous substances across the mound has been the subject of considerable study, and a special committee reported to government on this matter in 1992. Its major recommendation, which was endorsed by the Government, was that through-traffic of dangerous goods be prohibited along Neaves and Gnangara Roads across the priority 1 underground water pollution control area. If we were to persist with this road and if we were to have regard to the important predictions set down in the Board report, we would have to limit the products that were able to be carried along this road. It would be most unusual to have a highway on which people were not permitted to transport major chemicals and fuel supplies. It is important to understand that the EPA did not endorse this proposed route. I think that from time to time the Minister for Planning has suggested that it did. The EPA merely pointed out that the option was less of a problem than the Tonkin Highway option. It pointed to a plethora of unresolvable environmental problems that would emanate from the construction of this road. Most of the problems it set out were identical to the problems it identified in relation to the Tonkin Highway extension, which it considered to be totally unacceptable. Again, the important point to note is that the EPA said that it simply did not have enough information at this time to make a decision and that more studies were required.

In some ways this is not such an urgent issue because we are simply setting aside a reservation of land, although it will have some impact on planning areas and the areas developed around those roads. However, given the difficulties, and the conflict that the proposal has with the recommendations of the Board report, the proposal also should be withdrawn from the amendment and referred to the interdepartmental committee which has been recommended to be established by the Board report.

I will recap my first argument because it is one of enormous importance. It has not been addressed in any way by the Minister in any debate to date. It goes like this: First, it is beyond doubt that urban development leads to contamination of ground water supplies. It is impossible to deal with. No matter how sensitive one's management or how subtle and pervasive the education programs, it is the conclusion of scientists operating in the area that it is not possible to have urban development without having substantial contamination of ground water supplies. Hence, we must ask over which ground water supplies we will not allow urban development. The Board report looked at the resources available and the degree to which we must protect them. The report recommends that we must draw the line of urban development under priority 2. The priority 2 areas must not have urban development within them because of not only the potential but also the inevitable consequence of urban development for contamination.

We have a clear finding that contamination will follow urban development and that priority 2 areas are to include urban development. Therefore this amendment must be withdrawn. At the least, the portion must be withdrawn and reconsidered, and the matter must be referred to the interdepartmental committee - which no doubt the Government proposes to establish - to ensure that any decisions made on this amendment invoke the ethic of the precautionary principle; that is, where there is conflict between the protection of water and the development of land, the development of land is given priority because we are a land rich and a water poor State.

If the Government fails this first test of its preparedness to accept the challenge by the Board report, it will greatly diminish its standing in the community. A broad groundswell of support exists for the proposals contained in the Board report, and an appreciation by the community that this is a life and death issue. Water is an absolute sine qua non to the existence of life, our civilisation and our city. It is a matter on which there can be no compromise.

I ask the Government to seriously consider these comments. I have not set out the great plethora of other issues debated in the Legislative Assembly because they have been considered and rejected by the Government. In the intervening weeks we have received a report which the Government has given every indication it will act on. This is the first opportunity for the Government to show its bona fides. I hope that we can develop a bipartisan approach on these issues, to follow the lead set down by the -

Hon George Cash: We're listening.

Hon A.J.G. MacTIERNAN: I know. I was waiting for members to be summoned.

Hon George Cash: We do not need to; I am aware of it.

Hon A.J.G. MacTIERNAN: I understand that, but I am waiting for members to be called to consider the next order of the day.

Hon E.J. Charlton: We have that under control.

The PRESIDENT: Order! Let us get on with this motion.

Hon A.J.G. MacTIERNAN: A very fine example has been set by the Legislative Assembly select committee in adopting a bipartisan approach to the issue. I hope that the Government will give us the opportunity to adopt a similar view on this amendment. The amendment contains some positive aspects. They have been outlined in the Assembly debate. However, two important issues must be withdrawn from the amendment. They should have the opportunity to be reconsidered in the light of the recommendations of the Board report.

Debate adjourned, on motion by Hon Muriel Patterson.

ENERGY CORPORATIONS (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) BILL

Third Reading

Bill read a third time, on motion by Hon George Cash (Leader of the House), and passed.

FORREST PLACE AND CITY STATION DEVELOPMENT AMENDMENT BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon E.J. Charlton (Minister for Transport), and transmitted to the Assembly.

ORD RIVER HYDRO ENERGY PROJECT AGREEMENT BILL

Second Reading

Resumed from 30 November.

HON GEORGE CASH (North Metropolitan - Leader of the House) [5.57 pm]: I thank members opposite for their support for the Bill. The Bill will ratify an agreement made on 26 October 1994, the purpose of which is to ensure the provision of electricity to the operations carried out pursuant to the Argyle diamond agreement, and to the Argyle tourist village; and to facilitate access by the State Energy Commission of Western Australia to electricity that the partnership nominated in the agreement intends to develop in respect of a hydroelectricity power station of at least 30 megawatts at Lake Argyle. Additionally, it is intended that a 132 kilovolt high voltage transmission line from the power station to the diamond mine, and from the power station to Kununurra, be erected.

During debate last Wednesday a number of questions were asked by Opposition members. During the ensuing period I have taken the opportunity to prepare some answers. The first question, by Hon Mark Nevill, was how much would be saved by SECWA in respect of this operation. It is anticipated that the savings on operating costs will be between $2.5m and $3.5m per annum. That includes the operations of the transmission line to Wyndham. It does not include the capital cost of the line. Hon Mark Nevill also asked whether it includes the cost of the power line to Wyndham. It does not.

Sitting suspended from 6.00 to 7.30 pm

Hon GEORGE CASH: Hon Mark Nevill also asked whether the State Energy Commission of Western Australia line to Wyndham is part of the contract of the Ord's transmission lines. The answer is that the SECWA line to Wyndham is totally separate and SECWA is anticipating going to tender very soon in respect of that matter. As to the question of who bears the risk in the project, it is the Ord hydro partnership and, indeed, Argyle.

I was also asked why there were four different companies. I am advised that Pacific Hydro Groups Two and Three are the purpose built companies for Pacific Hydro's equity in the project. Pacific Hydro Group Four is expected to be renamed Ord Energy Limited, and Pacific Hydro Limited is also a signatory as it is the guarantor of the agreement. It is a commercial arrangement between the various companies associated with the Pacific Hydro Group. Hon Mark Nevill also asked whether the Coordinator of Energy can let the company off the hook. The answer is no, not to construct the project, as this is controlled by the state agreement. However, once it is built there are few operating costs. The obligation of SECWA is only to pay for the electricity that is required.

One other question raised during the debate concerned what would happen if the dam level dropped and the Water Authority of Western Australia could not get guarantees of water. That really involves the question of drought, and that is covered by the water

supply agreement, which is a commercial agreement between the Water Authority of WA and the partnership. This agreement provides the basic operating rules which share the available resource between the various users. All water required to be released from the dam can be used to generate electrical energy by releasing it through the turbines. Water released for energy production is then available for other users downstream, provided that it can be used at the time it is released. The effect of drought is to change the priorities for water release, and hence the quantities, from fully meeting the requirements of the energy production when plenty of water is available, to meeting the requirements of only irrigation or other downstream users when water supplies dwindle. In extreme situations this could reduce energy production to as low as 20 per cent of full production. In the extreme drought situation the power purchase agreement between SECWA and the Argyle diamond mines provide for the power purchasers to generate electrical energy from their existing diesel generating units. Under the water supply agreement extreme droughts are regarded as events of force majeure; that is, events or circumstances which are beyond the control of the affected party. In such an event the rights and obligations of all parties are suspended until the situation comes back to normal.

One other area was the question of fuel through the port of Wyndham. At the moment 11.8 million litres of diesel is used by the Kununurra and Wyndham power stations. I understand that Argyle uses about 60 million litres. That is anticipated to drop by about 48 million litres. Overall the drop in fuel importation is about 60 million litres with about 12 million litres still required to be imported.

Hon Tom Stephens asked a considerable number of questions. One was in respect of the generating plant at the Argyle tourist village. The question was generally along the lines of what is it and what happens to it? It happens to be a SECWA diesel facility, which will be put on stand-by for other use. Hon Tom Stephens was also keen to know how many SECWA employees would lose their jobs at Wyndham and Kununurra. I can advise that there will be a reduction in the work force currently employed to operate and maintain the diesel power stations. It is intended that this will be handled by the normal mechanisms associated with work force restructuring, and that a smaller, multiskilled team will be retained to ensure that the diesel power stations remain in good working order. Obviously they will be required to cover emergency situations.

Questions were also asked about SECWA land at Kununurra and whether SECWA intended to reduce its landholding in the area. SECWA advises that it has no intention of moving the Kununurra power station. There will be a separately fenced area for interconnection facilities. The Opposition asked who would be responsible for the powerline to Wyndham, and what would be the cost of that powerline. SECWA will be responsible for the powerline, and the estimated cost is $4m. A question was also asked about who would pay for the spillway plug and who did the work. I said by interjection that the partnership would pay for the construction of the spillway plug. That is the situation, and the Water Authority will build it. The cost will be approximately $500 000.

With regard to the reason for the differing terms in the various agreements, in fact, the SECWA and the Water Authority agreements are initially for 25 years. The state agreement is initially for 27 years, but the state agreement and the Water Authority agreement have options for a further 15 years. In historical terms the agreements are for the same length, because the Water Authority agreement starts in 1996. SECWA has the right of first refusal to renew its contract after 25 years. A number of questions were asked about the annual cost of power generation in this area. In the East Kimberley it varies between 15¢ and 20¢ a unit, depending on whether all costs and considerations, such as interest depreciation and other factors, are taken into account. In addition, there are variations between the Kununurra and Wyndham power stations. I understand the cost of production at the Argyle tourist village is between 30¢ and 40¢ a unit. Clearly, there will be overall savings to SECWA, and this is another area in which Hon Tom Stephens sought information. It is estimated, and in part this is contained in the second reading speech, that the overall savings to SECWA will be between $2.5m and $3m a year, based mainly on savings in diesel fuel use, labour and associated overheads. The

purchase price of power for SECWA should range between 7¢ and 10¢ a unit, which is considerably lower than the current production price between 15¢ and 20¢ a unit.

The State Energy Commission has also advised that the agreement with Ord Hydro will mean its operations in the East Kimberley will now approximately break even, after running at annual losses of approximately $3m. It is anticipated that the annual revenue to the Water Authority from Ord Hydro will be approximately $1m a year. This figure is based on the amount of electricity sold by the partnership. The purchase price of power for SECWA varies between 7¢ and 10¢ a unit, probably averaging between 8¢ and 9¢ a unit, depending on the amount of power purchased. With regard to the effect on the consumers, members will probably be aware that Western Australia is governed by a uniform tariff policy so that all consumers, no matter where they are located in Western Australia, pay the same tariff. Effectively, this usually means that consumers in the remote areas are subsidised by those living in the south west.

Hon Tom Stephens: Now the people of Kununurra will subsidise others.

Hon GEORGE CASH: The cost of delivering electricity to remote areas at a subsidised rate, therefore, effectively keeps tariffs higher throughout other parts of the State. The SECWA deal with Ord Hydro means a saving of approximately $3m per annum for SECWA, and will take the pressure off tariffs elsewhere in the State. A question was asked as to whether the Argyle Diamonds mine would have a longer life. I am advised that Argyle Diamonds has yet to make a decision on whether to extend the life of its mine beyond 2003. However, its contract with Ord Hydro will result in cheaper power and longer term savings, which will be a factor in the company's decision on whether to extend the life of the mine. Quite clearly, the deal will reduce Argyle's current operating costs.

Another question referred to state liability in the case of drought. Clause 31(d) of the state agreement provides that section 63(1) of the Water Authority Act shall be read and construed so that the section does not apply to any person in the water supply agreement for payment by the Water Authority to the partnership of liquidated damages as a result of failure by the Water Authority to release water to the partnership. Section 63(1) of the Water Authority Act normally provides protection for the Water Authority against claims from customers for non-supply of water. Clause 31(d) removes the protection to the Water Authority under its Act. Defaults by the Water Authority and the partnership are covered by liquidated damages and this clause in the Water Authority agreement. I am advised by the Water Authority that its operating loss in the Kununurra area was $5.4m in 1993-94. On the question of current losses, which was addressed earlier, SECWA's losses in the East Kimberley are in the order of $3m per annum. Employment opportunities were also raised by Hon Tom Stephens, as part of his 28 questions.

Hon Tom Stephens: I am very impressed by the answers.

Hon GEORGE CASH: I made the point that I wanted to obtain the information, which has provided further advice not only to Hon Tom Stephens, but to others as well.

Hon Mark Nevill: It was worth waiting for.

Hon GEORGE CASH: The Ord hydro power station will require a small permanent staff of one or two, and it is anticipated that contractors will be used for maintenance. Employment opportunities will flow from the availability of cheaper power for new industries. It is hoped that the tourist attraction of the area will increase as a result of the hydro scheme. I relate to the Eastern States situation, in which the Snowy Mountains hydroelectricity scheme generates a fair amount of tourism in the area.

The Argyle facilities include the transmission line from the power station to the Argyle Diamonds mine, mainly following the western shoreline of Lake Argyle, and facilities for stepping down the 132 kilovolt transmission line to mine voltage. The power station will be located at the foot of the dam wall, adjacent to the existing irrigation outlet pipes. It will be connected to two existing tunnels not currently used. A coffer dam will be constructed to keep the water at bay while the power station is being constructed. In due course the coffer dam will be removed. At this stage the irrigation valves will be closed,

following the completion of the power station, and all the water will go through the power station to drive the turbines.

Hon Tom Stephens: Are you saying that the power station will be built behind the existing dam?

Hon GEORGE CASH: Behind or in front?

Hon Tom Helm: Is a base already there? Will they widen it and build a coffer dam?

Hon GEORGE CASH: A coffer dam is to be built so that the power station can be constructed in the meantime.

Hon Tom Stephens asked what was the value of the stamp duty exemption. The state agreement provides for stamp duty exemption, firstly on the agreement, which is exempt from stamp duty anyway. Secondly, leases are exempt from stamp duty but licences and easements will incur stamp duty probably payable at the minimum charge of $5 per document. With respect to the third area concerning any assignment, it is calculated on the value of assets being transferred. The partnership has no assets at present, so any assignment now would not attract stamp duty. It is, therefore, clearly impossible to say what is the value of the exemption as this depends on when any assignment might take place. It should also be recognised that the exemption is for one year from the date of ratification. Therefore, in order to gain the exemption, the partnership must assign any assets prior to the completion of construction, which is due in 1996. If it did that it would have to pay stamp duty only on the value of assets at that point, say on half of the constructed power station. In that case, stamp duty would be calculated on an ad valorem basis at the rate of 4.25 per cent.

Hon Tom Stephens also asked about the supply of power to Dingo Springs and other Aboriginal communities. The 132 kilovolt transmission line to Kununurra will be built, owned and operated by the partnership rather than the State Energy Commission of Western Australia. As members will realise, it is very expensive to step down a 132 kV line to domestic usage for one pastoral station. However, my advice is that the partnership has offered to provide electricity to some local Aboriginal communities at marginal cost. The spillway weir is an existing structure and was built when the dam was built. The spillway plug is currently being constructed by the WA Water Authority. That will temporarily raise the level of the dam in the current wet season, but in the long run, dam water levels will not be much different from what they have been in the past.

Hon Tom Stephens also asked about the stilling. That is provided for in the state agreement. Stilling, as members are probably aware, allows turbulent water to settle after it exits from the power station. The powerline routes from the dam - that is, to Kununurra and the Argyle diamond mine - have passed environmental approval. The route to Kununurra is fairly direct, following the Ord Valley near Kununurra. The route to Argyle Diamonds' mine follows fairly closely the western shoreline of Lake Argyle and both routes have had Aboriginal heritage clearance. No permanent road will be constructed to service the powerline, although temporary roads will be required for construction.

The PRESIDENT: Order! Hon Tom Helm cannot stand around like that.

Hon GEORGE CASH: The powerline will go through Duracks Folly, but there is no intention of destroying the road in that area. The term of the state agreement matches the water supply agreement, but the state agreement is two years longer. I explained earlier that that is because the supply of water will not start until 1996 whereas the state agreement starts in 1994. The clause concerning road signs for roads that cross railways is included because it is a standard agreement clause that is used mainly in the Pilbara and the goldfields areas. At present no railways are planned, but it is useful to have that clause in place in case, in the future, a railway is constructed.

Hon Tom Helm asked about accountability and referred in particular to clause 8, which deals with the Minister's consideration of proposals. Approval is subject to the Environmental Protection Act. A state agreement traditionally provides for the Minister to approve proposals on behalf of the State. Accordingly, in this regard the partnership is

accountable to the Minister for the submission of details of the project which are listed under clause 7(1)(a) to (o) within the agreement.

Hon Tom Stephens indicated that he believed that the partnership had been indemnified by the State against native title claims.

Hon Tom Stephens: I did not make that point.

Hon GEORGE CASH: I am sorry, I mean Hon Tom Helm. That was because Hon Tom Stephens asked 28 questions and Hon Tom Helm had somewhat fewer. He asked about native title indemnity because he believed the partnership was being indemnified by the State. The partnership is not being indemnified by the State against native claims under federal law. The partnership has recently made arrangements with the Miriuwung and Gajerrong people which clearly did not involve the State. It therefore does not much matter to the partnership if the State challenge to the High Court is unsuccessful because the partnership has already made some arrangements, as I understand it, with the Miriuwung and Gajerrong people. However, I reiterate that the agreement does not indemnify the partnership.

Matters of industrial relations for the project are the responsibility of the partnership. The State has no involvement in any of the arrangements the partnership may make with its employees, save to say that those arrangements must clearly abide by the laws of the State. The state agreement and the Minister responsible for it cannot override the Environmental Protection Act. Submission of proposals under clause 7, and approval of proposals referred to in clause 8, are subject to the Environmental Protection Act. In addition, the partnership must submit an environmental management program as part of its construction proposals and report to the State regularly on its environmental management once the project is in operation.

Hon Kim Chance asked about the effect on the price of power if Argyle Diamonds' mine were to close. There will be no effect on the price of power to SECWA if the mine closes in eight years. SECWA's contract is for 25 years and I am advised the partnership is hopeful of having most of its debt paid off within a relatively short time as a result of the contract it has already entered into with Argyle Diamonds. If a closure occurs after that it will be profitable for the partnership with the SECWA contract. More than that, the opportunity is available for cheap power to be provided to other new industries which may locate in that region. Price escalators are built into the SECWA contract which are clearly to operate from 1 January 1995 with the corporatisation of SECWA.

That covers the various questions raised by members during the second reading debate. Again I thank them for their support and commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon George Cash (Leader of the House) in charge of the Bill.

Clauses 1 to 4 put and passed.

Schedule 1 -

Hon MARK NEVILL: If the State determines the agreement in clause 28(4) of the schedule, what happens to the plant and equipment if the company is in default of the agreement?

Hon GEORGE CASH: In that case the State is in a position to recover any of the costs of so doing from the partnership.

Hon MARK NEVILL: Would the Electricity Corporation be in a position to take over and run the power station?

Hon GEORGE CASH: Yes. Clause 28(4) of the schedule states -

> . . . the State instead of determining this Agreement as aforesaid because of such

default may itself remedy such default or cause the same to be remedied (for which purpose the State by agents workmen or otherwise shall have full power to enter upon lands occupied by the Partnership and to make use of all plant machinery and installations thereon) . . .

Hon MARK NEVILL: We have seen a big improvement in the drafting of Bills in recent years; however, sadly the agreement Acts are still written in this contractual legalistic language, which could not be justified by even the most ardent supporter of that style of drafting.

Hon GEORGE CASH: It would be unfair of me to make any comment on that at this stage, save to say that I will ensure that a senior officer from the Department of Resources Development, which was the agency responsible on behalf of the Government in negotiating with Pacific Hydro, is made aware of those comments. If it is thought appropriate, that senior officer to whom I speak may speak to Hon Mark Nevill later. I hear what Hon Mark Nevill says. It is not just the department as such which is involved in the drafting; lawyers act for both sides.

Hon Tom Stephens: We want to keep them employed.

Hon GEORGE CASH: Yes; however, it would be nice if it could be in simple English.

Hon Mark Nevill: Aren't many of these agreement Acts drafted by private companies?

Hon GEORGE CASH: No, but they are certainly considered by the legal representatives of the parties. I take Hon Mark Nevill's point. All I can say is that it looks as though he wants to put some lawyers out of work!

Schedule put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon George Cash (Leader of the House), and passed.

JUSTICES AMENDMENT BILL

Committee

Resumed from 1 December. The Chairman of Committees (Hon Barry House) in the Chair; Hon Peter Foss (Minister for Health) in charge of the Bill.

Clause 5: Part VIIA inserted -

Progress was reported after the clause had been partly considered.

Hon PETER FOSS: Hon Nick Griffiths asked whether it was possible that an order could be made in another State and take effect in this State without ever having been served on the person restrained in any place in Australia. The reason for asking that is that proposed section 181(1)(b) states that it has that effect as if it were an order of justices made under part VII and as if the order had been served under section 178. The governing part of proposed section 181 is paragraph (a) of subsection (1), so it will have no effect if it has no effect in any other State. Paragraph (a) must be satisfied before one goes to paragraph (b). Therefore, what is important is the situation in other States. It does not require that there be service.

Investigations carried out by Parliamentary Counsel indicate that all other States require either what is called service or deemed service - the concept that, one way or another, the order has been drawn to the attention of the person. The concern in this State was that if one had to actually prove service, it would be very difficult to register orders in this State, mainly because for full proof it might be that one had to go further than merely put in an affidavit of service because that affidavit might be challenged. Therefore, it is proposed that the regulations will provide that the person apply in the prescribed manner, and part

of the prescription will be that the person provide a document which shows that there has been service. However, the question of whether there has been service is not put at issue; it is part of the procedural requirements in order to obtain the registration. That will effectively mean that the person must, firstly, assert to the court that it has that effect because it has been served or has been deemed to have been served in another State and, secondly, show a document which indicates that there has been service if that person wishes to have that order registered. Rather than then put at issue as a matter of total proof that there has been service, it does allow, if later it is challenged, for that whole order to be undermined if service does become an issue; and a person can be shown to have misled the court if the effect of service is not such as is provided in proposed subsection (1)(a).

We have here a balance between the practicalities and the realities of the situation. The fact is that in Western Australia it is extremely difficult to go through what may be a full proof of service of an order, and it is believed that if people had to go through that total procedure, it is likely that it would be difficult for people to register an order in Western Australia. This clause will provide protection. There is opportunity for any abuse of the court, by alleging that it had been served when it had not been served, to be punished, but it does not require the sort of proof that we might otherwise require in the first instance if we required proof of service in each instance. I agree with Hon Nick Griffiths that it is a matter of concern, but from the practical point of view and the reality of where Western Australia is situated, there is sufficient protection if the prescribed method does require those documents to be shown. I understand that is the case, and I give an undertaking on behalf of the Government that the "prescribed manner" in the regulations will include a requirement to provide not only a certified copy of the order but also proof of the service of the order. Under those circumstances, the matter which the member raised is dealt with adequately in the circumstances.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Minister for Health), and passed.

LAND, PARKS AND RESERVES AMENDMENT BILL

Second Reading

Resumed from 23 November.

HON N.D. GRIFFITHS (East Metropolitan) [8.15 pm]: This Bill contains three discrete areas. Firstly, clause 5 seeks to amend section 9 of the Land Act 1933, which states -

> Without prejudice to the provisions of this Act relating to the right of any person descended from the original inhabitants of Australia to apply for and acquire land as a selector under the provisions of this Act, the Governor may -
>
> > if of opinion that any such person is or is liable to be at any disadvantage with respect to an application for or the acquisition of land under the provisions of this Act because of his descent -
>
> grant or lease to any such person, upon such terms and conditions as the Governor thinks fit in the best interests of any such person, any area of Crown land not exceeding the area prescribed for a selector by the provisions of section 47.

Section 47 refers to a specific area of land, and the copy of the Act at which I am looking uses the old method and says 5 000 acres. I will let others say what that means in hectares if they so desire. The change proposed in this legislation is set out succinctly in

clause 5, and proposes to facilitate grants or leases, including leases in perpetuity, with a view to advancing the interests of Aboriginal people. A number of my colleagues have the privilege of representing many Aboriginal people who may benefit from this provision, and my colleagues Hon Mark Nevill and Hon Tom Helm have informed me that they propose to deal with this provision in greater detail, so I will leave my comments about this provision at this stage.

The second discrete area is, as the Bill accurately states, to do with the removal of unauthorised structures from public lands. The current process involves giving notice, and then seeking a court order. Current section 164A(6) states -

> Whenever any person fails to comply with a notice served on him under this section within a period of 3 months after the service of the notice a court of petty sessions, on complaint by the Minister that he has not so complied with the notice, shall, upon being satisfied -
>
> (a) that the structure is on public lands without lawful authority;
>
> (b) that notice has been duly served in accordance with subsections (2) and (3); and
>
> (c) that the notice has not been complied with within the period of 3 months after the service of the notice
>
> make an order authorizing the Minister to cause or authorize the structure the subject of the notice to be removed, together with the contents thereof and the court may make such order as to the costs of and incidental to the proceedings relating to the order as the courts thinks fit, and an order so made is not subject to appeal.

The proposed change will eliminate that process. The Court of Petty Sessions process will be replaced by a ministerial order directing removal within 90 days. The time for that may be extended under proposed section 164AA. In that context I ask that members note what is said in proposed section 164A, namely, that reference to the unauthorised structure, its contents, materials, objects and fixtures becoming the property of the Crown and that they may be removed, destroyed or disposed of in any manner that the Minister thinks fit; and also what is said in proposed subsection (7), namely, that no compensation is payable to any person in respect of the removal, destruction or disposal of any unauthorised structure, contents, materials, objects or fixtures under subsection (6). Section 27 of the Land Act 1933, one of the two Acts that are the subject of this Bill, says -

> **Appeal to Governor.**
>
> If any person shall think himself aggrieved by any act or thing done or omitted to be done by the Minister or any officer of the Department, or by the exercise of any of the discretionary powers and authorities by Act conferred upon the Minister, it shall be lawful for such person, at any time within one month thereafter, or within such further time as the Minister may in special circumstances permit, to appeal to the Governor against the commission or omission of such act or thing, or the exercise of any such discretionary power or authority.

The deficiencies of that appeal process are patent, as are the deficiencies of any reliance on prerogative writs. The measure has the support of the Australian Labor Party Opposition in the Legislative Council, but the Opposition regrets and condemns the fact that there is not yet in place what it considers to be a proper process for administrative review. Such delay on the part of the Government persists, notwithstanding the clear recommendation of a certain royal commission of some two years ago. The recommendation, of course, was for an administrative appeals tribunal and that is yet to come to pass. The Government continues to fail to give proper priority to the setting up of an administrative appeals tribunal because it gives accountability no priority. That is because it is not an accountable government. It does not wish to be accountable in any realistic or proper way.

Part 3 of the Bill deals with proposed amendments to the Parks and Reserves Act 1895. It gives precision as to the definition of parks and reserves as accurately stated in the Minister's second reading speech. It deals with some aspects of operations of boards, in particular, raising the quorum from one-third to one-half. That seems to be sensible. Thirdly, it puts the power to lease in a different section of the Act following the proposed amendment, so that the power to lease is not in the same section of the Act as the powers of the body corporate. These measures in principle have the support of the Opposition.

HON MARK NEVILL (Mining and Pastoral) [8.27 pm]: I will confine my remarks to clause 5 of the Bill which will amend section 9 of the Land Act. The Minister's second reading speech says that the Bill will remove the paternalistic views expressed in section 9 of the Act. It is doing that only in part. The Bill proposes to amend the Act so the Governor may act as he thinks fit in the best interests of any such person. That seems to be a fairly paternalistic intent.

I will ask a few questions about perpetual leases that will be granted to Aboriginal people. Will these leases be able to be assigned? Will the Aboriginal lessees have to pay local government rates? Will they have to pay lease payments to the Government; and, if so, how much? Generally, will the Minister provide some details about the terms and conditions of these leases? These leases will be different from reserves. One of the perpetual leases is for the Yungelina community east of Wittenoom. It will have a perpetual lease instead of being a reserve. Under the Land Act, reserves for the use and benefit of Aboriginal people can be granted under section 29. Reserves for the use and benefit of Aboriginal people can also granted also under section 25(1) of the Aboriginal Affairs Planning Authority Act, and reserves can be granted under both those mechanisms. The important thing is that when a reserve for the use and benefit of Aboriginal people is granted under the Aboriginal Affairs Planning Authority Act, part 3 comes into play. That takes into account the requirement for permits and other things such as trespassing on land and matters relating to customary tenure that restricts the use of that area to persons who have normally been resident within the area or their descendants. By creating a perpetual lease under section 9 of the Land Act, the protections that are in the Aboriginal Affairs Planning Authority Act will not come into play.

I can see some benefits and some disadvantages in that. I ask the Minister to explain what the Government sees as the benefits of granting these living areas as perpetual leases, rather than as reserves, for the use and benefit of Aboriginal people. Will he also outline some of the standard terms and conditions of these leases and advise whether the rates, government lease payments and other conditions that apply to pastoral leases will apply to these living areas?

Hon George Cash: I do not have the documentation with me, but I will get some answers.

HON TOM HELM (Mining and Pastoral) [8.32 pm]: I, too, welcome the amendments proposed in this Bill. I am most interested in those that will give Aborigines in the Pilbara and the Kimberley additional opportunity to gain some control over the places in which they live; and, if not, for some traditional usage of vast tracts of land in those areas. I welcome the proposal that will allow the Land Act 1933 to extend the amount of land that can be given from 4 000 hectares. On a number of occasions I have spoken to the Minister about communities in the Pilbara needing to have some land excised from stations to enable them to have some leasehold opportunities over the land on which they have their living areas and their houses. I thank the Minister for his help in these matters. I have also been to see the Minister for Aboriginal Affairs, Hon Kevin Prince, and various other people about conflicts that people in the Pilbara face, not just between Aboriginal groups or between Aborigines and station owners per se. Some Aboriginal organisations are reluctant to fund houses for Aborigines when the land on which the relevant property is located cannot be registered in their name. I hope the intention of these changes is to make that operation a little simpler; and, if not, that it is a commonsense approach to these matters. I hope it will help to right some of the wrongs that have occurred within those communities.

I bring the Minister's attention to the problems at Warralong station concerning the members of two separate Aboriginal organisations who live on the station who are in conflict over the future of the station. No resolution to this conflict can be found because only one group has any rights over the station and that is the group in whom the station is vested or owned. Members of the other group feel matters should be addressed in a different way when looking at the future of those groups, and their need for a place to call their own. I hope that these proposed amendments will assist in that matter. It seems to me to be eminently sensible to have those responsibilities placed in the hands of the Department of Land Administration, with the Minister for Lands having responsibility, rather than having it vested in other government agencies, such as those dealing with heritage, and Aboriginal affairs generally, and the Aboriginal Affairs Planning Authority.

I share some of the concerns raised by my colleagues that leaseholdings and rateable values need to be addressed. My colleagues have put that case quite clearly. I will address another aspect: My suspicion that this decision made by the Cabinet and promoted by the Minister is in some way aligned with the proposals contained in the Land (Titles and Traditional Usage) Act, this State's version of the Mabo legislation; that is, it is supposedly to look after traditional rights and the claims to native title that Aboriginal people have been seeking since the decision of the High Court of Australia and the legislation passed by the Federal Government. I raise these points at this time because if this is a way of demonstrating some way down the track that this Government cares about the feelings and the future of Aboriginal people, the opposite is correct. My colleague Hon Mark Nevill mentioned that the second reading speech talks about removing the paternalistic way in which we deal with land and Aboriginal people, but I suggest that that is far from the case. These amendments are a continuation of the paternalism that has brought Aboriginal people to where they are now. I firmly believe all of the issues that need to be addressed about the future of indigenous people in this State can only be addressed by the proposals put forward by the Federal Government.

I say that because we on this side of the House have argued within Caucus and within this Chamber that the only way we can address the issues that confront Aboriginal people is by giving them the ability to determine for themselves how and where they live and how and where they conduct their lives. In the 200-odd years since 1788, the way we have dealt with our indigenous people, as was determined by the High Court, has been to the detriment of Aboriginal people. It all comes back to our ability to recognise the rights of Aboriginal people to land, rather than an ability for a Minister to put a mark on a piece of paper which will make all of these things come right. In administrative terms I am sure it is sensible for land matters to be dealt with by the Minister for Lands; I would not argue against that case. To take the next step and say who will determine who will get the land, what those people will do with it and how long they will do those things is an issue about which people in this State and this nation have a different view. The proposal is that for the right thing to be seen to be done for Aboriginal people the laws must be changed. In other words, the paternalistic attitude that has been shown towards Aboriginal people must not continue and the way to do that is not to transfer the various responsibilities from one ministry to another. It is certainly not the view of the majority of States and Territories in Australia.

Western Australia is still feeling the effects of this Government's appeal against the Federal Government's Mabo legislation. This Bill could make matters worse and underline the plight of indigenous people. It really does not address the issue. I suggest that some Cabinet members with warped minds believe that this Bill will address those issues. The Opposition can be forgiven for suspecting that in the Government's double speak on matters Aboriginal there is a strong suggestion that this Bill will take away the paternalistic attitude adopted in the past. The fact that there has been a paternalistic attitude is arguable. However, that accusation can be directed to my party as well as other parties. To continue down that track is wrong because the mind set of Australian people is changing because of their interpretation of common law as it relates to the Mabo legislation. We are pursuing the same line.

We are not taking the opportunities that this Bill presents to give Aboriginal people the

right of tenure over the land if they can demonstrate they have that tenure, not because of a lease agreement but because they have lived there in owned or rented properties. However, because this Bill is couched in the terms it is, it will provide the opportunity for someone to stand up, hand on heart, and say, "Here we are, looking at the rights of Aboriginal people; we do not need to use the Mabo legislation."

Since the end of the Second World War Aboriginal people have lived on land they do not own, but they have built houses on it. They are in a position of continuous conflict. I am referring to the missions that were built and the reserves that were granted; I am certainly not talking about any political party being in a position to say that it did the right thing, because that is not the case. It has been argued on a number of occasions that the way we treat indigenous people is made worse because instead of giving them rights over the land on which their houses are built, we should be building houses on land that those people cannot own until a Minister takes the bull by the horns and introduces amendments like those in this Bill.

Warralong is only one case in point. I understand there are two other groups - one out of Wittenoom and the other at Pippingarra pastoral station which is owned by an Aboriginal corporation. Members should consider that Jigalong is now calling itself a village rather than a mission. That is perfectly acceptable. However, some people believe that because it is an Aboriginal community it cannot be called a village or a town. The land on which the hospital, nursing post and school are constructed does not belong to that community. At Warringarri millions of dollars is being spent to provide decent houses for Aboriginal people. Again, that is on someone's station. Punmu is another place where Aboriginal people live. All these places belong to the Western Desert people. Members cannot understand why problems have been passed down from family to family and generation to generation, yet billions of dollars have been thrown at the problem. The problem could be addressed by giving the people the ability to determine where and how they shall live.

This issue concerns me the most. Other issues, including how much those people should be charged who are given leases under the proposed changes to the Land Act, are of concern. Part 5, section 41 of the Land (Titles and Traditional Usage) Act is headed "Power to grant titles and interests to Aboriginal persons generally" and reads -

> (1) For the purposes of advancing the interests of Aboriginal persons the Minister may make arrangements with an Aboriginal group or other Aboriginal persons and with the Minister administering the *Land Act 1933* for -
>
> (a) title to land; or
>
> (b) interests in land conferring rights similar in extent to rights of traditional usage,

That is one of the major reasons for this amendment. I am certainly not opposed to it.

Hon George Cash: Would you prefer us to delete clause 5?

Hon TOM HELM: Clause 5 changes section 9.

Hon George Cash: That is right. Aboriginal groups approached the Government and the Government cannot act unless it changes the Land Act.

Hon TOM HELM: That is not true and the Minister knows that.

Hon George Cash: There is a qualifying position in regard to section 9 of the Land Act.

Hon TOM HELM: I acknowledge the need to change the Land Act to give the Aboriginal groups what I have been asking the Minister to give them for some time. I know that to use the existing Acts to do that causes some complications. It is only commonsense to make these amendments. However, my fear is that somewhere down the track someone in Cabinet will say, "What wonderful people we are for amending the Land Act to satisfy the needs of the Aboriginal community."

Hon George Cash: I will not say that and I hope no-one on your side will say it.

Hon TOM HELM: Members on this side will have no need to say that. They will say the opposite.

Hon George Cash: Nothing has been done for the last 100 years.

Hon TOM HELM: Hon Ernie Bridge would take umbrage at those words. It is correct that he has not done enough and he knows he has not done enough; the Labor Party has not done enough. Hopefully through this Bill, the Minister will be able to do more than was done in the past. When, somewhere down the track, someone says what wonderful people we are, that we are not really anti-Aboriginal because we are making these amendments, my remarks will be on the record. With those words I support the Bill.

Debate adjourned, on motion by Hon George Cash (Minister for Lands).

STAMP AMENDMENT BILL (No 2)

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [8.52 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill, firstly, is to implement the Government's promise in June this year to provide a stamp duty exemption for the transfer of farming property between family members; and, secondly, to exempt from duty deeds which grant a power of attorney.

Turning firstly to transfers of farming property, the Bill seeks to amend the Act to exempt from duty transfers of farming property between family members, subject to certain conditions. Currently a farm can be transferred on the death of the owner by way of a will for only a $5 nominal stamp duty charge. However, if the transfer is undertaken while the owner is living, stamp duty is charged on the transfer at ad valorem duty rates. The stamp duty on such transfers can total as much as $30 000 for many farms. Stamp duty therefore is a disincentive to the transfer of ownership. This disincentive often leads to the postponement of the transfer of a farm to a family member until the owner's death. This postponement can reduce the incentive for family members who work the land to optimise the farm's productivity until certainty of ownership is available. By removing this disincentive the proposed exemption should enable ownership of the farm to be passed on to those family members undertaking most of the work on the farm. This should increase the commitment of those family members to the long term performance of the farm. For example, usually such transfers are from farmers to their children. With the certainty provided by ownership of the property, those children will be more likely to improve the property and to introduce new and more efficient farming techniques. Since the announcement in June of the Government's intentions, numerous representations have been received from farmers, professional advisers and industry representatives. Their comments were taken into account in preparing this Bill.

The proposed exemption will apply to an instrument of conveyance which transfers ownership of certain farming property to a family member of the transferor. "Family member" has been broadly defined to include both lineal descendants and ascendants of the transferor. Furthermore, the exemption will not be restricted to intergenerational transfers; it will apply also to cross-generational transfers such as from brother to brother, or brother to sister. This will recognise circumstances where there is a lack of commitment or interest in farming on the part of, say, one brother. As well as immediate family members, transfers to nieces and nephews will be also exempt. This will allow for circumstances where the farmer transferring the farm has no children.

For the purposes of the exemption, the definition of family member will include also

spouses and adopted or stepchildren. The exemption will apply also where the transfer is made to or from a trustee acting on behalf of the family member, with the exception of the trustee of a unit trust or a discretionary trust. With the exception of eligible trustees, the exemption will not be available to instruments of conveyance where all of the transferees are not family members. This limitation is designed to restrict avoidance opportunities.

In addition to land, property which can be transferred to family members under the exemption scheme will include partnership interests and shares in a private company. However, such partnership interests and shares will be exempt only to the extent of the property of the partnership or company that consists of land or other assets used in primary production. Transfers of other property which forms an integral part of the farming operation, such as milk quotas, egg licences and the like, which is owned separately from the land will also be eligible for the exemption. To restrict duty avoidance opportunities, no exemption will be made available for transfers of farming property into a company or unit trust. Furthermore, this Bill does not provide a stamp duty exemption in cases where farming property is being transferred into a discretionary trust. Further work is in progress to ascertain whether a legislatively workable solution can be found whereby discretionary trusts can qualify for the exemption without opening up avoidance opportunities.

The proposed exemption will apply to transfers by way of either sale or gift. However, in all cases, the family members to whom the farming property is transferred must themselves or through their acquired interest in the partnership or company continue to undertake the business of primary production. In addition, the property must not have been the subject of an exempt intra-family transfer in the preceding five years. This is aimed at limiting transfers to other than immediate family members through a chain of exempt transfers.

With the passage of this legislation, Western Australia will join Queensland, Victoria, South Australia and New South Wales which have amended, or are currently amending, their stamp Acts to remove similar impediments to transfers of the family farm. While the cost of the exemption is difficult to quantify, on the basis of available evidence it is estimated to be in the order of $4m a year. The benefit of this forgone revenue will flow directly to the farming sector of this State. This important initiative will be welcomed by many in the rural community. It is in keeping with this Government's commitment to the rural sector and our commitment to supporting Western Australian families.

As mentioned already, this Bill seeks also to amend the Stamp Act to provide an exemption for deeds which grant a power of attorney. The Government recently became aware that certain deeds which grant a power of attorney are required to be stamped with a $5 nominal duty charge. This issue arose as a result of an inquiry to the State Taxation Department by the Public Guardian's Office as to the liability to duty of enduring powers of attorney which are prepared and signed as a deed. An enduring power of attorney is a form of precaution which takes effect only when a person loses his or her decision making capacity. In such circumstances, the nominated person has the power to act for the person suffering the incapacity. This form of deed obviates the need for an application for the appointment of an administrator. They have proved to be very popular since their inception in 1990 with over 1 500 inquiries being received by the Public Guardian's Office. While it is clear that the instrument is liable for stamp duty, it is not clear that this was Parliament's intention.

An amendment to the Act in 1976 repealed the "power of attorney" head of duty. Although Parliament's intention appears to have been to exempt powers of attorney from stamp duty, the 1976 amendment has not achieved that desired result. Moreover, as it was the standing instruction of the Public Guardian's Office to inform its clients that no further legal requirements were to be met once the instrument was executed, the majority of these instruments have not been stamped. This raises the question of the validity of such instruments, especially as they are required to be presented to a court. This concern has been specifically raised with the Commission of State Taxation by the President of the Law Society of Western Australia.

This Bill seeks to amend the Act to insert a new item in the third schedule to provide that deeds which provide powers of attorney executed on or after 1 July 1992 are to be exempt from duty. It is also intended that any duty paid on such instruments since 1 July 1992 be refunded upon application to the commissioner. Given the certainty and peace of mind which these instruments can provide, particularly to aged persons and their families, the Government believes that a retrospective exemption from stamp duty in these circumstances is appropriate. The cost to revenue of this measure is expected to be negligible. I commend the Bill to the House.

Debate adjourned, on motion by Hon Mark Nevill.

FINANCIAL AGREEMENT BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [9.00 pm]: I move -

That the Bill be now read a second time.

This Bill gives effect to the new Financial Agreement between the Commonwealth, States and Territories by the Prime Minister, the Premiers, and Chief Ministers which was signed at the meeting of the Council of Australian Governments on 25 February 1994. The new agreement is an important step in the continuing evolution of the Commonwealth's financial relationship with the States and Territories. The new Financial Agreement provides for the continued existence of a Loan Council with broadly specified roles and powers and sets out certain obligations in respect of past Financial Agreement borrowings. It also provides for formal membership for the Australian Capital Territory and the Northern Territory on the Loan Council.

The original Financial Agreement between the Commonwealth and the States was made in 1927 and approved by the Parliaments of the Commonwealth and each State. The agreement established the Loan Council and required the Commonwealth and each State to submit an annual borrowing program for Loan Council approval. Under these arrangements the States could not borrow in their own name; instead the Commonwealth borrowed on their behalf. The agreement was last amended in 1976 and many of its provisions are now obsolete. In particular, since 1936 the Loan Council has regulated the wider borrowing activities of the States under voluntary agreed arrangements rather than the provisions of the agreement. In addition, the Commonwealth no longer borrows funds on behalf of the States and since 1993 the Loan Council has shifted its focus away from strict controls on States' borrowings towards monitoring of state deficits. Under the new arrangements, the existing agreement will be rescinded.

The new agreement removes the requirement for future commonwealth and state borrowings to be approved under the provisions of the agreement. This reflects the reality that for many years the States' annual borrowing programs have not been formally approved under the Financial Agreement. Instead they undertake budget sector borrowings through a central borrowing authority outside the agreement rather than under their own names. The new agreement also removes the Commonwealth's explicit power to borrow on behalf of the States. As the States now borrow outside the agreement, the Commonwealth has undertaken no new money borrowings on behalf of the States since 1987-88. The Loan Council decided in 1990 that the States would progressively take over responsibility for debt previously issued on their behalf under the old Financial Agreement. These arrangements place full responsibility on the States for financing and managing their own debt. In addition, the new agreement abolishes the restriction on States' borrowing by issuing securities in their own names in domestic and overseas markets. This again recognises that the States conduct extensive borrowing activities through their central borrowing authorities outside the provisions of the old

agreement. These borrowings are regarded by the financial markets effectively as sovereign issues and are rated accordingly.

Since 1993-94, the Loan Council arrangements have been based more on monitoring financial positions of the Commonwealth and the States, rather than on strict controls on borrowings. These arrangements were agreed to by the Loan Council at its meetings in December 1992 and July 1993. The emphasis in these new arrangements is on ensuring a high community understanding of public sector finances and facilitating increased financial market scrutiny. They reflect the common interest of the Commonwealth and the States in ensuring that overall public sector borrowing in Australia is consistent with sound macroeconomic policy and that borrowings by each Government are consistent with a sustainable fiscal strategy.

As I noted earlier, the proposed agreement was signed by all heads of government at the Council of Australian Governments meeting on Friday, 25 February 1994. To become effective, the agreement requires the passage of complementary legislation in the Commonwealth and all State and Territory Parliaments. The federal legislation passed through the Senate on 30 June 1994. Preparation of complementary legislation in all States is currently under way. In fact, legislation has already been passed by some State Parliaments. I commend the Bill to the House.

Debate adjourned, on motion by Hon Mark Nevill.

FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT BILL

Receipt and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Minister for Health) [9.06 pm]: I move -

That the Bill be now read a second time.

This Bill is an important part of the Government's criminal justice reforms. It addresses critical problems experienced in the enforcement of fines and infringement notices in Western Australia. The Bill reflects the Government's stated commitment in its law and order policy to implementing a new approach to imprisonment by providing alternative sentencing options for offenders who do not represent a danger to society, with imprisonment being a last option in those cases; and reducing the number of imprisoned offenders.

The present system of fine and infringement notice enforcement allows, in fact encourages, people who do not satisfy their fines to serve default in prison. This system, which has evolved over the past decade, no longer serves the community of Western Australia well. As a consequence, a new, coordinated approach has been developed. The greatest feature of the new system is that it will provide the option of suspending an offender's motor driver's or motor vehicle licence as a sanction for non-payment of fines imposed either by a court or under the current infringement notice provisions. With limited exceptions, this means that people who do not pay fines will no longer go to prison or serve time in a police lockup. This approach accords with findings of the April 1994 Law Reform Commission of Western Australia report on enforcement of orders under the Justices Act 1902. The Law Reform Commission has indicated its concurrence with the need to develop a new system for the enforcement of payment of fines. Similarly, the commission has indicated its support for the main premise of the new legislation. The commission suggested that there were a number of reasons for imprisonment being an unsatisfactory method of enforcement, such as the inappropriateness of imposing at the enforcement stage a penalty which was not deemed fitting at the sentencing stage; and that if imprisonment is imposed as a sentence of last resort, it is incongruous to use it more readily as a means of enforcement.

Given that 87 per cent of the adult population possesses a motor driver's or motor vehicle licence, suspension provides a realistic and administratively efficient means of enforcing a fine and an infringement notice. In 1992-93 approximately 450 000 infringement notices were issued by the police and local government. Around 100 000 fines were imposed in Courts of Petty Sessions, only 40 per cent of which were paid without the need for enforcement action. Little encouragement or incentive is provided to offenders to pay their fines promptly. Payment can be avoided and the enforcement process prolonged. The police enforce in excess of 100 000 warrants for unpaid fines and infringement notices each year. This task consumes massive police resources and takes police away from other significant policing duties. In addition, community corrections staff are required to administer approximately 14 000 community work and development orders each year. Many of these are undertaken by offenders who can afford to pay but refuse to do so.

Along with the human resource implications are outstanding fines totalling more than $13m. Many of these fines and infringement notices have been outstanding for over 12 months. Current enforcement strategies are not cost effective. In 1993-94 the average cost a day of keeping a prisoner in Western Australia was $171.71. It is illogical and a waste of taxpayers' funds that an offender presently is able to serve default in prison at a rate of $25 a day when this results in a cost to the State of more than $170 a day. The integrity of the fine as a viable sentencing option is under serious threat because the system permits a defaulter too many options and is open to abuse. Fine defaulters who accumulate a large number of fines are able to extinguish their fines by serving default or performing community work on just one fine. This means that fines can be discharged through work and development orders and prison at a rate far in excess of average daily wages. It also encourages offenders to avoid paying their fines because one work and development order or prison term can be used to discharge one or any number of fines with no additional time penalty.

According to the Law Reform Commission report, some 34 per cent of all receivals into prison comprise persons detained solely for fine default. That figure does not include those who spend time in police lockups. At present, approximately 1 800 persons are imprisoned each year for fine default. It is estimated that the great majority of the 5 000 persons incarcerated in police lockups each year are also fine defaulters. Fine defaulting is also the major reason for the imprisonment of Aboriginal people. According to the recently released regional planning profile on Western Australia's Aboriginal people, 60 per cent of Aboriginal prisoners were serving sentences for fine default only. In addition, few enforcement options are available for use against corporations. As a result, 90 per cent of all warrants issued against companies are ineffective.

In summary, the current enforcement system fails to collect in an equitable, effective or efficient manner. It impacts adversely on all participating agencies, particularly the police and community corrections, and results in a high level of imprisonment for fine default. The non-collection of monetary penalties has a marked effect on government finances. It reduces the revenue collected from fines and infringement notices and necessitates the use of additional resources to pursue fine defaulters and provide them with work and development orders or imprisonment. The new system of fines and infringement notice enforcement will strengthen the integrity of fines as a sentencing option; increase the payment of fines without enforcement; minimise costly enforcement actions; and significantly reduce the number of fine defaulters going to prison.

The new system has two separate parts. The first relates to fines imposed by the courts and the second to infringement notices. The court fine system recognises that enforcement is best managed administratively. Consequently, administrative officers will be empowered to consider and grant time to pay. This will reduce the time needed by judicial officers to deal with the administrative aspects of criminal matters in court. Judicial officers will retain the function of deciding whether a fine is appropriate and determining the amount of the fine. The Bill will also enhance sentencing flexibility by allowing stipendiary magistrates to order serious offenders convicted of indictable offences to remain in custody until the fine is paid. One such example might be where

the magistrate considers that there is a likelihood that the offender may leave the country. After the imposition of a fine, the offender will be required to report to the managing registrar. The registrar will determine a time-to-pay arrangement based on an examination of the offender's income, expenditure and assets. In addition, the managing registrar will provide information relating to methods of payment and the consequences of the new enforcement mechanisms.

If a time-to-pay arrangement is breached or payment in full is not received, the offender will be sent, by normal post, a notice advising of the suspension of the motor driver's licence or the motor vehicle licence. The notice allows a further 28 days to pay the fine in full. Failure to pay will result in the driver's or vehicle licence being suspended. On suspension, written confirmation will be posted to the defendant. No further enforcement action is taken at this stage. The licence will be reinstated only on full payment of the fine. The defaulter will not be able to elect to perform community work, discharge the penalty in prison, or apply for an extraordinary driver's licence. These options would provide the offender with the ability to avoid payment and delay enforcement. Payment of the fine is the intended punishment of the court, not imprisonment or community work. As suggested by the Law Reform Commission, this aspect of suspension will need to be monitored by the Ministry of Justice to determine the extent to which any undue hardship occurs as a consequence of this provision. Those fine defaulters who do not possess a driver's or vehicle licence will be subject to a warrant of execution to seize goods and land which will be sold to satisfy the fine. Warrants of execution also will be issued where, after a suitable period - generally 12 months - licence suspension is found to be ineffective. These warrants will be administered by the Sheriff of Western Australia. The sheriff will have the coordinating responsibility to delegate to sheriff's officers in all parts of the State, be they private, public or police officers acting as sheriff's officers. Six country areas have been identified where private enterprise will have the opportunity, through a competitive tendering process, to execute warrants on behalf of the sheriff. This will free up at least 20 police officers to allow them to perform other more important police duties.

Police will continue to execute warrants in the central and northern parts of the State. The remoteness of these areas means that currently it is neither practical nor cost effective to use the sheriff. However, the continued use of police officers acting as sheriff's officers will be reviewed with a view to reducing police involvement as much as practicable. The Bill will provide the sheriff and police involved in the execution of these warrants with the powers necessary for effective fine enforcement - such as right of entry. Where there are no goods or land to seize the sheriff will serve the defaulter with a compulsory order to undertake community work. Unlike the current system, where community work is freely available, the sheriff will means test the offender before allowing community work. The work and development order scheme will therefore continue in a modified form as an alternative only for those who genuinely do not have the capacity to pay.

At present, most fines are discharged concurrently. Under the new arrangements this will no longer be the case. The conversion rate for community work will be six hours for each $100 or part thereof, with fines being cumulative. Imprisonment will occur only if defaulters do not perform the work they are directed to complete. The default rate for breach of a work and development order will be one day in prison for every three hours. This will effectively double the default rate to $50 a day. The system incorporates a series of safety nets designed to strictly limit imprisonment for fine default. Only those recalcitrant offenders who have not paid the fine imposed by the court; have not complied with a time to pay arrangement; do not possess a driver's or vehicle licence; do not have goods or land to seize; and refuse to perform community work will be subject to imprisonment for fine default. The system will apply to all matters dealt with in the Court of Petty Sessions, adult offenders convicted in the Children's Court, and other courts such as the Industrial Court and the Liquor Licensing Court. Judges of the Supreme and District Courts will have the system available to them as an enforcement option.

The infringement notice system builds on the Inrep scheme which was introduced in 1989 and is used by all major prosecuting authorities to enforce unpaid infringements. Prosecuting agencies such as the police and local government authorities will continue to issue infringement notices which allow the offender to pay the penalty or elect to dispute the matter in the Court of Petty Sessions. When the infringement notice remains unpaid after 28 days, the agency will send a final demand. This will effectively allow a further 28 days in which to pay the penalty or elect to have the matter determined in the court. If the offender has not paid the infringement or the final demand at the expiration of this period, the agency may refer the matter to the fines enforcement registry. An enforcement order will be served by the registry by post indicating that payment must be made within a further 28 days. At this time the offender may elect to dispute the infringement in court. Where the registry order remains unpaid, the defaulter will be sent by post a notice of intended suspension of the driver's or vehicle licence.

In all cases suspension of the driver's licence is the preferred option. Vehicle licences will be targeted only for corporate offenders or where no driver's licence is available. As with the court fine system, the defaulter will be given a further 28 days to pay the fine in full or face having the licence suspended. Upon suspension the offender will be sent confirmation of the suspension. A total of 112 days is allowed for payment before licence suspension takes effect. The suspension of licence is the final sanction applied to unpaid infringement notices. If the defaulter does not have a driver's licence or a motor vehicle registered in his name, the defaulter will not be able to obtain a licence or register a vehicle for a period of two years or until the fine is paid. Imprisonment is not considered an appropriate sanction, given the less serious nature of infringement offences. Debt recovery beyond this phase would require the issuing agency to take civil action through the court process.

Safeguards: The infringement notice system allows the offender ample opportunity to pay the penalty and gives considerable notice before any suspension is effected. In addition, the offender will always have the option of referring the matter to the Court of Petty Sessions for determination. In the court system the offender may apply to the court for a rehearing should the notice of suspension not come to his or her attention and if the offender was not present at the hearing.

The introduction of the system will coincide with a comprehensive public education campaign which will fully inform the community of the changes. The campaign is planned to commence across the State in early January and run through to March 1995. Television coverage will be supplemented by press and radio advertisements, with a significant focus on Aboriginal country radio in the northern part of the State. In addition, a hotline number will be provided in the Press advertising for those seeking information on outstanding warrants. A two month moratorium will be given from the date of proclamation to allow persons who have an existing fine or infringement notice the opportunity to pay and, therefore, avoid being subjected to the new enforcement system. Licence suspension will commence only after the public education campaign and moratorium are completed. The Bill will create the fine enforcement registry which will be responsible for monitoring the effectiveness of the system and ensuring that the public receives timely and comprehensive information on fine enforcement matters. The registry will, for the first time in this State, manage all stages of the enforcement process, thereby ensuring a more coordinated and consistent approach to fine enforcement. It will have direct electronic communications with police licensing to effect and lift licence suspension immediately, resulting in very cost effective enforcement.

Aboriginal offenders: The Royal Commission into Aboriginal Deaths in Custody noted the high proportion of Aboriginal prisoners held for -

> . . . traffic, good order offences, property offences and for the group of offences known as 'justice procedures', which includes breaches of orders and fine default.

The report concluded that one of the major reasons for the gross over-representation and deaths in custody of Aboriginal people was a consequence of the high levels of detention for minor offences. The disproportionate representation of Aboriginal people in Western Australian prisons is of continuing concern to the Government and the community of

Western Australia. Aboriginal people convicted by the Court of Petty Sessions are six times more likely to be imprisoned than non-Aboriginal people. The Fines, Penalties and Infringement Notices Enforcement Bill 1994 will do much to redress the balance. Along with the Sentencing Bill which is currently under development, the rate of imprisonment of Aboriginal offenders who do not pose a threat to the community is expected to be significantly reduced. The new system includes initiatives to reduce the default rate for Aboriginal offenders. Five courts around the State (Kununurra, Roebourne, Geraldton, Kalgoorlie and Perth) will have Aboriginal fines officers whose role will be to explain to the defaulters their obligations in terms and language they can understand and make suitable arrangements to pay. There will also be an Aboriginal sessional supervisor appointed to the Maddington community corrections centre who will work with Aboriginals at risk of breaching work and development orders in order to reduce the rate of breach and subsequent imprisonment.

Benefits of the new system: The new system will deliver many benefits to the community of Western Australia. Through increased effectiveness, the system is expected to generate an estimated additional $2.29m from infringement notices and an estimated additional $8.6m from court fines. This amounts to an additional $10.89m per year. Using the new system to enforce in excess of 100 000 warrants for backlogged, outstanding fines is expected to raise an estimated additional $6.5m for the State. There are also significant work hours saved by the system. Work and development orders are expected to reduce from 13 800 orders per year to less than 2 500. When the program has been fully operational for one year this will release the equivalent of 12 full-time staff to meet other government initiatives within the ministry. Using the sheriff and bailiffs to take responsibility for executing warrants along with the use of alternative enforcement strategies will release at least 20 more police for core police duties. The rate of imprisonment for non-payment of fines is expected to drop from 1 800 per year to 400 per year. It is expected that the rate of persons in police lockups for fine default will also reduce dramatically. Most importantly, the integrity of the fine as a sentencing option will be strengthened thereby confirming the fine as the most used sentence in Western Australian courts.

Conclusion: The Fines, Penalties and Infringement Notices Bill introduces a two part system which will streamline the enforcement of fines and infringement notices. Most enforcement actions will be achieved through efficient computerised transactions which will allow the system to speedily manage the majority of defaulters. The suspension of a driver's or vehicle licence is an effective enforcement strategy because for most people a licence is essential for mobility. Experience with licence suspension as a fine enforcement mechanism in New South Wales suggests that there is not a significant increase in the incidence of driving without a licence. In addition the system in that State has resulted in better than a 95 per cent payment rate. Third party insurance for victims of accidents will continue even where a person drives a vehicle while under fine default vehicle or driver's licence suspension. However, the State Government Insurance Commission has indicated that it will sue the person for the accident and claim the money through civil proceedings. The innovative aspect of extending the concept in this State to all infringement notices and fines, regardless of whether the original offence is related to a traffic matter, is based upon the inherent logic of a universal approach to the enforcement of monetary penalties. As well as being significantly more cost effective to the State, the suspension of a privilege such as a driver's licence is much less punitive and more humane than the current fine enforcement strategy of imprisonment. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

ACTS AMENDMENT (FINES, PENALTIES AND INFRINGEMENT NOTICES) BILL

Receipt and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Minister for Health) [9.24 pm]: I move -

That the Bill be now read a second time.

This Bill contains amendments to various pieces of legislation required by the enactment of the Fines, Penalties and Infringement Notices Bill also before the House. The default provisions of the Justices Act will no longer be needed as the fines Bill contains replacement provisions. The amendments propose that fines will be enforced in accordance with the fines legislation and that orders for other monetary amounts be enforced in courts of competent jurisdiction; that is, using civil remedies. The Bill also proposes amendments to the Criminal Code which will allow stipendiary magistrates to order an offender to remain in custody until the fine is paid. This power may be used only for indictable matters dealt with summarily. In addition to the above power now extended to magistrates, judges of the Supreme and District Courts will retain the right to set imprisonment defaults. They will also have the option of using the proposed fine enforcement system where considered appropriate.

This Bill seeks to amend the Bail Act so that orders for payment of bail undertakings, and recognisances pursuant to the Criminal Code, will be enforced in the same manner as an unpaid fine. Orders for payment against sureties will not be enforced past the warrant of execution. Also proposed are amendments to the Road Traffic Act which preclude an offender who is subject to driver's licence suspension due to fine default from applying for an extraordinary driver's licence. That Act also is to be amended to give effect to the suspension by the fine enforcement registry of driver's and vehicle licences issued under that Act. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

FIREARMS AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [9.27 pm]: I move -

That the Bill be now read a second time.

This Bill deals with problems identified from within the community concerning the potential for the use of firearms in domestic violence situations. The Bill makes provision for police officers to seize and take possession of any firearm or ammunition without warrant that is in the possession of a person licensed or otherwise authorised to possess it, if, in the opinion of the member of the Police Force that possession of the firearm or ammunition by a person may result in harm being suffered by any person.

As of July 1994, 109 624 persons were recorded as licensed firearm holders with 261 923 firearms recorded thereon. The State Government recognises that the majority of firearm holders are responsible in the manner in which they deal with firearms. The Government does not want to erode the rights of law-abiding citizens who have a genuine need to possess firearms. However, there are circumstances that give rise to concern and anxiety within the community. Domestic violence situations that involve the use or threatened use of firearms are of special concern. The Government has identified that these situations need to be addressed and this amending Bill addresses these community concerns. Events in August this year have highlighted how volatile domestic situations can end. Three incidents involving the use of firearms in domestic violence occurred in a very short period. One of those incidents resulted in the fatal shooting of a 38 year old woman in Dianella; another involved the use and threatened use of a firearm by a man in Swan View; and the third was a double murder/suicide that occurred in Odin Drive,

Stirling. These events are by no means the only times when firearms have been used during the course of a domestic violence situation in this State. A limited survey conducted by the Police Department over a period of seven months for 1993-94 at five centres (Armadale, Bunbury, Broome, Derby and Albany) revealed that of 726 reports of domestic violence, the threatened use of a firearm was noted by police on 11 occasions and the actual use of a firearm on two occasions. Currently a police officer is able to remove a firearm only when he believes that a person is not a fit and proper person to be in possession of the firearm.

This Bill is intended to expand the police powers by giving the police the power to seize and remove a firearm in situations where the member of the Police Force is of the opinion that possession of the firearm by a person may result in harm being suffered by any person. The Bill will also provide the Commissioner of Police with the power to revoke any firearms licence, or impose a restriction on that licence, where the commissioner is satisfied that possession of the firearm by a person may result in harm being suffered by any person. This amendment does not alter the commissioner's present obligation under the Firearms Act to give notice in writing to the firearm licence holder where any licence, permit or approval issued or granted under the Act is revoked or varied. The existing provisions of the Firearms Act which provide an appeal mechanism, whereby an aggrieved person may appeal in writing to a stipendiary magistrate against the commissioner's written decision, remain unaltered. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

FREEDOM OF INFORMATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Minister for Health) [9.31 pm]: I move -

That the Bill be now read a second time.

This Bill will amend the Freedom of Information Act by extending the expiration of the sunset clause which exempts from the operation of the Act matters covered by secrecy provisions in certain other Acts. Section 14(1) of schedule 1 of the Act provides that matter of a kind mentioned in specific provisions of the Equal Opportunity Act, the Legal Aid Commission Act and the Parliamentary Commissioner Act is exempted from the operation of the Freedom of Information Act.

Section 14(3) of schedule 1 - what is commonly called a sunset clause - provides that section 14 expires on 31 October 1994, being one year after the commencement of section 10 of the Act. If section 14(3) schedule 1 is not extended, the exemption provided by section 14 will cease to exist. This will have the effect of exposing to release under the Freedom of Information Act documents of the Equal Opportunity Commission, the Legal Aid Commission and the Parliamentary Commissioner for Administrative Investigations which Parliament has previously determined required the protection of secrecy provisions. Without section 14, section 8 of the Freedom of Information Act will operate so as to override the specific secrecy provisions in these agencies' enabling Acts.

The reason such exemptions were included in the Act in the form of a sunset clause was so that the operation of the exemptions could be examined at the time of the sunset - one year after the commencement of the Act - to see if the exemptions have operated in an equitable manner, and to consider whether the retention of the sections is appropriate. The Attorney General has consulted the agencies covered by section 14 and the Information Commissioner. Each of the agencies has requested and supports the retention of the exemption and the Information Commissioner has expressed no opposition to the exemption being retained. In the case of each affected agency the

removal of the exemption provided by section 14 would jeopardise the effective operation of the agency by removing its capacity to ensure its clients of confidentiality.

The Parliamentary Commissioner is, of course, an exempt agency by virtue of schedule 2 of the Act. However, I remind members that this exempt status does not extend to protect documents created or received by the Parliamentary Commissioner which come into the hands of a non-exempt agency. The necessity for retaining the exemption provided by section 14 is demonstrated by reference to the practice of the Parliamentary Commissioner releasing draft reports to agencies for comment before finalisation. The Parliamentary Commissioner is required by his Act to give persons about whom adverse comments have been made in draft findings an opportunity to be heard. These draft findings may be very damaging to named individuals and may be found to be untrue and not included in the final report. If the exemption provided by section 14 is permitted to expire, draft reports sent to non-exempt agencies by the Parliamentary Commissioner may become accessible under the Freedom of Information Act. The potential for damage is obvious. There are equally compelling reasons for continuing to afford exemptions to the other agencies concerned.

The issue of exemptions from freedom of information legislation is always contentious. However, on balance, the continuation of the exemptions provided by section 14 of schedule 1 is both warranted and necessary for the continued effective functioning of three agencies which provide an essential service to the public. I make it clear that the exemption afforded by section 14 does not extend to every document of the agencies concerned; rather the exemption is limited to documents containing matter covered by specific secrecy provisions. It is the Government's intention to have all exemption provisions examined in the context of a review of the Freedom of Information Act to take account of practical experience obtained since the Act became operational last year.

In conclusion, I note that clause 2 of the Bill provides the Bill with retrospective effect. Although retrospectivity is always to be approached with caution, it is necessary in this instance, dependent on the time of the Bill's passage, to ensure that the exemption provided by section 14 is continuous. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

BILLS (3) - RETURNED

1. Lotteries Commission Amendment Bill
2. Hale School Amendment Bill
3. Marine and Harbours Amendment Bill

Bills returned from the Assembly without amendment.

DAIRY INDUSTRY AMENDMENT BILL

Second Reading

Resumed from 29 November.

HON KIM CHANCE (Agricultural) [9.36 pm]: The Opposition will not support this Bill.

Hon E.J. Charlton: Why is that?

Hon KIM CHANCE: Between now and the conclusion of my comments, I think the Minister for Transport will understand why the Opposition does not support this Bill. It is an interesting question to ask at this early stage, because the peculiarity of the debate that will follow is that it has very little to do with the Bill. The Minister, of course, is well aware of that and it is a reasonable question to ask. In fact, the vast bulk of the clauses contained in the Bill are thoroughly supported by the Opposition, and it is a shame that one particular component, which is a sideshow of the Bill, means that we must come to blows. When I say it is a sideshow, I do not mean to trivialise the issue.

The people affected by the consequences of this Bill are affected in a particularly deleterious way. I will demonstrate to the House that people will lose not only their incomes and livelihoods, but also the businesses they have built up over many years and have spent a great deal of money to purchase. These are the businesses they hoped would provide their superannuation for their retirement. In even more extreme cases, people may lose their homes.

The peculiarity of the debate on the Bill, in essence, is that the debate in the public, which has been continuing for some months, has centred not so much on the Bill but on a scheme which is consequential to clause 91 of the Bill. That scheme is the distribution adjustment assistance scheme, which henceforth will be referred to as DAAS. It was first proposed by the Dairy Industry Authority, the regulating body for the whole industry, in 1992. It was proposed on that occasion that the number of milk distribution districts be reduced from 228 to 90. The DAAS arrangements were introduced as an assistance measure for those who chose to leave the industry as it entered a phase of restructuring.

Speakers on the government side in the debate in the other place tried to make some political capital by pointing to the fact that the present DAAS arrangements are far more generous than those originally proposed during the previous Government's term. To forestall any pointless debate on that issue I am prepared to accept the fact that the currently proposed DAAS arrangements are significantly more generous than those originally proposed by the Dairy Industry Authority and accepted by the previous Government. There is no question about that; it is a simple matter of figures. The figures that surround the current DAA scheme are much better than those of the scheme originally proposed.

Hon Derrick Tomlinson: It is not something of the past three months, but of years ago.

Hon KIM CHANCE: I will go into the history, but since Hon Derrick Tomlinson has raised that point, the issue began probably before 1992. In fact reports on the need for restructuring of the industry probably date back to before 1986. However, the first report I have read is dated 1986. A further report was prepared in 1988 and yet a further report in 1993. That is the report to which I will refer this evening.

Hon Derrick Tomlinson: The initiative commenced in 1992.

Hon KIM CHANCE: Hon Derrick Tomlinson is quite right, but the planning phases go back a long way. However, it is fair to say that some conflicting recommendations were made between the 1986 and 1988 reports and the 1993 report. The fact is that the original DAAS was introduced against a background of increased competition within expanded areas. It was not introduced against a background of deregulation per se, although it is true to say that the eventual aim may well have been that of deregulation. It is also true to say that, as the DAA scheme was originally structured, the concept of deregulation was some years away when it was introduced. I quote from the preface of the report of the Milk Distribution Review Committee 1993 which I think puts the issue fairly clearly -

> From 1 July 1992 the number of milk distribution districts fixed under the Dairy Industry Act, 1973, for the metropolitan area of Perth was reduced from 228 to 90 and it was decided to fully deregulate the milk distribution function from 30 June 1993. To assist those milk vendors or distributors who might wish to leave the industry -

I underline that; it is clear from those words "who might wish to leave the industry" that we are looking at a different scenario from that which we face consequent to this Bill. Consequent to this Bill some people will have no choice but to leave the industry. That is the principal difference between the backgrounds of the two schemes. To continue -

> - and to encourage some of them to do so the Dairy Industry Authority established under the above Act (the Authority) proposed an Adjustment Assistance Scheme to operate in conjunction with the move to a deregulated environment.

It is somewhat pointless for the Government to look for accolades at this stage by comparing its scheme with another, earlier stage of the process because the two scenarios

are quite different, even though it is acknowledged that when the previous Government introduced the scheme deregulation was most certainly contemplated. What may have existed had the previous Government been returned and implemented its own deregulation scheme - I do not deny at this stage that the previous Government may have proceeded to introduce deregulation -

Hon E.J. Charlton: That is not an accurate statement, because what was going to happen if the Government did not proceed to deregulate?

Hon KIM CHANCE: I said I do not deny that the previous Government, had it been re-elected, would have gone on to deregulate the industry.

Hon E.J. Charlton: I understood what you said.

Hon Murray Montgomery interjected.

Hon KIM CHANCE: How does Hon Murray Montgomery know?

Hon Graham Edwards interjected.

The DEPUTY PRESIDENT (Hon Barry House): Order! One at a time please; Hon Graham Edwards and Hon Murray Montgomery cannot hold a cross-Chamber conversation.

Hon KIM CHANCE: Thank you Mr Deputy President. I am keen to take the Minister's interjection; he has a valid point.

Hon E.J. Charlton: The point I was making was that it was not a matter of whether you deregulated or not; you may well have. To do nothing was not an option because you had gone part way down a path because the percentage of non-white milk was a crucial issue.

Hon KIM CHANCE: The Minister makes a very good point. The previous Government had pointed the industry in a certain direction and had indeed set a date for deregulation which was about 18 months prior to the present date. The fact is that the Government may have made another decision. All that I have done at this stage is acknowledge the possibility - indeed, the probability - that we were heading in that direction.

Hon Derrick Tomlinson: Not the probability; the fact.

Hon KIM CHANCE: We cannot talk about anything that the previous Government might have done in different circumstances as being a fact.

Hon Derrick Tomlinson interjected.

The DEPUTY PRESIDENT: Order! This could be a long debate and every member will have the opportunity to make his point. Please make it one at a time.

Hon KIM CHANCE: How astute of you, Mr Deputy President, to pick that this might be a long debate. Nonetheless, I am pleased we have been able to discuss the point. I deny it is a fact, because I do not think it is possible to project what another Government may have done in other circumstances. For example, had the previous Government been re-elected, it may have examined what happened in Queensland and in order to achieve the same outcome, may have sought to reverse the process it had put in place in order to implement the Queensland-type scheme. I think that is the proposition this Government should be considering because two States seem to have done it reasonably successfully; mainly, New South Wales, which is still in the process, and Queensland, which is also still in the process, but at a more advanced stage. What happened in Queensland should be regarded as the model for all States.

Having said that, I do not think the process we are going through in Western Australia is necessarily the worst. I think that title probably belongs to Tasmania where no compensation at all was paid. I will be dwelling on that situation in Tasmania later. Labor did not legislate for deregulation. Certainly it pointed the industry in that direction and some would argue - I will not dispute legitimately - that we pointed the industry to inevitable deregulation. I simply argue that it was not, and is still not, an irreversible process. The Dairy Industry Authority made certain recommendations to the then

Government. It is a fact, since we are talking about facts, that the recommendations made by the authority to the Government in the first instance were not adopted by the Government.

Indeed, the recommendation made by the Dairy Industry Authority to the Government in the first place was to reduce the number of licensed districts within Western Australia, not to 90 districts, but to 20 districts. Quite frankly, the outcome of reducing the number of districts to 20 would have been a level of deregulation that would have crushed the participants in the vending industry. It then became a matter of negotiation between the then Minister for Agriculture and the milk vending industry, which culminated in the Minister's decision to move to 90 regulated areas. The Government did not commit to the DIA's initial suggestions on the number of licensed areas, and it did not commit to the DIA timetable. There was a good reason for that.

I took the opportunity to discuss with the then Minister, Hon Ernie Bridge, the process of that operation. He was getting a number of strong recommendations, from the DIA in particular, that deregulation needed to be introduced in the interests of the industry. The DIA had identified a number of inefficiencies. I do not know whether they were perceived or real because I have not had the opportunity of looking at those reasons. Nevertheless, the DIA strongly recommended to the Government at that stage that deregulation was necessary for the continuance of a strong and viable milk industry. The then Minister wanted to be convinced that the advice he was receiving was sound, as any Minister would, because he felt the need to rely on the professional advice he was getting. I am not suggesting anything was wrong with the economic impact of that advice. The Minister had to consider also the livelihoods of the people he would affect should he implement that decision. He was strongly lobbied by the milk vending industry.

It is on the record that the milk vendors lobbied strongly against the Labor Government through a deregulation working party during the state election period. That is history now. However, it gives some idea of the intensity of the debate at that stage. Against that background the Minister made a decision not to take the DIA's advice strictly word for word. He accepted the principle of its advice that a restructuring of the industry was required, but rather than adopt the figure of 20, or some other number - at some stage either 30 or 50 was proposed - he decided that he would do less damage to participants in the industry if he adopted the principle of 90 regulated areas. The effect of that is that with 90 regulated areas, rather than some 208, there would be three times the number of licensed milk vendors in those areas, and competition would be provided within the licensed areas, which would address some of the efficiency problems that have been identified.

The proposal put forward to the Minister at that stage for DAAS was to meet a rather different, second set of circumstances. We could argue about the reasons for and the history of the scheme all night and get absolutely nowhere. The importance of the debate now is to determine whether the DAAS we have is fair and equitable. I turn to the history of the concept of deregulation. Again I quote from the 1993 report of the Milk Distribution Review Committee where it states at page 4 -

> The industry has been the subject of many reports in past years but it appears that the report which first put deregulation on the agenda was a 1986 report prepared for the Dairy Industry Authority. That report was commissioned because it was realised that the industry was encountering problems of various kinds and deregulation was discussed as one of the possible options for resolving some of the problems relating to milk distribution. At that time, of course, the distribution function was subject to extensive regulation, including price fixing.

That is an important point. The report concluded that although the negative aspects of deregulation might be more than offset by dynamic efficiency gains arising from a more competitive environment, other factors made it unacceptable. Nevertheless, the report also raised, apparently for the first time, the question of "equitable treatment of members of the existing milk distribution network" in the event of deregulation occurring.

The report refers here to the 1986 report. Even though Hon Derrick Tomlinson's comment was reasonably accurate, the fact is that the question was raised first on page 114 of the 1986 report. The report continues -

> In December of the following year the Minister for Agriculture set up a committee to look at government controls in the dairy industry "with a view to identifying unnecessary or unwarranted regulations and how proposed changes might best be implemented". In the discussion paper prepared for the committee the question of deregulation of the distribution function was again canvassed in terms not markedly different from those of the earlier report; so, too, was a proposal for phased removal of district boundaries. In its 1988 report, however, the committee judged that a move to deregulation at that time would have been "extreme and not required with great urgency" . . .

It is important that we go through the history of this matter, because we can see a picture of two reports which indicated, first, that deregulation would cause a fair amount of pain in the industry and, second, it was probably not going to be worth that pain. The report continues -

> The industry was the subject of a further report in May 1990 -

This must be the most overreported industry in Western Australia.

> - this time in the form of a background paper for what was described as a "Three Dimensional Evaluation of the Dairy Industry". On this occasion a time horizon for deregulation appeared, to be preceded by a three year period during which broader zones would apply in the metropolitan area and at the end of which "licences specific for the delivery of whole or reduced-fat market milk" would no longer be necessary.

It is in December 1990 that we see the first reference to a commitment to some form of deregulation. The report continues -

> The 1990 report led, in 1991, to a proposal to reduce the number of districts to 20 from 1 July 1991. It was further proposed that the endorsement of district boundaries and retail outlets would cease on 30 June 1994 when the need for licensing of any kind would be reviewed.

That is where we see the commitment to a date for deregulation. It continues -

> However, that proposal met with resistance and was not proceeded with.
>
> Since then the debate within the industry has been concerned more with the conditions under which deregulation could come about rather than whether it should occur the all. Specifically, the debate has centred on the extent to which the districts should be enlarged and the way in which those who are detrimentally affected by change should be compensated. It is fair to say that, health requirements apart, it is now accepted in the industry that government control and regulation of the distribution function should be replaced by self-management.

That is the first time we have seen the words "self-management" come up in this context. It is an interesting contrast with what is proposed in this Bill. It continues -

> After a false start in December 1991, when a 50 district system was gazetted but abandoned after a time, the debate about the extent to which the districts should be broadened prior to deregulation was effectively settled by the introduction of the 90 district system on 1 July 1992. The issues that remain are the time at which deregulation should occur and the measures that are thought to be necessary to enable it to occur in an orderly and equitable manner.

That pretty much brings us up to the present time. The debate about that orderly and equitable manner has yet to be resolved. That report simply has 1993 on it, but I think it came out in June 1993. Since that time, we really have achieved no progress whatsoever in determining the justice of a compensation system.

One of the difficulties in dealing with this Bill is in regard to remaining within the

standing orders. Much of the debate will centre on a specific outcome of the Bill - that is, the deregulation of the distribution and vending industry - rather than on the Bill itself, although as a concession to the standing orders, clause 91 of the Bill does address the question of payments to vendors exiting the industry prior to 1 July 1993, but I hope, Mr Deputy President (Hon Barry House), that you will allow members some discretion in that matter because it is the outcome rather than the wording of the Bill that is the critical matter and, indeed, that forms the contentious issue. As I said earlier, there is really no debate about the bulk of the Bill, particularly those factors dealing with the production end of the industry. In fact, the Opposition not only supports but applauds the Bill. It would be possible to debate the issue within the strictest interpretations of the standing orders by confining debate to clauses 39, 41 and 43, which are the clauses essentially dealing with the deregulation of the industry, but I believe that community and industry expectation of this debate hangs on the adequacy or otherwise of the compensation measures consequent to the deregulatory aspects of those clauses of the Bill rather than on those clauses of the Bill per se. In other words, while the debate might stray from a precise confinement to the Bill, the debate on compensation would not occur if the Bill did not exist. On those grounds, I hope you will be understanding, Mr Deputy President, if at times we seem to stray from the straight and narrow path of the standing orders. The Opposition supports the vast bulk of the Bill, and it seems a shame that such a small part of a major industry Bill should bring us into conflict.

I would be negligent if I did not mention, before going too far into the debate, the changes which the Bill will introduce and, in some cases, not legislate for so much as legitimise existing practice, and which will have the unqualified support of the Opposition. This Bill is an overdue document. It will transfer a wide range of dairy industry responsibilities from the Department of Agriculture to the Dairy Industry Authority. That is an appropriate measure. The Dairy Industry Authority is the regulatory body in the industry. The Department of Agriculture, which has in the past played an important role in the dairy industry, has increasingly, particularly over the last 20 years, passed its responsibilities in the dairy industry to the DIA. The Bill will ensure that regulation is retained in both the farm and processing sectors, and it is important to recognise that.

The extent to which deregulation will occur through this Bill is simply at the vending level. We will argue later whether it is in fact deregulation, but on the face of it no deregulation is proposed in either the production or processing sectors, so it is actually only in one relatively small part of the whole that the industry will go through the process of deregulation. It would be a mistake to think otherwise. Frequently when we look at Bills which introduce an element of deregulation into an industry we tend to think of the whole industry being deregulated and we get carried away with ideas about microeconomic reform and all the lovely stuff that we learnt about at school in economics. That is, in fact, not the case in this Bill, whether one is a supporter of deregulation per se or not, and I am certainly in the latter group. This is not a Bill for deregulators. Only one small part of the industry will be deregulated. I am not saying for a moment that those participants in the other sectors of the industry should not be worried, however, because there are elements in this Bill which threaten some very important industries indeed. If we accept the principles that are contained in this Bill, we are looking at a situation where other industries may be placed under threat, in particular the crayfishing industry; but one does not have to go as far as the crayfishing industry to look for examples, because we are looking also at the milk production industry.

This Bill will redefine the word "milk", and I must have been in a fairly light-hearted frame of mind when I made this word for word note during my briefing with the departmental officers, because, according to my note, the redefinition of "milk" means that milk which is not milk can be defined as milk by the Minister even if it is not milk, but to be defined as milk if it is not milk it has to contain a lot of milk. That puts it as clearly as one could hope to do it! I have just had a look at the definition in the Bill, and, contorted as it is, I think my wording is better than that. Another change which is made in the Bill is a better definition of the ministerial power to direct. It is in reasonably

standard wording and in a form of which we would all approve. It is simply a matter of bringing the 1973 Act up to the mid-1990s' standards, and we are always pleased to support that.

The Dairy Industry Authority is defined as having functions rather than simply powers. That is a subtle recognition of the change in the role of the DIA. It will cease to become fundamentally or even principally a regulating agent, although it will still have regulatory powers within the industry, but part of that bias will be taken away from the DIA and it will actually be given the different function of being a promotional agency. The Opposition supports that move. One thing that will always kill a statutory corporation or a regulatory body is staying in the one place forever. Unless government agencies with these regulatory powers are prepared to move with the times and to meet the commercial objectives that modern business imposes, those agencies are doomed. Those agencies will wind up their relevance to commerce sooner or later and in the current economic climate probably sooner than later.

Parts of the Bill legitimise things which were done and tolerated but were in fact technically outside the Act. Some of these issues are important; one, in particular, is the fact that the Bill now legitimises the practice of more than one dairy farmer using a single dairy. If there is one thing that kills regulatory agencies it is stupid rules. This was a stupid rule, and it is one that I am pleased to see the Government has taken the opportunity to strike out of the book. It was a ridiculous situation where dairy quotas were tied to a certain piece of land, that every owner of every quota on every single piece of land had to construct a dairy. It was a ridiculous situation, particularly within a family farm and a relatively close knit piece of land where three or four quotas may have been held on that land. It meant that family had to construct three or four dairies, and modern dairies are very expensive. The practice in more recent years was that this rule was overlooked. The Bill legitimises that, and that is entirely proper and something that the Opposition is pleased to support.

The Bill will also legitimise auctions of milk production quotas. This practice was going on in any case. It is not known whether the auctions were intra vires or ultra vires, but it was suggested that they were at least legally challengeable under the wording of the Act, and the Bill proposes to set that right. I have not looked into this all that closely, but I am told there is also potential for other exchange mechanisms to be put in place by the Bill, and these could include private treaty sales of auctions from one dairy farmer to another. The Opposition is reasonably comfortable with that possibility, and I cannot see any difficulty there at all.

The Bill proposes that the quota does not have to be associated with a particular dairy or piece of land. We must have that provision to free up the means and availability of exchange of a quota, which is the property right people hold in the licence to compete within the industry. The surrender process for quotas has been eliminated for two reasons: The first is that it has been effectively redundant for the past 10 years, and the second, and more important, is that the auction process is available. People who may not require a certain level of quota - they may want to reduce their quota because they may be moving into retirement mode or have changed their property management - are now able to present that quota for sale by auction. That removes the necessity to change a quota. A quota is a very valuable commodity. The dairy industry annual report gives some idea of how valuable quotas are. The appeal system is no longer needed. It has not been widely used in the past. We have other mechanisms which make that redundant.

The Bill provides a mechanism for the Dairy Industry Authority to make payments to vendors and distributors who are exiting the industry. This is the famous clause 91 of the Bill which will dominate discussion. The Bill contains a review clause which, in common with modern legislation, requires the Minister to review and bring the result of that review back into the Parliament after five years. Of course, the Opposition supports that. All of these initiatives are welcomed by the Opposition. We see the initiatives as a part of the evolution of a dynamic and essential industry in Western Australia. Some of the items that we have been through are matters of practice which are simply clarified and legitimised in the Bill, but in no way does that lessen the importance of the Bill.

In addition to the area of the vending and distribution industry, the Opposition is not happy with the constitution of the authority. Members using the Bill No 25-1 will note that the WA Farmers Federation was granted an as of right representation of two members on the Dairy Industry Authority. Sadly this has been removed from Bill No 25-2 as a result of an amendment by the member for Vasse. The Western Australian Farmers Federation dairy section represents virtually all of the dairy farmers in the industry. The reason for their removal from the authority is a complete mystery to me. I read the debate and the opinion of the member for Vasse. It was extremely difficult to equate what he had to say with any real need to remove the Farmers Federation from the authority. I can only hope that the Government will have second thoughts on the amendment and that it will restore the Farmers Federation to the authority, where it has made such a valuable contribution to the dairy industry in Western Australia. Although this is not something I necessarily disagree with, the Department of Agriculture is disappearing from the authority. I have already been through the reasons. The department does not have the same level of input through the dairy industry. The milk vendors' representatives, which I have some problems with, will effectively not have a role to play any more in the Dairy Industry Authority. I very much oppose and regret that, and the fact that it has happened at this level is less consequential than the causes of its occurring.

One point made very strongly to me by the Farmers Federation representatives who called on me - and I have also been to their office to discuss this with them - is that it is not possible to divide the industry into its components and then attempt to deal with each one of those components as a separate matter. The Farmers Federation view is that the industry is a whole and that whole extends from the production of milk, through its processing and distribution to its retailing of milk; and that any change to any one part of that chain will affect the whole industry. It is a refreshing point of view. It may be one that we see expressed in this industry because the producers have a view of the whole chain of production, marketing, distribution and consumption of the product. That is something that few primary industry growers have, apart from southern beef producers. The bulk of primary industry produced in Western Australia is exported and we tend to lose sight of it at the waterfront. The commodity milk competes with other products - other milk, milk substitutes, cool drink and fruit juices. Every part of the industry is susceptible to costs in another part. That brings the imperative for the industry to look at all its components as a group. That is why producers have always taken a very close interest in the whole chain of production through to its final consumption. Given that level of common interest, it is not surprising that producers are extremely nervous about some of the precedents that are being set in this Bill.

Both producers and vendors need a licence in a limited entry market that is established by Statute. In each case the right to compete in that market, either by licence or quota, has established a value that has been capitalised into a transferable value, into a property right which is tradable between parties in its own right. The licence has taken on something it was never intended to take on: A value in its own right. When I say that it was never intended to take on that value, it was always inevitable that if the industry was to be profitable, it would assume a capitalised value. It may have been issued at no charge, but when entry is limited to a market which is potentially profitable, it is inevitable that the instrument of that limited entry - that is, the licence or the quota or whatever we might like to call it - will assume a value of its own.

Hon Graham Edwards: The taxi industry or the crayfish industry.

Hon KIM CHANCE: My friend Hon Graham Edwards has made a very good point. Other examples of such a market exist in the crayfish industry and the taxi industry, where a licence plate in the taxi industry is currently selling for $160 000.

Hon E.J. Charlton: That is only since I introduced the legislation. People now have great confidence in the industry.

Hon KIM CHANCE: I will pause while the Minister completes his commercial. There is some truth in what the Minister says, especially since the legislation was vastly improved by the amendments introduced by the Opposition.

Hon E.J. Charlton: Not even you believe that.

Hon KIM CHANCE: Indeed I do; so do the participants in the taxi industry.

Hon Murray Montgomery: Are you saying that it is limited entry? If I wanted to, as long as I could build a dairy, I could milk cows and sell my milk.

Hon KIM CHANCE: I am not suggesting that.

Hon Murray Montgomery: There is nothing to stop me from doing that right now. Even if Hon Graham Edwards wants to milk the cows, that is okay by me.

Hon KIM CHANCE: What is the purpose of the quota?

Hon Murray Montgomery: It is for white milk, whole milk and not flavoured milk. I can still milk cows if I want to.

Hon KIM CHANCE: I am grateful to Hon Murray Montgomery for making that point. The nature of the limited entry market is restricted to whole milk. We had a situation - it has been resolved over the years - where there were two levels of the industry: The butterfat industry and the whole milk industry. Over time - largely due to the good management of the Department of Agriculture initially and later the Dairy Industry Authority, with the assistance of the then farmers union, the now WA Farmers Federation - that situation has been gradually overcome so that very few people are without a quota to produce milk; at least I am not aware of any.

Hon Murray Montgomery: There are a few.

Hon KIM CHANCE: Do they do that by choice?

Hon Graham Edwards: It does not detract from your argument.

Hon KIM CHANCE: The limited entry nature of the market, confining the whole milk industry to licensed producers, does. It produces a value for that whole milk; whereas the producers of other types of milk are producing milk which may, or may not, give a price commensurate with the whole milk industry, with the regulated end of the industry. If producers feel they can produce for a different purpose, they are welcome to do so. It is not unlike the debate that we will deal with shortly - I hope we get to it this year - on the potato marketing legislation. We will look at the ware potato market as an alternative to the processing potato market where by regulation at the end of the industry a price will be established but farmers may produce as many potatoes as they like in the processing market but without the protection of a limited entry market. That is what we are talking about here. The limited entry market has a value because it provides protection. If producers of milk outside of the whole milk area were getting the same price for milk as licensed producers of whole milk are getting, the quota would cease to have a value.

Having established that, we must address this point: Wherever there is a limited entry market and a value placed on the right of entry to that limited entry market, the value of that licence, if it is a profitable industry, tends to form a significant proportion of a participant's total asset. That is certainly true and most spectacularly so in the crayfish industry and in the taxi industry, where the licence plate - just the piece of metal - is worth $160 000 or thereabouts. One wonders how secure dairy farmers feel at this stage where in one fell swoop the Government will not only eliminate the value of their licences but also transfer the function of those licences, and their inherent value, to someone else for no charge. This is what makes the process difficult for people to understand.

Hon Derrick Tomlinson interjected.

Hon KIM CHANCE: No, it is not; but I would be pleased to hear the member's view.

Hon Derrick Tomlinson: The licence is about white milk. The value of the enterprise relates to the total volume of milk products. You have a licence which assumes a different value because it now embraces the enterprise dealing with different products. That matter has not been addressed.

Hon KIM CHANCE: Yes. I accept what Hon Derrick Tomlinson is saying. We have already had this debate.

Hon Derrick Tomlinson: No, we have not. I have been waiting for you to get to it.

Hon KIM CHANCE: This matter was raised in an earlier debate. I will address the matter raised by Hon Derrick Tomlinson. In having a licence to distribute white milk, we establish a bottom line for a business, not unlike the way Westrail operates. Westrail is able to bid for additional work on the basis of the incremental costs of that work. Provided the basic industries which sustain Westrail are able to meet its fixed and common costs, provided that whenever it takes up new work it is able to cover its operational costs and make a dollar on the last dollar it spends, it can keep bidding down to such a price until it finally wins the work. That is the concept of incremental pricing. In the same way, if Westrail, for example, lost its grain haul, which covers a large part of its fixed and common costs, it would not be able to carry iron ore for Portman Mining Ltd. That contract would have to pick up some of the fixed and common costs currently carried by the grain industry. In the same way, a milk vendor is in business because of the white milk trade and that is what provides the basis for his business.

Hon E.J. Charlton: He was there because of that. Deregulation took place some years ago. If we take your line and we oppose this Bill and let it die, what will you do for the milk vendors?

Hon KIM CHANCE: Perhaps I will finish my previous point and then I will come to the Minister's question.

The businesses of fixed and common costs are met by the permit to deliver white milk within a defined licensed area. It is that licence and that mobility that allows the non-white milk and other products to be distributed at the same time. The member can shake his head, but that is a fact.

Hon Derrick Tomlinson: A better analogy is the one that you used of the crayfisherman. If he chooses to dangle a line over the side of the boat while he is waiting to pull up his pots, he is in contravention of his licence.

Hon KIM CHANCE: That would be illegal, but I am sure he would enjoy it.

Hon Derrick Tomlinson: It is a better analogy than the one you tried to create with Westrail. Westrail is a different proposition and it is a different entity.

Hon KIM CHANCE: I was trying to demonstrate that one part of the business is capable of picking up the operating costs and there are relative efficiencies in being able to deliver other goods and carry out other functions at the incremental cost of production. If we take away the right to distribute white milk, it becomes uneconomic to distribute the other products. In other words the business establishes a value of its own, the core of which is the licence.

Hon E.J. Charlton: If the company takes away the milk vendor's opportunity to deliver non-white milk products what will happen to the rest of it?

Hon KIM CHANCE: It would reduce the profitability of the industry if that were to occur.

Hon E.J. Charlton: There is nothing stopping that from happening.

Hon KIM CHANCE: I believe in some cases that has been done and I do not know why.

Hon E.J. Charlton: It is obvious.

Hon KIM CHANCE: It is a side issue.

Hon E.J. Charlton: It is absolutely central.

Hon KIM CHANCE: It is a side issue to this Bill because non-white milk is not an issue.

I come back to the question of what will happen if we do nothing with this Bill. I agree we have to address the situation and we cannot leave the industry limping along as it is now. It has been put to me by a number of vendors that their businesses are profitable now and they are making a living out of them. However, when this Bill becomes law they will not have the opportunity to make a living, and I will go into that in detail. While I agree with the Minister that in the longer term there is nothing wrong with his

logic that the industry has structural problems and has been crippled by the processes it has been through, I accept that governments of different persuasions have played a role in that. This Government can argue that it is trying to resolve the problem now.

The industry has been hurt by the process we have been through, but some individuals within the industry will be very badly damaged by this Bill. We must make sure we achieve what we set out to achieve with the distribution adjustment assistance scheme; that is, to ease the pain that is inevitable in a rationalisation of an industry. We do not need to argue about the principles of what is happening; we can argue about the justice issues.

Hon E.J. Charlton: Will you tell us about your way of fixing the situation?

Hon KIM CHANCE: I will eventually, but I must go through a number of things first. I do not want a repeat of what happened in the Legislative Assembly when this Bill was debated.

Hon E.J. Charlton: I hope not, especially because of some of the comments I read by some of the Opposition speakers.

Hon KIM CHANCE: I am not concerned about what people said. However, I am concerned about the processes which got that place to the point where it was close to achieving a negotiable compromise. Given that it was never going to reach an effective conclusion, the processes that place went through were less than edifying. The Minister was left with the opportunity to pull together all those divergent opinions into something approaching a compromise that may have pleased the bulk of the people concerned in the time between the Bill leaving the other place and being received in this place. It is a tragedy the Minister did not seize that opportunity and we are no better off now than when the debate concluded in the other place.

Hon John Halden: I have made it clear to the Leader of the House that we will not have that debacle here.

Hon KIM CHANCE: In case any member is in doubt about who wins in this readjustment, I have illustrated that people will have viable businesses one day, but on the passage of this Bill they will not. Someone must end up with those businesses. I will give members a clue about who will end up with them. The 1993 report of the milk distribution review committee states at page 16 that deregulation will place control of the distribution of milk and milk products very largely in the hands of the processing companies. The processing companies are clearly going to pick up the former value of the licences of these people's businesses.

Hon Reg Davies: For nothing.

Hon KIM CHANCE: Yes.

Hon E.J. Charlton: They happen to own the milk.

Hon KIM CHANCE: They do not own the transport rights. If, as the Government argued, there is a driving imperative for microeconomic reform that justifies deregulation in the distribution sector, why do these imperatives not exist in either the production or processing sector? If deregulation is a good thing - I have already disavowed any belief in that - why is it not applied across the whole front of the industry instead of to one section of it?

Hon E.J. Charlton: That is what is left. You deregulated the rest.

Hon KIM CHANCE: The Minister can tell me when the milk quotas were abolished and I will tell him when deregulation in the production sector commenced and then I will refer to the processing sector. The dairy industry is not the only beneficiary of a regulated, limited entry market. I said earlier a spectacular example of this exists in the rock lobster industry.

Hon E.J. Charlton: Why is that?

Hon KIM CHANCE: I will come to that.

Hon E.J. Charlton: Because you want to retain the breeding stock to retain the industry.

Hon KIM CHANCE: It is a resource management issue. That is the cause of regulation, but I am concerned about the effect of regulation. In each of these cases markets are regulated for a specific reason. The Minister anticipated my speech. The rock lobster industry is controlled in the same way as any other fishing industry for reasons of resource management. The dairy industry is controlled not for reasons of resource management, but demand management in order to guarantee the supply of a fresh, wholesome basic food item for consumers. If the reason for regulation ceases to exist or for some reason is seen to be less important than other aspects, such as economic reform, we have to look at the prospect of deregulating that market. Indeed, our history in this State and in this nation is littered with the remains of once necessary statutory authorities! In the context of deregulation, we need to consider at least two principles: First, whether the benefits of deregulation outweigh the reason for regulation; and, secondly, if such benefit can be proved to exist, what is the responsibility of government to those who will be disadvantaged by the deregulation process. Turning to the first principle - that is, whether there is a countervailing benefit - we should look to page 15 of the 1993 report in which the author said -

> The Committee is conscious of the fact that deregulation may be seen by many to have been a costly, damaging and ultimately fruitless exercise unless improved service and lower real costs of distribution, beyond that which might have been expected without it, result from it. While the Committee believes that in the medium to longer term deregulation will have beneficial results it is unable to make a quantification of likely net benefits.

The people who wrote the report could not say there would be a benefit from the deregulation of the industry. The report continues -

> It notes that earlier reports appear to have faced the same difficulty. Moreover, it is important to keep in mind that whatever benefits may accrue they may not flow through directly to the consumer.

That is an interesting sideline to the point of view that, first, the committee could not tell us what benefits there might be, but, secondly, it is also telling us that, if there are benefits, unquantifiable though they might be, they may not flow to the consumer. It goes on to say -

> It is conceivable that they may be wholly or substantially absorbed in the processor/distributor/retailer chain. In any event the Committee is not able to say that the short-term net benefits to the community of removing licensing and district boundaries are demonstrably so great that deregulation should proceed immediately without regard for the other matters to which the Committee has referred.

The "other matters" that it referred to include, on page 14, the comment -

> Given the Committee's acceptance of that situation, its concern has been to decide when and by what further steps deregulation should come about. In reaching its decision on those matters the Committee has considered the possible disruptive effects of moving to deregulation on 1 July 1993. Its concerns in that respect arise from the fact that while it is intended and expected that the processing companies will take control of distribution from the time that regulation ceases they have not carried out the necessary preparation to enable them to do so by that date. Consequently, if regulations were to cease on that date, vendors and distributors would find themselves suddenly bereft of the protection of district and endorsement limitations, exposed to the possibility of predatory incursions and without any secure arrangements with the processors. In what has the potential to be a very confused situation, larger retailers may add to the confusion by seeking to establish their own delivery systems or by pressing for price reductions or both.

That is the situation of which many milk vendors are extremely frightened. I referred

earlier to the situation of leaving the industry in its crippled state, now that we are facing difficulties. I do not want to argue with the Minister on matters of principle. There are differences in the way we may perceive certain values. However, in general, we are aware at least of the difficulties that exist. What the authors have predicted there is pretty much the situation now. The report goes on -

> As mentioned above, it is possible that supply to some consumers or customers might be interrupted or curtailed. While the exact outcome cannot be predicted with certainty, it is certain that to deregulate from 1 July 1993 would place all or most of those engaged in the processing and distribution functions and perhaps many of those in retailing under considerable, and in the view of the Committee unnecessary stress.

What we have to ask ourselves at this stage is, what has changed since the report was written?

Hon E.J. Charlton: Seven million dollars, my friend.

Hon KIM CHANCE: I suggest not much at all has changed. I will be keen to talk about that a little later. I have a further short quote which is relevant at this stage. It is a quote from the dairy industry regulation working party and its date is much more current than the report from which I have just quoted. It is dated 10 June 1994 and is about consumer prices post deregulation. It is something we should note very carefully if we are motivated in this, apart from wanting to see some justice and equity, by a need to see consumers well served by an important industry. The working party said on page 3 -

> The stated public position of the two dairy companies, who participated in the Kelly Committee, was that the regulated licensing arrangements were an acceptable method of operation to both Masters Dairy and Peters & Brownes Group, -

I underline that "the regulated licensing arrangements were an acceptable method". The quote continues -

> - and it was their expectation that real distribution costs could rise as a result of the proposed cancellation of licences, on the grounds that under deregulation, retailers were likely to have two distributors calling on them instead of one at present.

The fact is that there is a distinct possibility that there may not be two distributors calling on them but, with the entry of a further two processors into the market, four distributors calling on them every day.

Given the date of that document, 10 June this year, and the fact that the processors have put the view, firstly, that deregulation is possibly not the best way of going about it and, secondly, that it could result in higher prices for consumers, we have to start being extremely serious about whether we are going in the right direction. Acknowledging all of the things that I have said to the Minister about the current state of the industry - that is still not a matter of dispute - I wonder if we have not gone too far down the wrong track. I said much earlier that I was fond of the concept that was introduced in Queensland. However, to have taken our industry to a stage where we could have done what was done in Queensland, we would have had to reverse the process that was started in 1991 or 1992 - we would have had to go right back to the beginning.

Hon E.J. Charlton: What is your assessment of the good things in Queensland?

Hon KIM CHANCE: What is different about Queensland and what happened here is that the licences were actually paid for in the first instance. Every licence, or at least the licences of those vendors who wanted to participate in the scheme, were paid for. The E-type vendors in the Queensland scheme chose to stay outside the scheme. That meant that in the future their contribution would be very much less. They were paid the assessed value of their rounds. I have it here in writing that there were cases where those payments went up by as much as $1m. There were some big and successful businesses.

Hon E.J. Charlton: Who paid for that?

Hon KIM CHANCE: In effect the taxpayers put up the $80m, or at least the guarantee of the equivalent of the Queensland DAAS. They took hold of the industry and rationalised it; they put it into a shape that made sense and where distributors could make a quid within those distribution areas, and they resold them. It was as simple as that. The State was repaid by what were quite substantial levies which the distributors themselves paid - those distributors who decided to go back into the industry.

Hon E.J. Charlton: Is that because the milk industry is regulated?

Hon KIM CHANCE: Yes, and it remains regulated. I have referred to what happened in Queensland as a deregulation process but it is more accurately described as a restructuring process. At one end of the scale we have the way the industry was dealt with in Tasmania and at the other end of the scale we have what occurred in Queensland.

Hon E.J. Charlton: So that is the basis on which you would go back to the other way of regulating the price of milk?

Hon KIM CHANCE: It is an option. To do that we would have to reverse the process that has been put in place. It is perhaps not an achievable option now but we need to visit all those options as we go through.

The deregulation working party committee believes that at some time in the future there will be some unquantifiable benefit from the deregulation in the vending sector and the benefit will not pass to the consumer necessarily and is likely to be wholly or substantially absorbed by company profits, if indeed any benefit exists at all. It does not take an economic genius to understand from that statement that not only is the asset of small business being plundered in this operation but also the future profit of small business is being purloined by big business. So much for the economic reform argument.

The so-called microeconomic part of this package is also questionable. Vendors can now carry the product of all processors. Only one truck is needed to deliver all of the retailer's requirements of meeting customers' demand for choice. We now have two processors and we face the possibility of four processors. The contract system proposed to replace the licence system is based on exclusive contracts. When I say "exclusive" I do not mean that the contracts provide an exclusive market to which no other contractor can deliver. They are exclusive in the sense that once the distributor has signed one of the contracts he may carry no other products than those of the company with which he has signed. A vendor under contract to Masters cannot carry the products of Peters-Brownes, Harvey Fresh, or any other. In each case, if the retailer wants to satisfy customer demand he will require separate deliveries to be made - not by one truck but by four. I spoke recently to a retailer from Northam who advised me that, while much of his trade was with Masters, he had a large demand for Peters-Brownes' products. He can have only one product line delivered and that will be the line carried by the company which has the contract to deliver to Northam. He wanted to know how he could satisfy consumer demand for the products of the other company. I called the other company and it reassured me that it would not let him down. That can mean only one thing: If the other company will not let him down and continues to supply him - and he is a quite substantial retailer - two trucks will go to Northam every day. We can live with that in Northam because it is not too far from Perth, but how is the whole State to be organised on that basis? Other country towns have much bigger problems than those faced by Northam, but the point is adequately made. In this case deregulation is not in the consumers' interests and nor is it justified as a rational concept of economic reform.

On the second of the two principles, and probably the more important of the two, the principle by which deregulation should be qualified and the responsibility of the Government to those disadvantaged by the process, we come again to the question of the adequacy of the distribution adjustment assistance scheme. By interjection in the debate in the Assembly the Minister for Primary Industry repeatedly challenged the member for Peel to produce evidence that the legislation was unfair. I listened to the vast bulk of that debate and had thought that adequate evidence had been given that the DAAS arrangement was unfair. A number of letters had been read out during the debate to illustrate that. If the opinion of the vendors does not convince the Government then

perhaps the opinion of one of the Minister's National Party colleagues will convince him that things are not quite as fair as they should be. In the daily *Hansard* for Wednesday, 23 November my colleague Hon Julian Grill read out a letter which he said was written by the member for Collie to a milk vendor. In part the letter reads -

> I know that your individual case will bring hardship to you and I am sorry to have to bring you into the real world but unfortunately deregulation is inevitable under all governments in Australia.

Hon Doug Wenn: Who wrote this letter?

Hon KIM CHANCE: Hon Julian Grill said it was a letter written by the member for Collie to someone called Robyn. I have not seen the letter. The last line of the letter reads -

> Please save your fax money as far as I am concerned - and don't send any more faxes to me.

Quite apart from the callous, arrogant and patronising nature of that letter, the member for Collie at least showed sufficient compassion, humanity and commonsense to recognise that this vendor would suffer hardship as a result of the Government's legislation. That is a lot more recognition than that which the Minister has given these people. In her letter the member for Collie clearly acknowledges that people will be disadvantaged in this process and that the level of disadvantage will exist even after considering the mitigating effects of the DAAS. In anyone's language except that of the Minister for Primary Industry, that is not fair treatment. Government members in this place deserve the opportunity to make their own judgment on cases of unfair treatment, and I will not ascribe to them the judgment of the Minister for Primary Industry until such time as they have voted on this measure.

I will read out a letter from a milk vendor who faces the elimination of her family's business and the potential for real hardship. When I read the letter perhaps the Minister will tell me whether he agrees with the Minister for Primary Industry that the process is fair. The letter addressed to the Premier reads -

> Dear Premier,
>
> We wish to draw your attention to the situation we find ourselves in due to your proposed deregulation of the milk industry, our industry.
>
> Firstly, we bought a milk round in October 1989 for $174,000 which has been providing us with an income of approximately $1,500 per week.

Hon E.J. Charlton: When was it purchased?

Hon KIM CHANCE: In October 1989. The letter continues -

> Over these five years we have worked hard providing a service six days a week (7 days on long weekends) to our customers. We have had only one week off in these five years!
>
> David has to get up at 2.30am each morning in summer and in winter.
>
> Advice has just been given to us that we will not be given a contract by either Masters or Brownes processing companies, therefore, as soon as your proposed deregulation takes place we will no longer have our business or an income.
>
> Unless you halt the proposed Deregulatory Process our business will be handed to two bigger vendors via the currently proposed 'Contract System'. If this is allowed to proceed these vendors will not have had to pay us anything for our business or for the income that they will subsequently receive from it. This is unfair and unjust. It is also irresponsible.
>
> Apparently we will be entitled to a payment from the Dairy Industry Authority via the Distribution Adjustment Assistance Scheme (DAAS).
>
> At the rate of assistance we have been told, the amount we would be able to "claim" would be about $85,000.

> Such a sum should nearly cover our mortgage on our home which was taken out to buy the business but as you can see this would still leave us $89,000 out of pocket for the business through no fault of ours!

Hon E.J. Charlton: What is the date of the letter?

Hon KIM CHANCE: It is dated 15 July 1994.

Hon E.J. Charlton: What would be the assessment for assistance now?

Hon KIM CHANCE: That raises the difficulty. I will leave the letter for a moment. I thank the Minister for the opportunity -

Hon Derrick Tomlinson: Perhaps the member should table the letter.

Hon KIM CHANCE: I would table it but that would mean that the name would be incorporated in the record.

Hon Derrick Tomlinson interjected.

Hon KIM CHANCE: I did not ask the writer of the letter if I could identify the writer. I think the letter or parts of it were read in the other place which included the name. Leaving that aside, to answer the Minister for Transport's question: The letter was written on 15 July 1994. By implication the Minister said that the figures have changed as a result of the announcement by the Minister. I do not think that will make any difference. That is my difficulty with the Minister's proposal. He said that the total sum changed from $7.5m to $7m, and that $7m happened to coincide with the set of numbers in the Milk Vendors Association proposal which appeared a couple of days before.

My problem with the Minister's proposal is that he did not tell us how the additional $2.25m would be applied. He did not say that he would increase the number of dollars for the average daily litres delivered from 50 to 70, and that the outcome would be $7m offered instead of $7.4m. If he had, I could have said that I could update the figures. He did not say that he would lift the cap from $150 000 to $180 000. If he had, it would not make any difference in this case. The fact is that the Minister for Primary Industry made an offer: He will appoint an arbitrator who will administer the additional funds. That is fine, but even having done that he did not tell us how he would go about issuing guidelines for the arbitrator to distribute the funds.

The Western Australian Small Business and Enterprise Association faxed the Minister urgently just after 8.00 am the following day to ask the Minister about the guidelines and how the additional funds would be distributed in the new deal involving $7m. As far as I am aware, no answer to the fax has been received by the association. I am certain that the $7m is a genuine offer; I have no difficulty with that. However, if the funds are to be distributed in the same way as the $7.5m was to be distributed and the parameters change, all that can be distributed is $4.7m. The Minister cannot distribute the $7m because he has not changed the means of paying it.

The Minister said that he would establish an arbitrator. I think he commented on the letter as well. He said that an arbitrator could look at such a situation and say that it was not fair. He could allocate additional funds. I am sure that comment was made with good intent, but an arbitrator cannot do that. An arbitrator administering public money cannot distribute the $2m available to him in such cases - and members will soon see just why an arbitrator would want to - unless he works within the guidelines. On what basis would he allocate additional money? If he did so, in this case he would establish a precedent and would have to allocate funds to another person in similar circumstances. It is not the proper way to distribute public moneys unless, of course, he made a recommendation and the Minister made the final decision. That may be the way, but the Minister did not get back to anyone and say how he would do that. If that is the proposal by the Minister we will look at that.

Hon E.J. Charlton: He said that he would implement whatever was recommended to him.

Hon KIM CHANCE: I read carefully the comments by the Minister for Primary Industry

in *Hansard*. I found too many loose ends to satisfy me, but I am not important in this process. The important people are those in the Public Gallery - they are the participants in the industry.

Hon E.J. Charlton: And another couple of hundred.

Hon KIM CHANCE: Indeed, and some representatives are here tonight from the ones who ultimately will make a judgment whether this is a fair deal.

The Minister for Primary Industry has had a week between the discussions in the Assembly and events in this place tonight to get back to those people, to explain to them - particularly given that a specific question was put to him - how he will go about distributing that money. Perhaps he will be able to use that $7m in a manner that satisfies most, if not all, the currently dissatisfied people. I do not know whether that will be the case. The point is that the Minister did not take the opportunity to tell us how that would happen. He was prepared to put the money up-front and make a genuine offer, and I appreciate that.

Hon Derrick Tomlinson: If he did, what would be your position on the Bill?

Hon KIM CHANCE: My position would change.

Hon Derrick Tomlinson: It is fair and reasonable compensation. Taking an hour and a half to speak is not.

Hon KIM CHANCE: It is not that long. Let us put it this way, Hon Derrick Tomlinson: I am not prepared to say that the Bill should be given relatively easy passage, and that we will sort out this problem of fair and reasonable compensation. I am quite prepared to facilitate the process by which the Minister may be able to explain to the people in the industry how his scheme proposed last week is able to satisfy their difficulties. If those people were to advise me by one means or another that they were satisfied with the process proposed by the Minister, even though our opposition would remain, the Minister would find that the Bill would slide through this House relatively easily.

Hon Derrick Tomlinson: If those who are injured by the process are satisfied that their injury has been alleviated you would continue to oppose the Bill.

Hon KIM CHANCE: It would be opposition in name only from the minor party in this Parliament - the Government has the numbers. If the Minister can assure me that it has all the numbers locked in, has not got people conveniently missing, threatening to cross the floor or members who will move a referral motion to the legislation committee, which would be an absurd process as I am sure the member will agree, our opposition would be a technicality.

Hon Derrick Tomlinson: Your position is based on concern for what is fair and reasonable. If you are advised by the injured people that they have fair and reasonable compensation or just procedures, would you continue to oppose?

Hon KIM CHANCE: We would facilitate the passage of the Bill, and I can do that without going back to Caucus to change voting patterns.

Hon Derrick Tomlinson: You are locked in by a Caucus decision.

Hon KIM CHANCE: In anything we are locked in by a Caucus decision, but we will facilitate the passage of the Bill. As the Minister for Transport knows full well, Caucus support for a Bill can be the worst thing that a Government Minister can get. It is inevitable and certainly not personal.

Hon E.J. Charlton: Do you mean that is how long it takes to get it out of here even if it is supported by Caucus?

Hon KIM CHANCE: Sometimes we find things on which we would like to support the Minister, but we have a few problems. The Minister will find we will be passing a Bill at some time in the future, which will be handled by the Minister, which will not take long to get through this place.

I want to return to this letter. It is important we hear what this lady had to say. The

$85 000 she said she understood she would receive I believe would be no higher under the current arrangements. She continues -

> On top of this we will lose a substantial income.
>
> I don't think we need to spell out the injustice of the situation. It is morally wrong and requires immediate rectification by the State Government.
>
> We don't comprehend how this situation could have occurred under a government which has advocated fair play and a fair deal for small business.
>
> We are entitled to fair compensation for our losses and expect that we should be at the very least reimbursed at a rate of two years gross trading profits.
>
> The matter of loss of income has not been addressed at all in the proposed Deregulatory Process and it is essential that it is also compensated for in a fair way. As things currently stand we will be left in the situation where we have worked for five years and are left with NOTHING.
>
> We can not go into another Business because we will have no capital to do so. This is ethically wrong and we fail to see how any member of Parliament could allow deregulation of the milk industry to go ahead while this unjust situation exists.
>
> To add further to our problems and to our extreme anxiety we have been told by the Dairy Industry Authority that if we accept compensation under DAAS neither of us can work in the industry in any capacity for 3 years.
>
> If we did so we would be required to pay back 'DAAS money' to the DIA.
>
> Most milk vendors are unskilled workers and this is denying them a form of employment that they can do . . . this is unfair and discriminatory.
>
> Any money we receive from DAAS could also be taxable.

Given the purchase date of 1989, the advice I have now, which was not available then, is that since they bought the business after 1985 they would be subject to capital gains tax.

Hon E.J. Charlton: They would not be if they paid $104 000 and got $89 000 for it.

Hon KIM CHANCE: If the purchase was before 1985 that could well be the case. I would like to table some information which I received early today and which updates the taxation position. The letter from which I was quoting continues -

> Our taxable income in the next financial year will be $100,000 comprising $85,000 DAAS payment and $15,000 from trading for three months.
>
> The tax we will have to pay on this will be made up of $31,000 in direct income tax and $35,000 in provisional tax . . . a total of $66,000! This will leave us with $34,000, which leaves us $56,000 short of our mortgage total of $90,000.
>
> With no means of paying off this mortgage we will be forced to sell our home. Once again through no fault of our making.
>
> On top of this we will not be eligible for Social Security payments because the DAAS payment will be treated as income by the Department of Social Security. This means our son can not get Austudy; our disabled daughter can not receive a disability payment and we can not receive unemployment benefits or the Family Payment, all of which we should be able to claim if we are left without our business or our income through absolutely no fault of our own.
>
> At present we are not receiving any form of Social Security payments.
>
> We contribute to Superannuation schemes; pay private health insurance contributions; have very adequate insurance cover; are paying into a savings scheme for the benefit of our disabled daughter and are paying for our son to study full time.
>
> In general, we are paying our own way in a very responsible way. If the proposed Deregulatory Process is allowed to proceed we will no longer be able to do this.

In the "Year of the Family" our family is being placed in a intolerable situation.

Please will you do something to help us and any other person left in this position before it is too late. Rectification of all the wrongs which have or will occur need your urgent attention before the milk industry is allowed to be deregulated.

Our future lies in your hands. We trust you will not let us down.

It is our livelihood and the livelihood of countless other vendors which are at stake. Thank you in anticipation. We are relying on you to do the right thing.

Hon Derrick Tomlinson: Were the authors offered contracts at all?

Hon KIM CHANCE: No, they were not offered a contract by either processing company. This family not only will lose its income but also is to receive a compensation payment equal to less than half their payment for the business five years before. They have no capital left with which to re-establish themselves in business. They are not able to work in the business they know for the next three years if they accept the DAAS payment, under threat of losing the compensation they receive. Had they bought the business before 1985, they would have paid tax. Having paid that tax, they would have had no income, asset, home, social security, disability payment for their daughter or Austudy for their son.

Hon Reg Davies: If they bought it after 1991 they would not get the DAAS payment.

Hon KIM CHANCE: The date was 30 June 1991, assuming they had signed it. The legislation manages to take a viable small business family and turn it into a family of dependants, whose future possibly lies below the poverty line. The Minister seems to think the scheme is okay. Of course, he may not believe this case is okay and perhaps it is unfair to suggest that, but he kept telling the member for Peel in another place that he should show him an example of injustice. There are a number of examples of injustice, and I would be very surprised if a copy of that letter were not sent to the Minister.

Hon Derrick Tomlinson: Do you think it is a case that should go to arbitration?

Hon KIM CHANCE: I would rather the guidelines prevented that situation occurring. I see nothing uncommon in the situation described in that letter, except perhaps the reliance on the disability payment for their daughter. Certainly the reliance on Austudy is not unusual.

Hon Derrick Tomlinson: The issue is about business and being unfairly dealt with. Surely the guidelines could not answer that; it requires an independent arbitrator to look at it.

Hon KIM CHANCE: It would be the case if this were an unusual situation but I do not think the circumstances are unusual, bearing in mind the price paid and the time it was purchased. While going through some of the information, I picked up from a Dairy Industry Authority report on DAAS in 1992 the statement that the amount of money paid in the five years preceding June 1991 for milk rounds was $11m. That is a large amount in a relatively short period, and a substantial part of it is at risk. The people I refer to fit into that time scale and their $174 000 is a component of that $11m. In essence, the member may be correct in saying that they are a classic case for the arbitrator, as did the Minister in another place. However, if they were a case for the arbitrator, every other business would be a case for the arbitrator.

This case raises the question of why the Government has not made arrangements with the Department of Social Security and the Australian Taxation Office about the taxation status of the DAAS payments. The Queensland Government did this before it put the process in place. It put a special question to the ATO and was able to advise on the provisions that applied when the vendors reached the stage of making a decision to enter or stay without the arrangements. They made that decision in the light of an undertaking from the Australian Taxation Office. I have no evidence to suggest the same occurred with arrangements with the Department of Social Security, although I have been told that is the case. One of the responsibilities of a Government when it removes regulations and affects people in this manner, and one of the least things it should do, is to sort out on

behalf of the participants the problems which may occur in respect of taxation and social security. I quote from the Queensland Dairy Authority distribution package dated May 1994, which explains how the Queensland Dairy Authority approached the matter and sought advice from the Deputy Commissioner of Taxation. The following information dated 28 April 1994 was received from the Deputy Commissioner of Taxation -

> "What had been understood to be the "contract" for the purposes of Part 111A was then revealed to be simply a notice of intention to participate in the scheme based on a particular offer by the Dairy Authority. This was followed by a "Notice of Acquisition" issued by the QDA which merely gave notice that the acquisition of the distribution rights would take place "on and from midnight of 11 August 1993".
>
> In view of the above arrangements it is not considered that a contract as such had been entered into and that the provisions of sub section 160 U(4) should be applied. This being the case then it is accepted that the date of disposal for Part 111A purposes would be "on and from midnight the 11th day of August 1993".
>
> . . . from midnight on the eleventh day of August 1993.

In other words the whole taxation effect of the scheme and the definition of a contract for the purpose of the Taxation Administration Act were clearly spelt out before anybody needed to make a decision to commit or not commit themselves to the restructuring process in Queensland.

I have a further letter from a substantial milk vending business, Lakeside Pty Ltd, whose proprietors believe that if the DAAS payment is taxed, they will be close to bankruptcy. This brief letter, addressed to me, which the House should hear reads -

> For the past 14 years my Wife and I have owned and operated a Milk Distribution Business. Thru hard work, diligence and without help we have built this Business up until it has become to us quite a sizeable asset, employing a total of 4 Persons. An asset which when sold would have cared for my Wife and I thru our retirement.
>
> We state here that this asset has been built entirely by our own efforts, with little or no help from the Companies from whom we purchase goods to on sell to others.
>
> We have been informed by the two Dairy Companies that due to the Liberal Governments policy of deregulation that we now own nothing, NO GOODWILL, NO ASSETS, and in fact if we wish to stay in business we will have to sign a contract and in fact our freedom of trade will be severely restricted according to the whims of the Company with whom we should choose to sign. They are blatantly using the term "DEREGULATION" as a means of furthering their own interests in rather a horrendous form of re-regulation.
>
> We would in fact be owned and operated by the Dairies. They would dictate under the terms of their contract.
>
> 1. Whom we would serve.
> 2. In what area we serve.
> 3. Our total number of Customers.
> 4. What truck to buy, what colour to paint it.
>
> They would even be entitled to sell "OUR" contract out from under us.
>
> When we first entered this Business in 1980 we entered a Government Regulated Industry. We paid GOODWILL to the previous owner believing that we had a fully protected investment. An investment protected by government licence. We now find that in fact we could be owners of a kingsize lemon because the Liberal Government will not recognise the Goodwill portion of our Business.
>
> Two years ago on the open market we could have obtained in excess of $400,000.

> Today we have the choice of signing a non conscionable contract or availing ourselves to a DASS payment from the Government of $150,000. A payment if delayed or taxed will send us close to bankruptcy.
>
> Goodwill has been always an integral part of any Business, a fact recognised by the British High Court and also the Australian High Court. Why not by our Government?
>
> We thank you Sir for the chance of bringing the PLIGHT of many People in small Business in West Australia to your notice and action.

That letter is signed, but I do not think it is necessary to read out the name.

Again, that is a case of a substantial business which may well be destroyed by the inadequacies of the DAAS and by the inability of the Government to ensure that payments either were not affected by taxation or, if that was unavoidable, took account of the taxation factor. The question of whether the level of compensation is fair is obviously not all that clear in the Minister's mind. There is a very good reason for that. As far as I can tell, the Government has not even contemplated full compensation.

In a letter from the manager of the Dairy Industry Authority to the Parliamentary Commissioner dated 29 July 1994 on a question raised by milk vendors Mr G.W. and Mrs R. Henricks, in addressing the specific question that the DIA had failed to provide adequate assistance to those who wished to leave whole or part of the milk distribution system, the manager of the DIA said in part -

> The Authority was not asked, however, to develop a scheme which compensated all vendors for the full impact of deregulation . . .

Although the estimated cost of such a scheme was put before government as part of the ACIL report, the authority was not even asked to report on what might have been the full cost. The letter is signed by John Connell, the manager of the DIA. In part 3 of the letter on page 3, responding to the question that the DIA failed to establish a goodwill value for milk rounds before abandoning the licence system, it says -

> The value of distribution licences is a matter in which neither the Government nor the Authority has signified any responsibility. Licences have been issued free each year although the marketplace has factored excess profits and monopoly protection into a value for licence transfer.

The authority obtained legal advice on the question of any liability which could be attached to government as a consequence of its decision to deregulate the vending sector. It goes on to say "copy attached" - which I did not get - and says further -

> This advice did not indicate that the Authority was obliged to establish and compensate licence values. The deregulatory decision cannot be compared with the transaction of businesses between commercial entities.
>
> The valuation of rounds by relationship to past trading performance depends on various assumptions. The extent and potential impact of such values may have influenced Government to extend the adjustment period -

This part is very important -

> but have not yet persuaded it to contemplate full compensation.

This is from the Chief Executive Officer of the Dairy Industry Authority - the principal adviser to the Government on these matters - who, if anyone is to be aware of what is the Government's attitude to compensation, would know what is that attitude. Yet he said, "The extent and potential impact of such values may have influenced Government to extend the adjustment period, but have not yet persuaded it to contemplate full compensation." Incidentally, this letter is dated July 1994. At that stage, the Government had not even contemplated full compensation. Clearly, if the matter of full and fair compensation has not even been contemplated, it is inevitable that situations such as those described in the letters I have read will occur.

Hon Murray Montgomery: I ask that the member identify the documents from which he is quoting and table them.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! I ask that the member table the documents at the end of his speech.

Hon KIM CHANCE: Yes, Mr Deputy President, although I have told members about my reservation about tabling them. At the end of my speech I will table the two letters and the letter from the DIA to the Parliamentary Commissioner.

If the Government has not contemplated full compensation - it seems that at least up to July this year it had not - it appears that at one stage the Dairy Industry Authority itself has done so. On page 72 of a March 1992 DIA report on the distribution adjustment assistance scheme, table 8.2, headed "Part A Industry Rationalisation Assistance - Eligible Metropolitan Distributor Licensees" an attempt was made to quantify the total capital value of 90 of the distributors in the business. Presumably the number 90 was chosen because it was the number from the 250 vendors which the DIA had anticipated would fall out of the system if deregulation occurred. The table split the 90 members fairly equally among four groups of 20 vendors and one group of 11 vendors ranging in five different groups from a large group at 3 600 to 11 000 average delivered litres of white milk a day graduating to the final group who delivered from zero to 499 average litres of white milk a day. Probably the most important aspect is that within those groups, the DIA calculated the average litres a day for the 20 vendors within that group. So in the top group, the 3 600 to 11 000 litres a day group, the average daily delivery by the 20 vendors in that group was 5 097 litres. Then the DIA, for the purposes of this table, calculated the value of the business on the basis of $120 a litre a day for all endorsed outlets. Members should consider that the DIA has calculated the current figure should be $50 a litre a day; yet in March 1992, for its own purposes to report on the DAAS, it used a calculation factor of $120 a litre a day. I am not sure why it did that. Let us look at the outcome.

Hon Derrick Tomlinson: It was because of Mr Keating's management of the economy.

Hon KIM CHANCE: I might let that one go through to the keeper.

For that top group of 20 vendors who average 5 097 litres a day, the average capital value - that is, the capitalisation value of the licence alone, not including the plant and hardware associated with the business - was $611 640. The cap applying to such a business is just the same as that for everyone else - $150 000. What was the purpose of using $120 a litre a day in calculating the value if that was not the DIA's assessment of what that value might be? I do not know why the DIA produced this, because I have this page in isolation, and I do not know why the figure of $120 a litre was used. It is a reasonable expectation that it used that figure because that is the way it assessed the true capital value of those licences. I say that because it lines up with the calculations which have been done in other ways. There are ways of going through a business to determine what its value might be; for example, by taking the gross receipts of the business, establishing a goodwill figure at about two years' worth of its gross receipts, and dividing that by the average daily litres. If that is done, a figure of $100 and $120 a daily litre delivered will usually result. There are two interesting aspects to that: First, the $125 a litre figure; and second, the fact that the average capital value was four times the ceiling which is set for the DAAS. I do not know where we draw the line on making judgments about what is fair. I will not even attempt to comment on what the Minister for Primary Industry has as his standard of judgment for what is fair. However, by my standards that is not one of them. That is not fair, in terms of either the base calculation that is used, or the cap.

I said at the beginning of my speech that there was no doubt in my mind that the DAAS was a better scheme now than when it started. However, it must go about that far again before we get anywhere near a fair system, and even then there will be some injustices. I do not know what we must do to encourage the Minister to face up to this. It was put to me directly by Mr Connell in a briefing that the DIA does not like to call the DAAS a compensation. In all of the DIA's information it does not call it compensation, but

assistance. Do members know why it does not like to call it compensation? It is because if we call it compensation, we open ourselves up to the very criticism I have just spent three-quarters of an hour making; if we call it compensation, we must be fair. If it is called assistance, it is something people are given; it does not have to be fair. We must make a decision at a parliamentary level whether we want to give assistance or whether we want to compensate. It is not a criticism I make of the DIA or the people in it, because it must simply administer policy within the guidelines it is given. However, the fact that they are shy about calling the DAAS compensation suggests that we should grasp the bull by the horns and start calling it compensation. Once we have done that we have the responsibility for the policy decisions to ensure that compensation is fair. That is what this debate is about.

I return briefly to the table. Members should bear in mind that the cap on the DAAS is $150 000, which is three times the level of the cap which existed at the time that table was prepared. This means that if a distributor took the DAAS payment, the payment would yield about a quarter of the assessed value of the business. We must ask ourselves who gets the other three-quarters?

Hon E.J. Charlton: The other three-quarters of what?

Hon KIM CHANCE: If the DAAS payment for a person's business yields about a quarter of its value - $150 000 out of $600 000 - who gets the other three-quarters of the value?

Hon E.J. Charlton: Nobody.

Hon KIM CHANCE: Somebody does.

Hon E.J. Charlton: No, they don't.

Hon KIM CHANCE: We cannot take an inherent value, pay someone one-quarter of that value, and say that the other three-quarters disappears. It might not go anywhere in specific numbers - we may not be able to see the dollar coins walking down the street - but somebody gets the other $450 000.

Hon E.J. Charlton: They don't.

Hon KIM CHANCE: Let me tell the House who does. I return to page 16 of the Milk Distribution Review Committee report 1993 which states that deregulation will place control of the distribution of milk and milk products very largely in the hands of the processing company. Let us go a little further from that quote to a letter from the Minister for Primary Industry to Alan Evans, the clerk of the Standing Committee on Constitutional Affairs and Statutes Revision, dated 16 November 1994, which states -

> The future welfare of existing vendors is best protected by allowing dairy processors to fill the role currently occupied by Government.

We are starting to get a picture of where that $450 000 of inherent value is wandering off to. The letter continues -

> In a free market, processors and supermarkets can negotiate commercial delivery arrangements. Individual vendors, as very small players, have been shown to have no negotiating power with supermarket chains and would have all delivery provisions rapidly eroded.

The Minister is saying there that we must take away these milk vendors' business for their own good.

Hon E.J. Charlton: No, he's not.

Hon KIM CHANCE: He is saying that it is good for them for their business to be taken away because if it is not taken away by Statute, the processing companies will take it anyway; if not the processing companies, the supermarkets will come and get it.

Hon E.J. Charlton: That is simply not right. That's an assessment you have made for political reasons. It is not a factual statement.

Hon KIM CHANCE: It is a factual statement. The Minister said it - there it is.

Hon E.J. Charlton: It's not. It's your statement, not his.

Hon Murray Montgomery: It's your interpretation.

Hon E.J. Charlton: The basic difference between your philosophy and what we are attempting to do is that because in the industry as a whole about half of the milk is not regulated currently, if we leave it the way it is, the value of the vendor's business will be eroded tomorrow so that it will be worth nothing.

Hon KIM CHANCE: Yes, and I have already conceded that there is nothing wrong with the logic of what the Minister is saying.

Hon E.J. Charlton: The only way to overcome your problem is to regulate the other milk products also.

Hon KIM CHANCE: That is not necessarily so, but again I think it is pointless for us to argue or be at cross-purposes about this. All I am trying to establish - and I cannot see what purpose there is in the Minister wanting to question what I am saying - is that there will be a loser and a beneficiary in this process, and the beneficiary will clearly be the processing companies.

Hon Murray Montgomery: Why?

Hon Derrick Tomlinson: There is no demonstration in what you have said of the transfer of benefits.

Hon KIM CHANCE: Let us go through it again. Deregulation will place control of the distribution of milk and milk products very much in the hands of the processing companies. The $11m that was paid in the five years preceding 1991 was paid for the right to distribute milk and milk products. The deregulation process will place that right, for which people paid $11m, in the hands of the processing companies.

Hon E.J. Charlton: Part of it is already with those processing companies. That is the reason we are doing this.

Hon KIM CHANCE: I think the Minister is trying to tell me - this is something on which we do disagree - that a large part of the non-white milk trade that was carried out by these distributors is now being carried out by the companies.

Hon E.J. Charlton: No, but it could be, and if they did that tomorrow -

Hon KIM CHANCE: Why would anyone want to do that?

Hon E.J. Charlton: That is what will happen. You obviously do not have the capacity to realise that is the challenge in front of these people.

Hon KIM CHANCE: That is the first time I have heard that, to be fair. I am interested in what the Minister has said. I will now ask the question again in terms of logic. Why would anyone want to cover exactly the same ground as the vendors are covering now in order to deliver the non-white milk product, which might comprise 25 per cent or 35 per cent - it is variable - of the round figure?

Hon E.J. Charlton: It might be 60 per cent.

Hon KIM CHANCE: I have never heard of it being that high, but it might be.

Hon E.J. Charlton: To some outlets.

Hon KIM CHANCE: It might be. I will not dispute that with the Minister. In terms of an average, it is generally the minority part of the vendor's income. Why would someone want to pick up the minority part of a round and try to compete effectively with someone who had the major part of that round? Why would it be more efficient and how could someone compete efficiently on the basis of a lower economy of scale?

Hon E.J. Charlton: Because if a particular vendor could supply a major outlet rather than a household or a number of minor outlets, he could contract someone to do it significantly cheaper than it is currently costing him to do it.

Hon KIM CHANCE: He would still have to cover the ground. It is still less expensive to

do it if one is delivering a greater amount of material, because of the economies of scale. How could someone go into a defined area and say, "I can deliver 25 per cent of that vendor's run more cheaply than he can deliver 100 per cent"? He could not do that.

Hon E.J. Charlton: Of course he could, for the simple reason that if he had contracted for and bought a round, and if we had a regulated system which over the years has changed because the market has changed so that we now have fewer outlets than we had previously, he would be in a very good position because he is locked into a contractual arrangement that has been kept going because the processors believe that a system such as the one which the Government is proposing will come about. If they knew it would not happen, it would be in their interests to make another decision.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! I suggest we are getting into a Committee-type debate, and if Hon Kim Chance addresses the Chair with his, we hope concluding comments on the second reading we will then be in a position to go into Committee and continue this fascinating interchange.

Hon KIM CHANCE: Thank you, Mr Deputy President. Thank you also for allowing the interchange to go on. It is a matter on which I will need to take advice because it has never been raised with me previously in this context and I am amazed that it is seen as a distinct possibility.

I think it is fair to ask whether the contracts which will be negotiated between the processing companies and the vendors will eventually accrue any value at all which might offset the capital losses which will be suffered by vendors who are offered and accept contracts after deregulation. During the briefing on the Bill, I put to the manager of the Dairy Industry Authority the question of whether the contracts will accrue value, and Mr Connell's answer to me was that in his view the contracts would achieve little or no value in themselves; they would be effectively worthless. I have discussed this with various members of the milk industry, including those who in effect support the Bill, or at least want to get on with their lives and hope that there will be a place for them in the new milk vending system. They have told me while that may be Mr Connell's view, they hope there will be profit in the industry and that ultimately the contracts themselves will achieve some kind of value as people gain some confidence in them. I sincerely hope they are right. I am just a little concerned because from Mr Connell's advice - and I have heard nothing from the processors on this matter, so I do not know their view - it is not intended that the contracts will be structured in such a way that they will achieve a value in their own right. We will have the opportunity to analyse one of these contracts a little later in the debate, but having gone through a contract in some detail, I am afraid I am inclined to agree with Mr Connell's assessment. I really cannot see that these contracts, in the form in which I have seen them, will be of any value whatever.

The transfer of the distribution right from the licensed vendors to the processing companies raises the fascinating point of whether this is a process of deregulation at all. If the right to control distribution will simply pass from a public agency to the processing companies, it does not cease to exist. It is still there. It simply changes hands. The right to regulate will have moved from the Dairy Industry Authority, a public agency, to the processors, a pair of private companies. Surely in a deregulated system we would expect to see a number of those factors, one of those being minimum entry requirements, for example, and open competition. Indeed, if those criteria do not exist, it is hard to see how any economic benefit could ever be realised.

The new regulators, the processors, will have effective control over the margins that the milk vendors will receive, the territories in which they will operate, and the operational activities of the distributors. They will have control over all of these things in a manner not inconsistent with the control previously exerted by the Dairy Industry Authority. It is not hard to see why the 1993 review committee came to the conclusion that the consumer was unlikely to see any benefit at all from this so-called deregulatory process. All that will occur is that regulation will change ownership. Any person with any doubt about the regulatory nature of the contracts should look at a contract. Members will be pleased to hear that I do not intend to read out the contract. This is a distribution agreement

between Wesfarmers Ltd, then the owners of Masters, the distributor, and the guarantor. The contract allows the company to regulate the distributor to a zone and to specify clients; that is, to regulate where he will operate. It allows the company to limit the distributor to distributing only approved products of the company; that is, not only the company's products, but also a range of products within that company's product line. It allows the company to specify the wearing of a uniform by the distributor; to demand that the distributor's vehicle be painted and signed in the company's livery; to limit the distributor to carrying the company's product only, and to limit the distributor to approved customers only. It allows the company to specify the depot of the company that the distributor will use. It allows the company to set standards of conduct by the distributor; that is, how he will behave. It can insist that the distributor provide storage facilities for the company. It sets and approves the distributor's vehicle type. It may require vehicle communication systems to be installed. It specifies that the vehicle may not be used for any other purpose than that defined within the contract.

Hon Reg Davies: Is this the vehicle that the person owns, that he has purchased for himself?

Hon KIM CHANCE: Exactly. It requires the distributor to provide customer details including addresses and telephone numbers. It insists that the distributor assist in the company's promotions, but it boycotts any promotion by the distributor. It sets prices. This is pretty fundamental stuff. It has the capacity to veto the distributor's choice of relieving staff if the distributor wants to go on a holiday, or even gets sick or dies. However, if he dies, he causes real problems. If a senior partner, a senior shareholder or a guarantor of the company dies and the distributor has to fill that gap with somebody else, that is an assignment and that cannot be done. If the distributor assigns that role, and the company decides that it does not approve the person to whom it has been assigned - this is part of the distributor's own asset - or the assignment is made without the company's approval, the contract is null and void.

Hon Reg Davies: They can terminate the contract within two months.

Hon KIM CHANCE: That is right. The company can veto any involvement by the distributor with any competitor and also prevent him from soliciting orders from the company's clients up to six months from the expiry of the contract. If a distributor's contract with Masters expires he cannot go into that same area and solicit trade on behalf of, for example, Brownes for six months after the expiry of the contract. If this is not unreasonable restraint on trade I have never seen it. It allows the company to approve the distributor's insurers. The company could say, "You cannot insure with that company. You must insure with this company over here." It allows the company to specify the nature and extent of the distributor's insurance; what he must and may insure.

Hon Tom Helm: When you die can you get buried in your own clothes?

Hon KIM CHANCE: It is not a good idea to die if one has one of these contracts. It allows the company to insist on evidence that the distributor is insured. That is probably quite reasonable. It allows the company to veto any assignment including changes in the shareholders of the distributor's company. It allows the company to be the sole arbiter of the reputability of an assignor. If a distributor wants to take on a partner, it is the company who decides whether that person is suitable. It allows the company to insist on certain training.

Hon N.D. Griffiths: It sounds like a workplace agreement.

Hon KIM CHANCE: It sounds a lot worse to me. It allows the company to insist on certain levels of stock carrying and to determine whom the distributor can supply. It allows the company to change distributors if the distributor cannot satisfy any reasonable demand made by the company. A reasonable demand is, "You are out."

Hon J.A. Scott: These people are becoming employees.

Hon Tom Helm: Can anyone join that union?

Hon KIM CHANCE: No, it is only the major national or multinational companies that

can do this. They can do this because they take all the business away from the vendors, and that gives them the power to do it. The contract allows the company to terminate an agreement if a director, guarantor or controlling shareholder dies or becomes incapacitated. The company is the only judge as to whether a person is incapacitated. The company may assign within itself without any reference to the distributor. In short, this contract gives the company effective control over the distributor's business.

Hon Cheryl Davenport: I thought this was supposed to be deregulation?

Hon Tom Helm: Is this better management, more jobs?

Hon KIM CHANCE: It gives control over the distributor to the processor. It takes control from the DIA and gives it to the companies who will regulate the industry. Regulation may have changed hands, but it is not deregulation.

Hon Tom Helm: What have they done to deserve this?

The DEPUTY PRESIDENT (Hon Barry House): Order! I suggest Hon Kim Chance not get sidetracked by interjections.

Hon KIM CHANCE: They must have been really naughty! This Bill transfers the financial interests of a group of small independent businessmen to the processing companies free of charge. It then allows the companies to exert absolute control over the remaining distributors.

Hon N.D. Griffiths: Why is the Minister doing that?

Hon KIM CHANCE: I do not know, but the likelihood is that consumers will see no benefits at all from the process and that is acknowledged all the way through the Bill. I spoke of the responsibility of government to those displaced by change in a regulated industry, whether that regulated industry be crayfishing, dairy farming or whatever. It raises a difficult legal and moral point to decide whether a Government has a responsibility for those people who have relied on the continuation of a Statute when they paid for the right to operate in an industry which is regulated by that Statute. If legislation is enacted in the full knowledge that a limited entry market would be created by that legislation, and that would in turn establish the capitalised value for the licence to operate in that market, it is fair to say that the Government owes some kind of duty of care to those who have ownership of the licence if the Government then acts in one way or another to take that licence away. In other words I am arguing that a licence in a limited entry market contains the elements of a property right. I thought I was flying a bit of a kite when I made that statement. I mentioned it to my friend Hon Alannah MacTiernan and she said -

Hon John Halden: You mentioned it to me first.

Hon KIM CHANCE: But she is a lawyer; she knows these things. Hon Alannah MacTiernan made it quite clear that in these circumstances a copyright is established. I was a little unsure about that; however, she told me, without any hesitation, as did my friend Hon Nick Griffiths and the Leader of the Opposition, that in those circumstances a property right is established. There is no argument that a property right inherent in the patent laws is a real right. A patent right is an established property right. While a person might buy a patent from another party, that patent has a value only while the patent laws remain. Again something of value is established at the whim of the remnant of a Statute. If those laws are altered, it is possible that the value of the patent would be eliminated arbitrarily. In that case few would argue that the patent holder would not have a fair right to payment.

In Tasmania the Solicitor-General took the opposite view. Between 1984 and 1991 the Tasmanian milk vending industry was progressively deregulated. The key aspect of the way in which the Tasmanian authority went about deregulation was in giving adequate notice of the impending changes. The Tasmanian Government argued that this enabled the affected parties to take appropriate action to meet the changes and, in the case of the Solicitor-General, to indicate claims for compensation. I am not aware whether this was the subject of legal challenge. I have not been able to see any reports. Since the

argument was that the claims for compensation were negated by the extended nature of the deregulation process, it is fair to say that the response to compensation may have, at least at some stage, exceeded any law. The process of gradual deregulation which occurred in Tasmania is a somewhat different scenario from what will happen here.

If this Bill is passed we will have gone from a regulated system to a deregulated system immediately upon commencement of the amended Act. That remains true, given the changes that have already occurred. The changes which have occurred from 1992 onwards have been a restructuring of a regulated system, albeit that they were aimed at a regulated outcome. Nothing comparable has occurred since that long process of gradual deregulation which occurred in Tasmania. Possibly the easiest way to make a determination of the right to compensation is to draw a parallel between the existing limited entry market in the same jurisdiction.

The rock lobster industry is one in which the limitation is qualified in two ways: Firstly, a person needs to obtain a licence to take rock lobster commercially; secondly, the right is further quantified by the number of pots that a rock lobster fisherman may use in exercising the right to fish. Of course, there are other qualifications including the limitation on the season during which fishing may occur, but that is a result of other determinants. By specifying the number of pots which may be used, these licences have generated a value which has become capitalised on a per unit basis in much the same way as are milk production quotas.

This value in the crayfishing industry is now spectacularly high. It is very much regarded by participants in the crayfishing industry as a property right; yet in law it has no greater standing than a licence to distribute milk within a given area. There is no difference in law; it is simply a right of licence issued under Statute which may be withdrawn at any time. Although the withdrawal of the licence to take rock lobster would cause an uproar, the withdrawal without compensation would generally be regarded as theft - and nothing less - particularly if the powers conferred by that licence were then offered to another party without payment. Members should extend their minds to those possibilities. There would not be an uproar; there would be a revolution. It is not an argument to say that at various times rock lobster licences have been amended by the partial loss of the number of pots that can be used. It is not an argument for compensation. It is not an argument to lay that off against the termination of licence. Fisheries licences are a management tool. The Minister's primary responsibility in the fishing industry is to ensure the maintenance of the resource - and that sits above all other responsibilities. If licences must be modified temporarily to meet that primary responsibility, the question of compensation should not arise - and, indeed, it does not arise. Under this Bill the milk vendors' licences which are worth collectively millions of dollars are being legislated out of existence. Section 52 of the principal Act is repealed and the requirement for a licence to vend or distribute milk is rescinded. As the owners of the product, the processors then, by design, acquire all of the rights of the distribution, and the implied value of the right of distribution. There can be no argument about that.

Hon E.J. Charlton: It is a totally wrong argument; but go on.

Hon KIM CHANCE: I do not think we need to argue about that again. The processors acquire that both by default and without cost. We have imputed a value into the right to distribute milk in Western Australia. If that right is transferred to another party, the inherent value in the right is transferred with it. Nothing will prevent the processors, once that right has been acquired, from then determining their own regulations. Indeed, that is exactly what is done, as expressed in the Masters' contract that I read out. It makes it quite clear that the right to create regulations does not disappear; it simply transfers from the Government to the processors. Nor does it stop the processors from franchising certain distributors to deliver to specific customers in particular areas. That is exactly what the contracts do: They specify where the vendor can trade; who can trade; with whom vendors can trade; what products may be traded; and on what conditions the vendor may trade. Under the Dairy Industry Authority this level of regulation does not exist. It does not prevent the processors from charging a franchise fee for the right to distribute to the regulated area. We are yet to see that occur; however, nothing is stated

that would prevent the companies establishing a franchise fee, and that is precisely what happened in New Zealand. While this is an argument against this form of so-called deregulation, it also serves to highlight the massive injustice that will happen as a direct result of this Bill. This injustice can be prevented by throwing out this part of the Bill or by ensuring that the compensation offered to those hurt in the process is full and fair compensation. Anyone who is familiar with the present level of compensation contained in the distribution adjustment assistance scheme cannot say it is either full or fair. Opposition members hope that government members will join it in expressing the view that we cannot accept that level of injustice. The proposal in this Bill and the limited compensation inherent in the DAA scheme cannot be called fair and full compensation. At the very least, members must determine whether they accept the argument that the Parliament has a responsibility to those who are dispossessed by its actions. If it is determined that Parliament has that responsibility, then it must assess whether that compensation is just. If I return to the case I used earlier and analyse it, members will get the picture of whether the Opposition is proposing a just course of action.

In that last case, the family has not been offered a contract. When the law is changed, the milk round they considered was theirs to operate, work, add to or sell will no longer belong to them. On proclamation of the Bill it will not be theirs any more and nor will they be permitted to work in that area for three years. It will not be a gradual process; it will happen overnight.

Hon E.J. Charlton: That is if they take a cheque.

Hon KIM CHANCE: Yes. What belongs to them on a Sunday may no longer belong to them on the Monday.

Hon E.J. Charlton: If a person sells a service station he enters into an agreement that he will not purchase the one up the road.

Hon KIM CHANCE: The person who sells a service station can choose to do that. If there were an element of choice in this I would find it easier to live with. I read the letter to the House in response to Hon Derrick Tomlinson's question and emphasised that those people do not have a choice. If they do not have a choice we must get the compensation package right. If they have a choice, I would agree with the Minister. Business people take risks and that is one of the things they have to face up to. I am not talking about a lot of money that is impossible to be funded. Even though we have not spent a lot of time on this, we have seen how the process worked in Queensland where the taxpayers did not have to pay anything - I have a copy of the relevant document if members want to read it. I acknowledge they provided a guarantee.

Hon E.J. Charlton: My word they did; it was about $90m.

Hon KIM CHANCE: Yes, but the Queensland DIA borrowed that money and it is being repaid by the vendors.

Hon E.J. Charlton: By the consumers.

Hon KIM CHANCE: It may be the consumer at the end of the chain, but the actual payment is made by a levy on the distributor. It is something in the order of 6¢ a litre. Large margins are imposed and it is reasonable to argue that the consumer is paying for it. When I put that argument to the Western Australian Farmers Federation it argued that the producer pays it.

Hon E.J. Charlton: That is right.

Hon KIM CHANCE: The fact is that the people's rights in Queensland were satisfied.

Hon E.J. Charlton: The vendors' rights were satisfied.

Hon KIM CHANCE: They are people too.

Hon E.J. Charlton: We are trying to strike a balance between all the players.

Hon KIM CHANCE: I am not talking about a large amount of money. The Minister's colleague, the Minister for Primary Industry, went in the space of one night from $4.75m

to $7m. He came close to achieving the funding that is required for a fair and equitable solution. The amount of money required, between what the Minister offered and what I am told will achieve an equitable solution, will be achieved by continuing the proposed levy for an additional 12 months. With an additional 1¢ a litre for 12 months the problem would be solved.

Hon Murray Montgomery: Are you asking for an additional 1¢?

Hon KIM CHANCE: No, an extension of the levy for another year.

Hon Murray Montgomery: The other parties indicated that there was an option. Are you saying that defeating the Bill would fit your scenario?

Hon E.J. Charlton: He would rather have the whole thing thrown out than an additional 1¢ a litre for 12 months.

Hon KIM CHANCE: I will not make a judgment on this.

Hon Murray Montgomery: You will have to at some stage.

Hon KIM CHANCE: If the member is talking about how the Opposition will vote, I have already told him that. It is a matter of whether there will be reasonable facilitation of the Bill.

Hon Peter Foss: You are filibustering.

Hon KIM CHANCE: I will put that issue to one side.

Hon Peter Foss: You have spent three hours on it already.

Hon KIM CHANCE: It has not been that long.

Hon E.J. Charlton: It has.

Hon KIM CHANCE: Does time not fly when one is having fun?

Hon George Cash: You are the only one who is flying.

Hon KIM CHANCE: It was put to me in a question by Hon Murray Montgomery that the worst possible outcome may be that this Bill will die in this place. I do not accept that point of view, but that does not matter; it is what the industry thinks that matters. It has also been put to me that there is no reason for this Bill in respect of the milk vendors to continue because the people who are faced with the real possibility that their businesses will disappear as soon as this Bill becomes law will be inadequately compensated.

Hon E.J. Charlton: You are forgetting about the other 200 people who have something to gain and who will be placed in the same position. You fail to understand that.

Hon KIM CHANCE: Neither the Minister nor I are accurately able to quantify that.

Hon E.J. Charlton: You have taken three hours to demonstrate that you do not know about the 200 people.

Hon KIM CHANCE: That is why the Milk Vendors Association and the Small Business Association are, at this very moment, surveying the vendors to try to find out what they think. Both organisations represent different points of view, but they are trying to find out what the vendors think. Is that not a reasonable function of the Minister? Is it not something the Minister should have started to think about when a resolution was almost reached on this Bill after the debate in the other place? Why did the Minister not say between then and now that he would try to find some sort of solution? All of the ingredients for a solution were there. The Minister did not want to address it. In fact, I tried to raise the matter with the Minister in the lobby. He did not seem to want to talk about it. I asked him where he thinks we are going to go with it.

Hon Peter Foss interjected.

Hon KIM CHANCE: Perhaps the Minister has come in a little late.

Hon E.J. Charlton: He has already acknowledged that he did not take that on board.

Hon KIM CHANCE: Let me go back to the family's specific case.

Hon E.J. Charlton: He totally disregarded the fact that 40 per cent -

The DEPUTY PRESIDENT (Hon Barry House): Order! The member will direct his comments to the Chair and ignore the interjections.

Hon KIM CHANCE: Does that apply to me also?

The DEPUTY PRESIDENT: No. It applies to whomever is on his feet.

Hon KIM CHANCE: I thought you meant the Minister.

The DEPUTY PRESIDENT: The Minister has no right to interject at all.

Hon KIM CHANCE: The business that these people had every right to believe is theirs, will disappear overnight. The family's income of $1 500 a week will disappear overnight. The asset for which they paid $174 000 five years ago to purchase the property right of the licence will be halved. Even assuming that the value of their business - obviously it was a very good business, because it was grossing them $1 500 a week - has not grown in five years, it will be underpaid by $89 000 on the capital value of their asset.

Hon Peter Foss interjected.

Hon KIM CHANCE: It is what they will be paid for their asset because they will not be able to go on distributing non-white milk unless they have the white milk portion of their business to work on. Indeed, they would not be able to access supply of non-white milk. The $85 000 they may receive initially as a loan will probably be taxed. I wrote that before I had the other information. In fact, in their case, I do not believe that it will be. However, that family may also be denied social security as a result of that. Clearly, in the case of this family, justice has not been done. This family will be dispossessed by our actions, not by the actions of some uncaring and unthinking Government. This family will be dispossessed by the actions of each of us, whether Government or Opposition.

Hon Peter Foss: Do they also sell fruit juice and bread?

Hon KIM CHANCE: I imagine they sell fruit juice; I do not know about bread.

Each of us will have to take responsibility for that action if we proceed and if we do not find a resolution. If we must proceed, we should seek at the very least some cast iron guarantees from the Government that this family and others like it will be fully compensated. As I said - I do not think I can say it any clearer - it will not take a vast amount of money. It will take a little bit of thought and a little bit of negotiating skill. However, it will not amount to a vast amount of money. It is not unachievable and, as I said before, last week we came close to achieving a possible resolution and walked away from it. I want to ask each member whether any one of us can leave this place at Christmas, assuming we finish debating this Bill by Christmas -

Hon Derrick Tomlinson: Not at the rate you're going.

Hon KIM CHANCE: I am in no hurry. Can any of us leave this place at Christmas knowing what we have done to that family and knowing what we may have done to other anonymous families from whom we have not heard? Can any of us do that and not hope silently that when we go home to our families nobody ever does that kind of thing to our children? For my part, I am sure that I cannot look at my children when I go home at Christmas time and not have the thought in my head, that, at some time, someone is going to do what we are doing to these people.

Hon Derrick Tomlinson: Is this the same family that you referred to earlier that has not been offered a contract?

Hon KIM CHANCE: Yes.

Hon George Cash: What is their name?

Hon KIM CHANCE: I will table the letter. I did not name the family. Because I will table it anyway, the name is Heal.

Hon B.K. Donaldson: Is it true, Mr Chance, that the family declined a Brownes' contract?

Hon KIM CHANCE: The letter did not say so. The only contact I have is the letter.

Hon B.K. Donaldson: You should ask them the question.

Hon KIM CHANCE: Does the member have evidence that that is the case? The letter says that the family was not offered one. Therefore, if it was not offered one, the implication is that it did not decline one. Therefore, the answer is in the negative. We get used to hearing that only a small minority is being disadvantaged in this way. I do not believe that it is a small minority and I have given the House some reason to support that point of view, particularly the figure of $11m which changed hands over the five years prior to 1991. However, even if it is a small minority, what sort of excuse is that for acting in this high-handed, arrogant manner? The fact that we are not hurting many people is not an excuse for hurting anybody, particularly if the capacity lies in our own hands to do something about it.

Hon J.A. Scott: You give them a fair deal, even if there are not very many.

Hon KIM CHANCE: Yes, a fair deal that will not cost us an arm and a leg. I have received dozens of letters on this subject. To be fair, some have asked for this Bill to be progressed to allow people to get on with their lives after months of worry and uncertainty. I have some sympathy for their point of view. A number of milk vendors want to get on with their lives. While they are not overly enamoured of their contracts and what they see are their futures, they have asked me to assist in the passage of the Bill. A large number of letters have come from those who will be disadvantaged in a very direct sense, not unlike the Heal family. I think their own words can tell members the story far more eloquently than can I. I will read one or two of those letters. I have brought in seven or eight of them, but I do not intend reading them all. This letter is addressed to me and it is from Mr C. Thornton-Smith. It states -

> Dear Sir,
>
> For the past 11 years I have owned and operated 4 milk distribution businesses in Perth. During this time I have worked an average of 80 hours . . . a week come hail, rain & storms in order to deliver milk and by products to the local shops and schools.
>
> Although it has been long hard work with nothing more than four weeks holiday for my honeymoon during this time, I have never griped because I have always believed that I was building a sizeable asset to sell at which time we would enjoy the fruits of my labour. However, the Liberal Government decided to push the deregulation policy through, which now means if we wish to stay in business we are required to sign a contract with Masters Dairy. Masters will then have total control of our business! Masters have in fact told us that because we are not as big as some other distributors we are not "viable" & therefore should either get bigger or get out!

Where have we heard that before, Minister for Transport? To continue -

> At this stage it looks like our only option is to take the D.A.A.S. payment from the government and because our round has a large portion of by product sales our D.A.A.S. payment would be $54 000. Although two to three years ago we could have sold the business on the 'open market' for approximately $180 000. I am sure you would agree that this represents a huge loss to us in anyone's language.
>
> If we are forced to sell, we will probably have to sell our home, which we have worked damned hard for. Our two investment properties we are buying through the business will definitely have to go.
>
> I would also like to mention that when I bought the business in 1983 and paid 'goodwill' to the previous owner, the main reason was I felt safe with the knowledge that it was a government regulated industry and therefore protected by government licence.

> If the government wants to take my livelihood off me they should be required to pay adequate compensation - namely two years gross figures as a minimum.
>
> I would like to thank you for the opportunity of putting my situation, which is causing myself and my family a tremendous amount of stress and a lot of other 'Milkos' in the same situation to your attention.
>
> We would greatly appreciate any help you could offer us in this matter.

That is only one of the letters that I have received. These are simply a selection of what I picked up from my file in the last couple of days. The story is repeated over and over again. The gap which is identified between the DAAS payment they will get and the payment which would have seen them with the capacity to get on with their lives is not big, and we are not talking about a large number of people. A resolution is achievable. The clear indication in that last letter and in dozens of others I have received is that at present these are not bankrupt businesses; they are viable small businesses operating with a working profit. If the Bill is passed that profit and the business will be taken from them. That is neither fair nor necessary. Some of these vendors have only relatively recently bought their businesses. I have mentioned the $11m involved up to 1991, and that $11m will be flushed away by the passage of this Bill; all the capital that was paid in those five years will cease to exist. We must remember also that the architects of the scheme say that, in spite of all the cost, consumers are highly unlikely to benefit from this deal. Despite the Government's rhetoric about all this being the fault of the previous Government, the fact is that these vendors' businesses are viable now but will cease to be viable if the Bill becomes law. That is the bottom line.

This brings me again to the role of the Minister for Primary Industry. During the Assembly debate, as I have said, the Minister put on record an offer to expand the DAAS aggregate payment from $4.75m to $7m. I have already said that I thought that was a genuine offer and one that was appreciated. The conditions governing the offer were unusual, to say the least. The Minister, by message to the former shadow Minister for Primary Industry, Hon Julian Grill, said, "We can get this figure up to $7m but I must have an answer from you tonight." Hon Julian Grill said, "That answer is not something I can give; it is something the industry must give." Industry representatives were at Parliament House at the time. They were brought together and Hon Julian Grill called me from my office and I joined him and spoke to the group as well. The consultation with the group was not ultimately successful in getting a yes or no answer. We had a yes from one part of the industry and a no from another part. The Minister for Primary Industry said to Hon Julian Grill, "This offer won't stay on the table. It won't go up to the Council. It is on the table for this night only. You say yes now and ensure that your colleagues in the Council are bound by your decision." I made it clear to Hon Julian Grill that neither I nor my colleagues would be bound by that decision. That is not the way negotiations are supposed to be carried out. It is extremely disappointing that, having had the goodwill of Hon Julian Grill, me and the industry to such an extent that we were prepared to negotiate on those conditions at all, the Minister did not grasp the opportunity to do something with the offer he made, if indeed it was a genuine offer.

In the week that has transpired nothing has happened and it is an awful shame that we will be here until sun-up or beyond talking about something that could have been solved a week ago. To be fair, the Minister for Primary Industry has allowed the offer of $7m to stay on the table and he did not execute the brinkmanship with which he threatened us. However, he has not changed the DAAS guidelines in that week between then and now. If the Government does not change the guidelines it might just as well offer $100m under the current DAAS arrangement, because all it will ever spend is $4.75m. That is the figure that comes out of the DAAS structure as it is now. Unless the Government changes the guidelines it does not matter how much it puts in at the top, because what will come out at the bottom is $4.75m - unless we say that we will lift the dollars paid for the average daily litres delivered from $50 to $70. That would have an outcome at the other end; it would have an increased value. However, the Minister has not said that.

With the help of Hon Murray Montgomery we went through the process of exploring

whether a specific case could be dealt with by way of arbitration and satisfied in that manner. The Minister's offer may be genuine, but it is regrettable that he has been unable to come back either to Hon Julian Grill or me or to the representatives of the milk vendors and convince us that there is a reasonable capacity to come up with a fair deal. I must say in fairness to the Milk Vendors Association that it has recommended to its members that the deal be supported. However, in saying that, the association has expressed some concern about the way in which those additional funds may be expended. For its part the Western Australian Small Business Association has said from the beginning, on behalf of the milk vendors it represents, that the offer is disingenuous. It has said that unless it can be shown that there is a means of distributing that additional $2m or whatever, that $2m exists only in cloud cuckoo land; it is just not there. It might as well be $100m because it will never be distributed. Somewhere between those two points of view is a reasonable, negotiable compromise. I am disappointed that the Minister for Primary Industry has not brokered a compromise.

The day after the Minister made the offer in the Assembly last week, the director of the Western Australian Small Business and Enterprise Association sent an urgent fax to the Minister's office. The fax, dated Thursday, 24 November, reads -

> Late last night/early this morning in the Legislative Assembly of State Parliament you made mention of a $7m DAAS sum.
>
> Conscious of the fact that the Dairy Industry Amendment Bill will be (further) dealt with today and also conscious of the fact that the Legislative Assembly Orders of the Day will commence at 10.00am, I request an urgent meeting with you to personally discuss the details of the scheme surrounding the $7m DAAS sum.
>
> In particular I would like to discuss with you how the $7m DAAS sum would be allocated amongst vendors/distributors.
>
> The discussions will assist us in our response to the $7m DAAS scheme.
>
> If you are not able to accommodate a meeting prior to 10 00am could you please send us details, by facsimile, of the $7m scheme prior to the further consideration of the Dairy Industry Amendment Bill in the Legislative Assembly.
>
> We make a specific request that such details include information on how the difference between the current $4.7m DAAS sum and the $7m sum would be allocated amongst vendors/distributors and how the $7m scheme would operate.

The next day, last Wednesday, the Minister said to the industry that it should make a decision now or the $7m proposal would be off. That was at one o'clock in the morning. The next day the small business association sent the urgent fax. It was saying that if they were to make up their minds they needed to be told by the Minister how the new scheme differed from the old scheme. The association was saying that if the Minister knew how to do it, he should be able to tell the association easily. If he does not know how to do it, the association is right - the money does not exist; it is cloud cuckoo land. That was on 24 November. On 29 November the Small Business Milk Vendors Action Group allied with the WA Small Business and Enterprise Association sent a letter to all members of the Legislative Council. The letter reads -

> Dear Member,
>
> On the 23/11/1994 we attended the second reading of the Dairy Amendment Bill 1994 in the Legislative Assembly.
>
> We listened to Members of Parliament discuss and debate this Bill. After several hours the Minister for Primary Industry came up with a so-called scheme.
>
> We were then given a 'matter of minutes' to agree to the Minister's scheme.
>
> "We rejected it. It would have been irresponsible to do otherwise".
>
> As no agreement was reached on the evening of the 23/11/1994 we were then requested to make a decision by 10am the following morning (24/11/1994).

That was a couple of hours before the fax was sent. The letter continues -

> At approximately 8.48am on the 24/11/1994 we faxed the Minister for Primary Industry seeking an urgent meeting and some concrete details of his so-called scheme.
>
> We received no response from the Minister's office.
>
> To this date the Minister for Primary Industry has still not provided the details we requested.
>
> This conclusively supports our view that the Minister had no details of his so-called $7M scheme on Wednesday 23/11/1994 and has no details of his so-called $7M scheme today.
>
> The Minister's scheme is the WRONG scheme. The scheme is based on DAAS and it does not address 'goodwill', it does not address compensation and it does not address the fact that the milk vendors privately owned businesses are being taken over, free of charge by the two large Dairy companies.
>
> We urge you to read the enclosed copy of our latest letter to 'all milk vendors'. Our letter covers most aspects of why we had no hesitation in rejecting the Minister for Primary Industry's so-called scheme.

One can see the element of frustration in the letter. After being told to make a decision on the spur of the moment, and seeking information about what it was they were expected to make a decision about, the members of the association still have not been given the details by the Minister. What is the $7m plan? Those people have not been given the courtesy of an answer. How can people be expected to have confidence in such an offer -

Hon N.D. Griffiths: He has no answer for you.

Hon KIM CHANCE: I am not talking about the Minister for Transport. I am sure that the Minister for Transport will support us.

Hon N.D. Griffiths: So he should.

Hon KIM CHANCE: The Minister for Transport is an honourable and decent man.

Hon John Halden interjected.

Hon KIM CHANCE: One needs to be generous at this hour of the night. The failure to reply to Philip Achurch is consistent with the Minister's response to questions I have put to him. I have asked questions on a couple of occasions. I did not go through the entire *Hansard* to find all of them. However, I sought the details of the DAA scheme by way of question without notice 393 to the Minister for Transport representing the Minister for Primary Industry which reads -

> In relation to the Dairy Industry Amendment Bill 1994 -
>
> (1) Are milk vendors eligible for assistance under the distribution adjustment assistance scheme if for personal reasons they decide not to accept a "contract" offered by a processing company?
>
> (2) Why is that assistance capped at $150 000 when some milk vendors' white milk payout figure is greater than this?
>
> (3) Why is that scheme payout only on white milk when the vendor's entire business is affected?

Although some notice of the question was given the answer was, in part, -

> Due to the short notice of this question I am unable to respond. If the member places this question on notice, I will respond in due course.

I am not here to talk about the handling of questions by Ministers, but the three questions are relatively simple. Members are entitled to expect the Minister to know the answer without needing notice; or at least the Minister should be able to make a fair fist of

answering a question of that type. Not to be deterred, I asked question withou notice 394, to the Minister for Transport representing the Minister for Primary Industry, which reads -

> Some notice has been given of this question, although I fear it may befall the same fate as the last question.
>
> (1) Can a milk vendor claim assistance under the distribution adjustment assistance scheme and then sell his route trade and by-product component to another vendor?

It was the same question that government members have raised consistently with me tonight, expecting me to know the answer. The question continues -

> (2) If yes, what effect will this have, if any, on the scheme payout?
>
> (3) Does the Government recognise the goodwill value of the milk vendor's business; if not, why not?

The answer came back -

> (1)-(3) Due to the short notice of this question I am unable to respond. If the member places this question on notice, I will respond in due course.

The Leader of the Opposition, Hon John Halden, interjected at that stage, and said -

> I am glad that we know the answers before we ask the questions because it would be a disappointment if we were waiting on you people.

Hon Tom Helm: Are they trying to avoid the answers, do you reckon?

Hon KIM CHANCE: If the Government expects me to know the answers to the same questions, because it has been firing them back at me all day, it is reasonable that the Minister, who has some control over the facts, might be able to answer with or without some notice. Not to be deterred, I asked a question on 24 November 1994 of the Minister for Transport representing the Minister for Primary Industry -

> (1) Does the Minister stand by his claim that all milk vendors and distributors have been offered a choice whether they remain in the industry or leave, bearing in mind that at least 20 milk vendors have not been offered a contract by a dairy company and have therefore been forced out of the industry without any choice?
>
> (2) Is the Minister aware that the distribution adjustment assistance scheme loan may represent only 50 per cent of the value of an individual milk vendor's business and is, therefore, neither fair nor equitable compensation for milk vendors being forced out of their industry by government policy?

Bearing in mind this is the day after we had to make a decision on the spot about whether we accepted the $7m offer, the answer we received was -

> (1)-(2) The Dairy Industry Amendment Bill is presently before the Legislative Assembly and a number of clauses are being discussed. The DAA scheme is one of the issues being considered and it would be inappropriate for me to preempt any decision that might be made.

Only one person can make a decision on the DAAS, and that is the Minister. He is saying that he will not preempt himself. That presupposes he will make a decision. We have been waiting since 24 November. We do not have to be here at one o'clock in the morning, or sunrise either. We do not have to do any of this. All the Minister had to do was what he implied he would do in that answer - make a decision. When will the Minister make a decision and say to those people, "This is what the scheme means. This is what the $7m means", and sit down with them and the people who have an alternative view but are affected by the same difficulties?

Hon Derrick Tomlinson: If he does that will you support the Bill?

Hon KIM CHANCE: If he does that the Government will be able to use its numbers without any fuss and put the Bill to bed.

Hon Derrick Tomlinson: I ask this of you: You said a few moments ago - about two hours ago -

Hon KIM CHANCE: It goes by in a flash.

Hon Derrick Tomlinson: You are a flash. Two hours ago you said that even if reasonable compensation were offered your opposition would stand. Now you are saying quite the opposite.

Hon KIM CHANCE: I do not think so.

Hon Derrick Tomlinson: You said earlier you would support the Bill.

Hon KIM CHANCE: I said that I would facilitate the passage of the Bill. To do that in opposition one sits down.

Hon Derrick Tomlinson: You will talk until the Minister tells you what the answer is.

Hon KIM CHANCE: I will tell the member what I intend to do. I do not often reveal my tactics to government members. I intend to talk, as will my colleagues, about the serious issues that are raised by this Bill until such time as the Leader of the House feels such pressure on him regarding the legislative requirements of the Government that he decides that perhaps the Minister for Primary Industry should be encouraged to do the job he is paid to do. That is not an unreasonable position for the Opposition to adopt. It is something that did not need to be done. That is a reasonable thing to say. The Minister has had a week to sort this out, yet he has failed to use the opportunity that he had.

Hon N.F. Moore: So you will take all night to pay him back.

Hon KIM CHANCE: No, I will not.

Hon N.F. Moore: You almost have; it is almost morning.

Hon KIM CHANCE: It will make a difference to the outcome of whether the priority Bills of the Government are dispensed with. The Opposition has some priorities and it shares the Government's priority about some Bills. We do not want to see all of the Government's legislative program held up.

Hon N.F. Moore: You don't want to see any of it passed.

Hon KIM CHANCE: The Minister has the wrong idea. We would rather have sorted out this issue during the week. The Government is not able to blame the Opposition for dealing with a Bill in the depth it deserves.

Hon N.F. Moore: I am sorry to interrupt; keep going.

Hon Tom Helm: This will cost tens of thousands of dollars. You should at least be able to listen for a while.

Hon N.F. Moore: It could have been covered in a 40 minute contribution.

Hon KIM CHANCE: The Minister has not said that he will encourage the Minister for Primary Industry to sort out this matter. Only one Minister on the other side has to do it. The Minister's attitude to the milk vendors is almost one of sour grapes. I refer to page 797 of *Hansard* for 1 June 1994.

Hon N.F. Moore: Why should you not be stopped from doing it? You have been doing it for four hours.

Hon KIM CHANCE: The Minister for Primary Industry was talking about deregulation and he said, "We have been putting up with this deregulation in the bush but now it is happening in the city, people do not like it." Is that not a mature attitude for a Minister of the Crown to take? It is about time people in the city felt a bit of pain.

Hon A.J.G. MacTiernan interjected.

Hon E.J. Charlton: Have you woken up, sweetheart? You don't look nearly as good now as when you were asleep. Has Hon Doug Wenn come back, too?

Hon Doug Wenn: I am taking more interest in this than you are, you clown.

Hon E.J. Charlton: The Rhodes scholar from the south west.

Hon John Halden: I would not use that one against him.

Hon KIM CHANCE: The attitude of the Minister for Primary Industry to deregulation and to people in the metropolitan area has not gone unnoticed by the industry. I have with me a little letter from a milk vendor to the Premier dated 17 July. Strangely it was written after the Minister made that offending statement. The letter states -

> Dear Sir,
>
> Thanking you Mr. Court for asking Mr. M. House to answer our letters. It is a very sad reflection on the Liberal Government when a Minister can so arrogantly ignore all my questions and dismiss us as though we did not really exist. Enclosed is his answer, also a copy of my last letter. One of three sent to his office. And this is the best answer he can give. I feel very let down by the Government who we have always supported.
>
> I contacted Mr. Houses office three times to make an appointment to see him. The first two times no one bothered to get back to me. The third time after being told he was TOO BUSY to see me I demanded to see him as he has our whole future in his hands. That same evening Mr. Glen Thompson rang us so we went to see him on Friday 15th. July. What a disappointment that was. He is a man who is obviously intelligent but either cannot understand our plight or does'nt really want to know about it. It seems as though they have TUNNEL VISION.

After those somewhat frenetic negotiations when the Bill was going through the Legislative Assembly, the negotiations in the Labor Caucus room between the MVA and the Western Australian Small Business and Enterprise Association, between Julian Grill and me, and on the floor of the Legislative Assembly between Julian Grill and the Minister for Primary Industry, I felt we were getting close to some kind of resolution. I felt that in the days before the Bill came to this place, the Minister would try to broker some compromise. He has comprehensively failed to do that. He has failed to answer a reasonable question about the manner in which the funds to be administered at the discretion of that arbitrator will be allocated. I attempted to raise the matter with him in the lobby, but he was not interested in discussing the subject and even went on to discuss something entirely different.

I will be pleased to speak to the Minister about his proposal while the Bill is in this place but, as Hon John Halden said, I will not negotiate with the Minister or facilitate negotiations in the manner he attempted in the Legislative Assembly last week. If he believes he has a compromise that will satisfy the industry and wants to suggest it to me and seek my assistance, the Opposition will seek an adjournment and discuss the matter in a reasonable manner. I will not be put in a position of making a rushed decision, not because of my own sensibilities, but because it may hurt more people than are presently hurt by this legislation.

Hon George Cash: Do you want to meet the Minister for Primary Industry?

Hon KIM CHANCE: No, I am waiting for him to come to me.

Hon George Cash: He will not be able to see you tonight because he has already gone home.

Hon KIM CHANCE: I have plenty of time, more than the Leader of the House.

Hon George Cash: You may have to wait for the Assembly to sit again before you finish.

Hon KIM CHANCE: I have made the point a couple of times while the Leader of the House has been engaged in urgent parliamentary business outside the Chamber, that my opinion does not matter. The people who matter are the vendors. When they tell me they are satisfied with the Minister's offer, or that he has gone a long way towards satisfying their concerns, Opposition members will sit down.

Hon John Halden: We are happy to adjourn whenever you are ready for these negotiations to start. That will help the process.

Hon George Cash: You must wait until the Minister comes in tomorrow morning.

Hon KIM CHANCE: It will not please government members to hear me say that the Opposition does not want to obstruct the Bill. It has not been responsible for the delays so far.

Hon E.J. Charlton: You are responsible for demonstrating to people in the community, who you are purporting to support, that you are offering $7m for nothing. You must make a decision about that. You are trying to get out of it another way, but in the end people will see through you.

Hon KIM CHANCE: I have not said that the $7m is for nothing. I said it is very difficult to see, and the Minister has not explained -

Hon E.J. Charlton: You can make a big decision now you are a big boy. You have become a bigger boy since you have been in this place and you can make a decision.

The DEPUTY PRESIDENT (Hon Cheryl Davenport): Order! The Minister will have an opportunity to reply.

Hon E.J. Charlton: When? Give me a rough idea.

Hon KIM CHANCE: What is the date today? I hope the Minister has not misunderstood me on the question of the difference between the $7m offer and the $4.75m offer. The Opposition has said the Minister has failed to explain how that balance will be expended. Perhaps I did not make that sufficiently clear.

Hon E.J. Charlton: Sit down and I will tell you.

Hon KIM CHANCE: It is not the Minister for Transport's job to tell me. The Minister for Primary Industry has had a week in which to reply to the industry. He received a specific request from the Western Australian Small Business and Enterprise Association, which I will read again in case the Minister missed it.

Hon E.J. Charlton: I did not miss it.

Hon KIM CHANCE: That request was to tell the industry representative how that money will be spent. The request is in three lines -

> We make a specific request that such details include information on how the difference between the current $4.7m DAAS sum and the $7m sum would be allocated amongst vendors/distributors and how the $7m scheme would operate.

Hon E.J. Charlton: It will be done by the arbitrator.

Hon KIM CHANCE: We are going back to the beginning.

Hon E.J. Charlton: You have been going back to the beginning since you started.

Hon KIM CHANCE: I have been working through progressively.

Hon E.J. Charlton: You should look up the dictionary definition of "progressively".

Hon KIM CHANCE: A simple three line question was put by Philip Achurch to the Minister on 24 November. At 29 November, as far as I am aware, he still was waiting for an answer.

Hon Tom Helm: He is still waiting for an answer.

Hon KIM CHANCE: No reply yet from the Minister. The Opposition is not responsible for the delay to this Bill so far. It would much have preferred an amicable resolution, and I truly believe that one is possible. If the Government wants to proceed with the current unfair arrangements, it probably can do so. It has the numbers and, in the end, the Opposition will be worn down to the extent that the Government's legislation will go through. If the Government wants to proceed with its proposals, it will do so without me and without the Opposition because neither I nor anyone else on this side of the House will have a part in it. It is not fair. We can go on and argue this until the cows come

home, but it will not make it fair. Neither will it make the imperatives for a reasonable resolution on compensation any less real. A number of alternative arrangements have been suggested, some of which incorporate the basic DAAS. Each of these alternatives has been detailed to the Minister and I sincerely hope he has taken the opportunity to look at and analyse the strengths and weaknesses of them all. The principal weakness of the distribution adjustment assistance scheme is that it deals only with the white milk portion of the vendor's business, and this leads me to the crux of the problem. I discussed this issue in a previous short speech on this matter in August.

Hon Tom Helm: You are always giving short speeches; that is the trouble.

Hon KIM CHANCE: Sometimes I rush through them.

In paying for the white milk portion of the business we will not be reflecting the value of the whole business, yet we are taking away the capacity to run that business.

Hon E.J. Charlton: No, we are not, because that can be taken from them anyway. When will you acknowledge that?

Hon KIM CHANCE: The business exists, but when the Bill is passed, it will no longer exist.

Hon E.J. Charlton: It is there by the grace of the current situation and it can be taken away regardless of whether this Bill is passed.

Hon Mark Nevill: Stop delaying the debate.

Hon E.J. Charlton: Where have you been?

Hon Mark Nevill: I have been preparing my speech on this Bill.

Hon KIM CHANCE: If the DAA scheme does not reflect the value of the whole business, the compensation scheme is based on an inequitable foundation. Three schemes have been put to members. One scheme seeks to address that situation in a different way from the others. I am not entirely sure that any of the three schemes presented to members by the Milk Vendors Association, the Western Australian Small Business and Enterprise Association and the ABC scheme brought forward by Mrs Robyn Hendricks is the right solution. Nonetheless, people are searching for solutions and we need to start from the beginning by putting together a fair scheme. While there is a similarity between the three schemes - the people who devised them might disagree with me - it suggests that the potential for an effective and fair resolution is possible. There is nothing more true than the fact that non-white milk is part and parcel of a distributor's business.

I will read to members a letter from D. and R. Lewis of Como, who are milk vendors, to try to establish the importance of the non-white milk part of a distributor's trade. The letter reads -

> Why is D.A.A.S. only for white milk? The farmers were kept viable by being able to sell their non-quota white milk to the Dairies to manufacture By-Products.
>
> The Dairy Companies were kept viable by the Vendors who promoted, transported and delivered their by-products -- made with white milk. The Government Licences for Vendors are for white milk - but the vendors had to pay a lot more for their businesses because they included by-products.
>
> The vendors are entitled to, and MUST be paid for their whole business when being FORCED to exit the Industry because of deregulation.
>
> THE question which must be answered is ..... WHO PAYS? The Government, The Milk Companies, or the Vendors being given extra business --- or all of them jointly?
>
> Perhaps the Milk Companies should pay for the By-Products trade they take over, and re-coup the money from the vendors THEY have chosen to deliver them.

That is not a bad suggestion.

Hon E.J. Charlton: The fact that they are deregulated means that they do not have to buy anything unless the Government regulates that part of the industry. Your argument is totally flawed.

Hon KIM CHANCE: I am talking about by-products, not white milk.

Hon E.J. Charlton: Yes, but it might be part of a contractor's operation.

Hon KIM CHANCE: By-products are not regulated and one can establish the value of a business which distributes by-products. The Minister said that they could do it better than a person who distributed both products. A value must be put on the business and it should be recognised by the dairy companies.

Hon E.J. Charlton: It is regulated by the distribution districts and they have the option of having more than one distribution outlet.

Hon KIM CHANCE: The Lewises' letter continues -

> AN INCREASED DAAS FIGURE IS NOT THE SOLE ANSWER, AND IS NOT A "FAIR FOR ALL" SOLUTION.
>
> All the CONDITIONS must be made known, understood and agreed to BY ALL CONCERNED - before the Bill can be passed.

I will not read out the rest of the letter because that is the only part that addresses the question I am referring to. By-products are an important part of any milk round.

I know this has been a long speech, but the issue is one of some substance and is complex. I hope I have made the position clearer and that the unclear and inequitable nature of the proposals can be seen by every member. Not all members will want to see that, but the important thing is that they recognise that these inequities exist. To put this argument together has required a number of sources of information to give a fair perspective of the history of this issue and the crushing effect of the Bill on some people. The issue is also one of broader significance and whether the debate was to be held on this Bill or another Bill, it had to be held.

Questions are raised by the Bill which challenge some fairly fundamental views. Questions are raised about the relative economic benefits of deregulation. Experts have looked into the dynamics of this industry and have come up with the view that the microeconomic benefits of deregulation, in as much as it is possible within this industry, are not all that great and run the danger of being negative rather than positive. They asked questions about how deregulation is defined and that brings me back to the question of whether deregulation is achieved if we transfer the power to regulate from public to private hands. Of course, it is not. When we consider the question of deregulation, how many times do we simply think of it as transferring the regulatory power out of the Government's hands and not consider where that power will end up? It is clear in this case that the power of regulation will still exist, albeit with another party.

Hon E.J. Charlton: It is the same with absolutely everything.

Hon KIM CHANCE: I hope that is not true.

Hon E.J. Charlton: Of course it is.

Hon KIM CHANCE: It may be, but I hope it is not, because if it is true there is very little benefit from deregulating anything. We may share a common view.

Hon E.J. Charlton: The greatest problem with free enterprise is monopoly power. We have only two options because we inherited a situation where the only thing regulated in this industry was the vendors; everything else had been deregulated.

Hon KIM CHANCE: It raises questions about whether the transfer of ownership of the regulatory process is deregulation at all. It raises fundamental questions about our level of commitment to small business and what we think small business is, and to what extent we will go to protect our image of small business. It raises questions about whether a licence issued under a Statute can be deemed to have a property right value. If we decide that a property right value is established, how then do we handle the people who are hurt

if we take away that property right, whether we decide that the ownership of that property right is held de facto or de jure? It raises the question of whether in the absence of total or partial legal duty to these people we may still have a moral duty to compensate those who rely on the rights established by Statute continuing to have value.

Hon E.J. Charlton: One thing that we want to do is ensure that people are looked after. That is why the decision has been made to increase the compensation and try to find another way to raise funds to give these people.

The DEPUTY PRESIDENT (Hon Cheryl Davenport): Order!

Hon E.J. Charlton: It is important that he get a balanced view.

The DEPUTY PRESIDENT: Order!

Hon KIM CHANCE: I appreciate what the Minister has said. In large part, I agree with him. I have said through the conduct of this debate that we do not have to be at war over this issue. The Bill raises the issue of the legal status of other limited entry market rights, such as those which are held by dairy farmers and fishermen. However fundamental and vital those questions might be, we must never lose sight of our objectives and our need to ensure that what we do in this place remains fair and just. I doubt that anyone in this place believes that the compensation provisions contained in the consequential arrangements are fair or just. The question is: How do we correct the impending injustice? I sincerely believe decent arrangements are possible if we approach the matter with goodwill on both sides. We owe these people a just solution, and nothing less.

Hon E.J. Charlton: We agree on that.

Hon KIM CHANCE: What we cannot and must not do is accept a proposition that we know is unjust. The proposition which is contained in the DAAS, the consequential scheme of this Bill, is clearly unjust. What has been presented to us by the Minister, although an acknowledged improvement on what we started with, remains an unjust scheme.

By leave, the member tabled certain letters. [See paper No 623.]

HON REG DAVIES (North Metropolitan) [1.33 am]: I now know how the speaker after Hon Roy Claughton felt after his marathon five and three-quarter hour speech in this House! Following Hon Kim Chance for four hours, I was a little concerned when I saw him close his second red book of notes; I was concerned he was going to open a third. I hope only that it was not all in vain. I hope that members took note of what he said. However, I fear that much of it was in vain. Section 91 is now well into the record books. More has been said about that than has been said about any other subject for a long time.

This Bill purports to consolidate various changes in administrative responsibility in the industry and will formalise a process of deregulation which has occurred over recent years, according to the Minister's second reading speech. I have no beef with that, provided that deregulation encompasses fairness and provided that it is real deregulation which promotes competition and increases efficiencies. By all means remove any restrictions, but make sure that it is all in fairness. We must remember that the milk vendors are small businesses, generally operated by families using their life savings, with some even mortgaging their homes. Many small operators used every cent of savings to purchase the business, which included the cost of the licence and also the goodwill. Unfortunately, the Dairy Industry Amendment Bill has proved to be a divisive instrument within the dairy industry. An example of this is contained in a letter from Bob and Dot Lewis of Como. They wrote to me, and probably to every other member of this House, as follows -

> A lot of facts have come to light since the Bill was first introduced. At that time most Members of Parliament were ill-informed, misinformed, or simply uninformed on the Dairy Industry in W.A., -

That is a fair comment.

- and no one could have foreseen the unfair DAAS calculations or the tight one-sided contracts suggested by the Dairy Companies.

There are now two categories of Vendors -
(a) the already large vendors who are to get free trade given to them by Dairy Companies - which they intend to STEAL from smaller vendors - those vendors and their customers having no say in the matter. The BIG vendors want the Bill rushed through - ONLY TO CASH IN ON THEIR GOOD FORTUNE.

(b) The smaller vendors who are being pushed out of their Industry and ROBBED, and not being paid anywhere near satisfactory compensation by Government or the Dairy Companies.

Some time ago I personally purchased about $20,000 worth of shop trade from Masters Dairy. Now they want to take over ALL of my business for nothing.

The whole plan of de-regulation in W.A. has got out of control, and that is why a LARGE NUMBER OF SMALLER VENDORS want you to SLOW DOWN - THINK ABOUT IT - and stop destroying W.A.'s Dairy Industry.

One of the concerns I have had expressed to me on numerous occasions is that Masters Dairy Ltd is now owned by National Dairies Ltd. The concern is that because of that, it will favour interstate products over locally produced items. The DAAS package is probably one of the most contentious issues. We heard tonight that the Government has increased the pool to some $7m. That sum obviously is based on some knowledge of the numbers of vendors who will be forced out of business. I ask the Minister to inform the House how many vendors are in Western Australia. How many will be forced out of business immediately and at what cost? How many will be out of business within the DAA scheme's lifetime? How many will lose part of their business? Will those who lose part of their business be compensated? Is the Government certain that the $7m is a fair and reasonable amount based on its expert calculations? Is there a plan to release more funds into the scheme should more vendors opt out than have been calculated for?

I also ask the Minister to consider other points that were raised in a letter dated 10 October from Mr and Mrs Lewis, which is addressed to all members of Parliament and states -

I would like you to consider the following points:-

1. Don't rush deregulation through in it's present form until you have looked at future repercussions for each section involved.
(Only the larger vendors have been asked for their opinions - contrary to statements by the AMVA President and a Press Statement).

2. INCREASE THE AMOUNT of D.A.A.S. payable to existing vendors.
(If the deregulation date is delayed, DAAS will have accumulated more funds).

3. DAAS should be paid within 30 days of exit date, and not the intended 8 months, as vendors have immediate financial commitments.

4. For taking business from existing vendors, the Companies should have to contribute financially, and the vendors receiving extra business should have to pay for it.

5. Remove the 3 year restrictions on vendors leaving the Industry.

I would like to know whether the document I have here, which was produced by the Dairy Industry Authority of Western Australia in 1993 and is the distribution adjustment assistance scheme terms and conditions, is the current terms and conditions or whether it has been upgraded since 1993, because this document refers to the three year restriction on vendors who leave the industry.

The letter continues -

6. If you are anticipating more competition, wait until Watsonia enters the market. Let the current licences run until expiring at 30th June 1995, - and don't

let the two present Companies run the Dairy Industry into total RE-REGULATION!

I ask that those concerns be taken into consideration, and the Minister might like to answer those concerns in his summing up.

I am sure members would have received many dozens of letters, as I have, outlining the inequities with the system, including the ruling from the Australian Taxation Office which further puts restrictions on businesses. I will read into the record part of a letter from R. and B. Thornton-Smith of Kalamunda, who see a completely hopeless future for themselves and their family. They state -

> . . . once that Bill is passed, we are wiped out.
>
> Our situation is
>
> We gross $75,500, but we have been told by Masters that they do not consider us viable and therefore we have not been offered a contract (contrary to the information that has been given to Mr. House).
>
> There are 4 vendors in our general area, and Masters say that they only want 2.
>
> So if the amendment is passed, this is where we are:
>
> Our wholesale milk round was worth $150,000 and still should be
> Our D.A.A.S. is currently $54 000
> A loss of $96,000
> We have no business
> We have no income
> We have no money for our superannuation
> We cannot receive the dole for 12 months
> We cannot work in the industry for 3 years
> The D.A.A.S. LOAN may be taxable
> THANK GOD !! we own our home.
>
> Our son who was in partnership with us is a married man with a 2 year old son and a baby due next week. He has a heavy mortgage on his home, so where does that leave him?
>
> The DAAS is no form of compensation toward having our business and lifestyle taken from us, forcing us into unemployment.
>
> How can any Government make a decision that can cause someone's business to be taken from them, and given to someone else for NOTHING. AND WHO CARES?

Well, Mr and Mrs Thornton-Smith, I care. That is why I have brought their concerns to the Parliament this evening.

Another letter that I have is addressed to all members of Parliament and poses some interesting questions to us as members because it puts us in the place of these people. It states -

> How would you feel if someone in politics CHANGED THE RULES. You are told that your seat is no longer viable and will be absorbed by someone that adjoins you.
>
> So in a couple of weeks time, you will have NO JOB.
>
> They will give you less than a years NETT income, which may or may not be taxable and will take 6 months to arrive. This also may only be treated as a loan.
>
> You may not, nor any member of your family, take a job in any way connected with politics for 3 years.
>
> You may not apply for the dole for 12 months.
>
> And you will have your super cut by two thirds.

> Also note that the member who gains your electorate, also gains your salary as extra income.
>
> That is what is happening to us in our chosen profession as milk vendors when you make the proposed changes to the legislation.

I ask that these quite genuine concerns be addressed before the Bill is allowed to pass and become law because there is no doubt that the Bill will pass. The Bill has many good aspects. It is welcomed by most people in the industry, provided these inequities are addressed genuinely.

Hon Derrick Tomlinson: What will happen if it does not pass?

Hon REG DAVIES: We will be responsible for putting families out on to the streets.

Hon Derrick Tomlinson: If we pass the Bill, it will do that? You are now saying if we do not pass it, it will do the same thing.

Hon REG DAVIES: I am saying we should address the problems that have been raised. We should ensure that the DAA scheme is properly funded so that people are treated fairly and are paid what their business is properly worth.

Hon Derrick Tomlinson: That is in the legislation, and if that is not achieved, what will happen?

Hon REG DAVIES: I am sure it is a matter of amending clause 91 of the Bill, or of the Minister making a ministerial statement. We have seen many times in this House before Bills have gone through that the Minister representing the Minister responsible has come into this House with a statement from the Minister responsible outlining what he will do, and it may eventually be by regulation.

Hon E.J. Charlton: You have quite properly identified the issues and asked specific questions, and I will get all of those answers for you.

Hon REG DAVIES: There is another side to the argument. The President and some committee members of the Milk Vendors Association see the positives of this legislation as being stability in the vending side, with confidence coming back into the industry. They say that over the past few years uncertainty has been created and many members have not been game to buy new vehicles, etc. They see that this legislation will change all that. They see more focus and professionalism in the future. They feel that they will be meeting the Government's philosophy of deregulation. The MVA also has some concerns. It agrees that contracts should be better, that there should be more contracts, and also that there should be more money for the DAA scheme. On behalf of those people who are not happy with the legislation I urge the Government to show some compassion and caring when deciding the future of many Western Australians and Western Australian families.

HON B.K. DONALDSON (Agricultural) [1.50 am]: I will not try to emulate the length of the contribution made by Hon Kim Chance. He was very sincere in what he was saying. He has gathered up facts and listened to lobby groups. Hon Kim Chance's speech centred on clause 91 and the compensation package. The Opposition supports the balance of the 92 clauses.

This Bill was subject to a great deal of debate by the rural committee, of which I am a member. Other members of the coalition were invited to a number of briefings by not only the Dairy Industry Authority, but also the Milk Vendors Association and other specific interest or lobby groups. The Government has not taken this matter lightly. Any Government would be keen to see a minimum impact on people. When framing legislation there will always be that grey area when we move from a regulated system to a deregulated system, and it is how we manage that that is important.

A number of changes have been made to the share of the white milk market. Once upon a time a high percentage of white milk was household deliveries, but the emphasis has changed over a period. We have moved to the American system where shops are situated close together, whether they are large or small. The shopping patterns of the consumer

have changed significantly, and most milk products are bought through the supermarkets. Household deliveries have been reduced significantly. I do not know the real reasons that this has happened. It could be the price, but I wonder whether in some of the newer suburbs which have a greater number of households with both parents working, it is that milk is being delivered in the afternoon and is sitting outside for maybe two or three hours before someone returns home. That significantly reduces the shelf life of that milk. People have changed their shopping patterns. It may be more convenient for them to pick up their milk when they are at the supermarket. The supermarkets have added to this by using milk as they use bread and meat, as a loss leader marketing operation. All they are interested in is getting people through the door, and we will always find milk, meat and bread at the end of the line of shelves. Invariably, people must walk to the end of the line and if they are anything like me they will get sucked in. I usually bring home two or three times more than I was sent to get. That also has an effect on the way milk is being distributed.

Clause 91 sets the framework for compensation in place. During this period of consultation with the Minister and the industry we have seen significant changes to the original proposal. The Government has taken on board what the Milk Vendors Association and individual milk vendors have been saying. Initially, the distribution adjustment assistance scheme funding was increased from $2.6m to $4.75m. Another important factor was the extension of one year contracts to three years to provide some stability and security of tenure. The Government felt that a one year contract did not give that to the milk vendor. The next change, of course, came when the Government increased the DAAS funding to $7m and a 1¢ a litre levy compared with the original 0.35¢ a litre. Another important feature is that DAAS funding would become available during the three year term of those contracts. It was felt that during that time some of the vendors who may be unviable or uncontracted could pick up DAAS compensation or funding.

Hon Tom Helm: Is this the answer to Kim Chance's questions?

Hon B.K. DONALDSON: Hon Kim Chance was talking more about arbitration; I am providing the facts. *Hansard* records the debate in the other place. One of the criticisms of a number of us was that in the first wave, the people who did not receive contracts or wanted to leave the industry would be a bit like lotto winners; but what would happen to people after that? A significant change is that during the life of those three year contracts, those people who wish to move out are then eligible for compensation. That is a significant difference from the original proposal. The Government has responded to the concerns raised by the different groups which approached it.

A big plus has been the Legislative Assembly's agreement to the appointment of an independent arbitrator. The Minister for Transport, representing the Minister for Primary Industry, will outline that when he responds. That arbitrator has the ability to assess applications for DAAS compensation outside the present DAAS guidelines. The Minister, in consultation with the rural committee, has said that once that independent arbitrator made a recommendation he would accept it.

Hon Tom Helm: In which clause of Bill is this?

Hon B.K. DONALDSON: Clause 91 provides the mechanism for compensation. Hon Kim Chance did not talk about the Bill, but about what clause 91 would put into place.

Hon Tom Helm: Is that all set up?

Hon E.J. Charlton: Yes.

Hon B.K. DONALDSON: A few cases were mentioned, of which two have already been identified as cases for special assistance. One would assume that one of the first jobs for the arbitrator would be to look at the two cases that have been identified in this House tonight. In both cases I was informed - I can only go on the information given to me - that one declined a Brownes' contract and one had not accepted a Masters' contract, for whatever reasons. Those two cases, which have been the subject of a great deal of debate

during the address by Hon Kim Chance, may appeal to the arbitrator to make a decision. That would apply to other similar cases.

Hon Tom Helm: There are no guidelines to make an appeal.

Hon B.K. DONALDSON: It is open. Hon Kim Chance asked what was the difference between the $4.75m allocated to take out this first wave, and the $7m allocation. The difference between those amounts will be allocated for payment to the second wave of people that may want to leave the industry and to pick up any assistance packages that the arbitrator may recommend to the Minister. I am sure the Minister will give much more detail on those matters.

Hon Tom Helm: Are you saying $2.25m will be left for the second wave when the $4.75m is gone?

Hon B.K. DONALDSON: Yes, for special assistance. That was agreed to by the lifting of the levy to 1¢ per litre.

Hon Tom Helm: Is it not a problem that that is not written down yet?

Hon E.J. Charlton: Hon Kim Chance is saying that the problem is that is still not enough.

Hon B.K. DONALDSON: In 1991 Aeil Conomics and Policy Pty Ltd, consultants to the DIA, was requested to develop a $2m scheme. That concluded that there were no economic or equity grounds for compensation. That would have been quite unacceptable to us - I am sure that it was to the Government of the day. It also recommended that the distribution adjustment assistance scheme should be distributed pro rata across all vendors. In 1993 the first package of $2.25m was put forward. It has gone up to $4.75m and by the end of 1994 we are looking at $7m. That will allow for the additional components. Instead of having a one year contract, we will have a three year contract. It would also cover special assistance to those who appealed to an arbitrator or those who became unviable or uncontracted during that time. Those people would not be disadvantaged by leaving the industry down the track, rather than today. One hopes that the contracts would become tradable or could be sold; they would allow the price to be influenced by the market forces.

The proposal of the Milk Vendors Association has been closely met. The industry sought from the Minister increased funding to $7m, and that has been achieved. The 1¢ per litre levy has been achieved. The association said that it did not want any ceiling on the DAAS payment. If that happened, there would be a mass exodus from the industry. The money would not last for very long; in fact, the whole lot would be gone very quickly.

Hon Tom Helm: Is it not the intention to get rid of the MVA?

Hon B.K. DONALDSON: No, I do not think so.

Hon Tom Helm: Why are you going through this exercise?

Hon B.K. DONALDSON: Hon Kim Chance criticised contracts. It has been pretty well documented by him. We looked at this area. It was mentioned that, firstly, the terms might not have been cleared by the Trade Practices Commission; and secondly, the contract could be terminated at any stage. A great number of vendors have signed those contracts. I am not a lawyer but I feel confident when so many have signed the contracts and an accountant or a lawyer would have made sure that they were given proper scrutiny. If people do not like a contract, they have the option not to sign it. We are always told to read the fine print.

Hon Tom Helm: Do you mean like individual contracts that workers have to sign?

Hon B.K. DONALDSON: I do not think that is a very good analogy. The contracts issue was raised some months ago but it has not been raised with us since. The Opposition has been briefed by the milk vendors and other interest groups within the Milk Vendors Association and we have met with all of them. A number of meetings have taken place with most members on this side, who have been well and truly briefed by a wide cross-section of the industry.

Another issue is what do we do when the Opposition says that it wants to facilitate the progress of the Bill through the House? I listened very carefully to the marathon effort by Hon Kim Chance to ascertain when he would talk about the remainder of the Bill. He talked about clause 91, but little else. Do we repeal existing section 91? That would leave the industry in turmoil. We would see supermarket chains making their own arrangements, especially for non-white milk products to start with. They may move to negotiate individually with milk vendors for delivery. Generally a great many more people would be affected by the compensation payment than is the case now. I do not know each case for compensation, but I do know that many have been looked at and a system has been put in place which I thought was generally accepted by the industry as the best way for the transition to occur.

Some supermarket outlets are already seeking alternative delivery arrangements. It has been mentioned that we could look at a milk company franchising out if the industry were to run into a real problem with the Bill not progressing or if people were not paid compensation which would leave them in a poorer situation where they would be worse off. I suppose we can also look at companies like Coca-Cola Bottlers Perth which has direct deliveries. I thought Hon Kim Chance talked about the draconian dress standards where the drivers had to wear a hat showing the company's logo and also the delivery van that showed the company's logo on the side. Coca-Cola is a prime example.

Hon Tom Helm: They have not invested capital.

Hon B.K. DONALDSON: If a milk company found the whole arrangement would fall over, I am sure it would make choices to ensure the delivery of products to the major supermarkets. The people most disadvantaged would be the 17 to 20 per cent of consumers whose milk is home delivered. Those home deliveries would cease because it would not be viable for a small operator to deliver to households.

Hon Tom Helm: What is the fuss about?

Hon B.K. DONALDSON: I do not know. Quite frankly, some of the issues raised by Hon Kim Chance were about the role of the independent arbitrator and how the system would work. I do not know whether guidelines can be worked out, and when the arbitrator will be given the freedom to look at specific cases and make a recommendation if he feels there is a case for the compensation to be increased. This provision is subject to that vendor appealing to the arbitrator.

Hon Tom Helm: Once this Bill goes through, that is his only choice. There is no independent ombudsman. An arbitrator is set up by this Bill, and that is it.

Hon B.K. DONALDSON: The Minister has indicated to members on this side of the House -

Hon Tom Helm: Did he say "trust me"?

Hon B.K. DONALDSON: If the member carefully reads the debates in another place in *Hansard*, he will find the Minister is on the record in this regard. He made a statement, and Ministers who make statements in the House know that they are liable to be quoted down the track.

Hon Tom Helm: Why not answer the questions about those matters?

Hon B.K. DONALDSON: I thought the questions had been answered; perhaps they have been missed in the shadows because they are not etched in stone. I am sufficiently satisfied that the best decision has been made and that it will have the least impact on people.

Hon Tom Helm: It is not your money invested.

Hon B.K. DONALDSON: No doubt the Minister has taken on board the questions raised by Hon Kim Chance and Hon Reg Davies. Certainly he will make a statement, somewhere along the line, answering those queries and perhaps satisfying the Opposition.

Hon Reg Davies: This Minister has never let me down.

Hon B.K. DONALDSON: No doubt the Bill will be able to proceed. It should be remembered that this process began in 1985, and has been around for some time. The deregulation process has been an evolution. It is not a decision the Government made last year. If that were the case, there would be strong argument for hitting the consumer with an additional levy of 3¢ or 4¢. That would be the end of it. However, it has been a long evolution of change, and it should have been readily identified by those in the industry.

Hon Tom Helm: It has been, but the argument is about the cost.

Hon B.K. DONALDSON: The argument is about where we are at present. The industry can live with the process at this stage, and it contains a safety net for specific cases of hardship. Some of those cases were mentioned this evening, and they have been identified as eligible for that investigation and special assistance. The greatest aspect of the whole process is the three year contract, and those who wanted to leave the industry because it was not viable or who were contracted during that period are eligible for this compensation. That was a major shift.

Hon Reg Davies: Contracts can be terminated at the drop of a hat.

Hon B.K. DONALDSON: I do not think that is the case because certain conditions apply before that can happen. I do not agree with that statement. From a rural committee point of view, we have been involved with this process for months. It is a significant Bill, and the committee went through the other clauses of the Bill, surprise, surprise. The Opposition so far has not addressed those clauses. Obviously, it must be happy with the other amendments in the Bill. The committee spent a considerable time on clause 91 and the impact of deregulation. The committee did not take the matter lightly, and it was as sincere in its approach as Hon Kim Chance was during debate this evening. The committee gave due consideration to the impact the proposal would have on people. I commend the Bill to the House because I believe this situation has been in the making for a number of years. It is to the credit of this Government that it has increased the funding and changed the rules to make it more acceptable to the industry.

Debate adjourned, on motion by Hon Murray Montgomery.

House adjourned at 2.17 am (Wednesday)

QUESTIONS ON NOTICE

SCHOOLS - YALE PRIMARY
Administration Area, Upgrading

919. Hon JOHN HALDEN to the Minister for Education:

With regard to Yale Primary School -

(1) When is the administration area likely to be upgraded?

(2) When is the school scheduled for repainting?

Hon N.F. MOORE replied:

(1) An upgrade of the administration area at Yale Primary School has not been afforded a high priority by the Thornlie District Education Office. Accordingly, it is unlikely that the upgrade will be undertaken in the near future.

(2) An amount of $15 000 has been allocated for painting in 1994-95. The balance of painting listed will be considered for funding by the Thornlie District Minor Works Committee in 1995-96.

SCHOOLS - MANDURAH SENIOR HIGH
Upgrading

925. Hon JOHN HALDEN to the Minister for Education:

With regard to Mandurah Senior High School -

(1) Is there any proposal to replace the demountable classrooms at the school?

(2) Does the department plan to provide covered areas for the students at the school?

(3) Is there any proposal to undertake a maintenance program on the brickwork, aluminium framings and guttering?

(4) Is there any proposal to replace the obsolete computers at the school?

Hon N.F. MOORE replied:

(1) There are no plans to replace the temporary classrooms at this time.

(2) The school is provided with covered verandahs, walkways and a covered area adjacent to the canteen.

(3) An amount of $50 000 has been allocated for the fretting of mortar and aluminium framings from the 1994-95 maintenance program. The balance of work required to these items and the gutter replacement will be considered by the Peel District Minor Works Committee in 1995-96.

(4) Obsolete computers in schools are replaced upon application to the Education Department.

SCHOOLS - KENT STREET SENIOR HIGH
Upgrading

926. Hon JOHN HALDEN to the Minister for Education:

With regard to Kent Street Senior High School -

(1) Is there any proposal to upgrade the staff facilities at the school?

(2) Is the department planning to upgrade the computer facilities at the school?

(3) Are there any plans to provide a concrete floor in the industrial workshop area?

Hon N.F. MOORE replied:

(1) The school has been listed for an administration upgrade and it will be considered as part of the 1995-96 budget process.

(2) All schools are provided with computing equipment according to a schedule based on actual enrolments. The upgrading of the computing classroom will be considered in relation to the needs of other schools when future capital works programs are prepared.

(3) An amount of $8 000 has been allocated to provide a concrete floor in the workshop area.

SCHOOLS - YOKINE PRIMARY
Upgrading

929. Hon JOHN HALDEN to the Minister for Education:

With regard to Yokine Primary School -

(1) Are there any plans to upgrade the student toilets at the school?

(2) Is there any proposal to upgrade the carpets at the school?

(3) Does the department plan to repaint the school?

Hon N.F. MOORE replied:

(1) The school has been listed for a toilet upgrade and it will be considered as part of the 1995-96 budget process.

(2) Carpet will be considered for replacement by the District Minor Works Committee in 1995-96. However, an amount of $20 000 has been committed to upgrade the staffroom in 1994-95.

(3) Painting at the school will be considered as part of the 1995-96 maintenance program.

SCHOOLS - YAKAMIA PRIMARY
Upgrading

930. Hon JOHN HALDEN to the Minister for Education:

With regard to Yakamia Primary School -

(1) Is there any proposal to upgrade the guttering/roofing at the school?

(2) Does the department propose to repaint the school?

(3) Is the department planning to provide extensions to the library so as to upgrade the facilities provided by the library?

(4) Are there any plans to provide more teaching areas for the school?

(5) Is there any proposal to upgrade the computing facilities at the school, so as to provide more space for students?

(6) Are there any plans to provide more classrooms at the school?

(7) Are there any proposals to provide more sick beds?

(8) Does the department propose to provide more storage space at the school?

(9) Is there any proposal to upgrade the toilet facilities?

Hon N.F. MOORE replied:

(1) The replacement of part of the guttering and roof sheeting will be considered for funding by the Albany District Minor Works Committee in 1995-96.

(2) $15 000 has been allocated from the 1994-95 maintenance budget to paint the school.

(3) No.

(4) No additional classrooms have been listed for the school in 1994-95.

(5) No.

(6) Refer to (4).

(7) The school is provided with adequate sick beds.

(8) $4 300 has been allocated from district minor works for the provision of additional storage facilities.

(9) An amount of $2 800 has been allocated for the provision of an additional toilet in the preprimary centre.

SCHOOLS - WHITE GUM VALLEY PRIMARY
Upgrading

935. Hon JOHN HALDEN to the Minister for Education:

With regard to White Gum Valley Primary School -

(1) Are there any plans to upgrade the carpet in the library and classrooms at the school?

(2) Does the department plan to repaint the school?

(3) Is the Education Department planning to resurface the bitumen areas at the school?

(4) Will the department be upgrading the telephones at the school?

(5) Does the department plan to provide a covered assembly area to the school?

(6) Are there any plans to provide extra storage facilities?

(7) Does the department propose to upgrade the administration facilities at the school?

Hon N.F. MOORE replied:

(1) An amount of $2 500 has been allocated for carpet replacement in 1994-95. The balance of carpet replacement required will be considered by the Melville District Minor Works Committee in 1995-96.

(2) The painting required at the school will be considered for funding by the Melville District Minor Works Committee in 1995-96.

(3) The resealing of the bitumen was not considered a priority in 1994-95.

(4) No. The telephone system was upgraded at the school in 1989.

(5) The provision of a covered assembly area will continue to receive every consideration in relation to the needs of other schools when future capital works programs are prepared.

(6) The provision of additional storage will need to be considered by the school within the context of the district minor works system.

(7) White Gum Valley Primary School has not been rated as a priority for an administration upgrade by the Melville District Education Office. It is therefore unlikely that upgrade work will proceed in the near future.

SCHOOLS - SOUTH LAKE PRIMARY
Upgrading

941. Hon JOHN HALDEN to the Minister for Education:

With regard to South Lake Primary School, will the grass oval be upgraded so it is adequate for sport use?

Hon N.F. MOORE replied:

South Lake Primary School grounds have been programmed for inclusion in the 1995-96 capital works program - grounds development. However, should there be an under-expenditure in the present capital works program, the required works may be undertaken in 1994-95. A cost of the works is $16 000 to resurface the oval. An officer from the department visited the school on 3 June 1994 with the school principal. It was agreed that until the oval surface was rectified the school would utilise the adjacent council oval.

SCHOOLS - SOUTH STIRLING PRIMARY
Repainting

942. Hon JOHN HALDEN to the Minister for Education:

With regard to South Stirling Primary School -

(1) Does the Education Department plan to repaint the school?

(2) When is the quadrangle to be rebituminised?

Hon N.F. MOORE replied:

(1) An amount of $2 500 has been allocated to paint the exterior of the library.

(2) The resealing of the quadrangle will be considered for funding in 1995-96.

SCHOOLS - RAWLINNA PRIMARY
Repainting

945. Hon JOHN HALDEN to the Minister for Education:

With regard to Rawlinna Primary School, when is the school to be repainted?

Hon N.F. MOORE replied:

An amount of $6 500 has been allocated for painting at the school in 1994-95.

SCHOOLS - POSEIDON PRIMARY
Repainting

946. Hon JOHN HALDEN to the Minister for Education:

With regard to Poseidon Primary School, when is the school to be repainted?

Hon N.F. MOORE replied:

An amount of $1 000 has been listed for painting of the girls' toilet in 1994-95. The balance of painting required will be considered for funding in 1995-96.

SCHOOLS - OAKFORD PRIMARY
Upgrading

950. Hon JOHN HALDEN to the Minister for Education:

With regard to Oakford Primary School -

(1) When will the carpet in the school be replaced?

(2) Is the school to be repainted?

(3) If yes, when?

(4) When are flyscreens to be fixed?

(5) When is water to classrooms and adequate drainage to be provided?

(6) When are new permanent buildings to be provided?

(7) When is scheme water to be assigned to the school?

(8) When are education support staff to be provided to the school?

Hon N.F. MOORE replied:

(1) No carpet has been listed for replacement at the school in 1994-95.

(2)-(3) An amount of $10 000 has been identified for painting at the school and the remaining work will be considered by the District Minor Works Committee in 1995-96.

(4) The policy is to repair and replace flyscreens in food preparation areas only.

(5) The provision of water to classrooms should be considered within the context of the district minor works system. An amount of $2 000 has been allocated in 1994-95 to address the drainage problem.

(6) There are no plans at present to provide new permanent buildings at Oakford.

(7) A mains water supply is not readily available to the school site.

(8) Education support staff are only provided to education support centres. In the case of Oakford Primary School there are two students who have been identified eligible for education support. One student will be receiving teacher aide time to cater for needs that have recently been identified. The other student has been offered access to an education support facility which was declined by the parents in favour of placing their child at Oakford Primary School.

SCHOOLS - MECKERING PRIMARY
Upgrading

952. Hon JOHN HALDEN to the Minister for Education:

With regard to Meckering Primary School -

(1) When are the car park, netball and tennis courts to be rebituminised?

(2) When are the computer facilities to be upgraded?

(3) When are the stormwater drains to be made operational?

(4) Are there any proposals to replace the preprimary school's roof?

Hon N.F. MOORE replied:

(1) The resealing of the courts and car park was not considered a priority in 1994-95. It will be considered for funding by the Northam District Minor Works Committee in 1995-96.

(2) All schools are provided with computing equipment according to a schedule based on actual student enrolments. Primary schools are not provided with computing classrooms.

(3) An amount of $2 000 has been allocated to rectify the stormwater drainage in 1994-95.

(4) The replacement of the roof will be considered by the Northam Minor Works Committee in 1995-96.

SCHOOLS - MANDURAH PRIMARY
Upgrading

955. Hon JOHN HALDEN to the Minister for Education:

With regard to Mandurah Primary School -

(1) When will the school be provided with a basketball court?

(2) When will the school be provided with a netball court?

(3) When will the school be provided with a tennis court?

(4) When will the school be provided with a cricket pitch?

(5) Does the Education Department propose to seal the road into the preprimary school?

(6) Are there any proposals to provide the school with an enclosed verandah?

(7) For health reasons, will the department be removing two drinking fountains, one fouled by birds, and one using bore water?

(8) Is the oval to be reticulated?

(9) When is the toilet block to be upgraded?

(10) When are the classrooms scheduled to be renovated?

Hon N.F. MOORE replied:

(1)-(6) Each of these matters will need to be considered by the school in the context of the district minor works system.

(7) This matter is being investigated at present by the Building Management Authority. Upon receipt of a report, appropriate action will be taken.

(8)-(9) These matters will receive every consideration in relation to the needs of other schools when the details of future capital works programs are being prepared.

(10) An amount of $6 300 has been allocated for repairs and painting in 1994-95.

SCHOOLS - CRAIGIE PRIMARY
Upgrading

961. Hon JOHN HALDEN to the Minister for Education:

With regard to Craigie Primary School -

(1) When is a covered assembly area to be provided?

(2) When is the drainage system to be repaired and upgraded?

(3) Are the toilets to be upgraded?

(4) If yes, when?

(5) When is the school scheduled to be repainted?

(6) Is the administration area to be upgraded to incorporate an interview room and sick bay?

(7) If yes, when?

(8) Is more specialist teacher time to be provided to the school?

Hon N.F. MOORE replied:

(1) A covered assembly area was provided at Craigie Primary School in 1975.

(2) Arrangements are in hand for the soakwells to be upgraded. It is anticipated that this will alleviate the problems which the school is currently experiencing.

(3)-(4) There are no plans to provide a major upgrade to the toilets.

(5) An amount of $3 100 has been allocated for minor painting in 1994-95. The balance of the painting will be considered by the District Minor Works Committee in 1994-95.

(6)-(7) Craigie Primary School is rated priority 10 within the Joondalup Education District for an administration upgrade. It is unlikely that an upgrade will proceed in the near future.

(8) Specialist staffing at Craigie Primary School has been allocated in accordance with the current primary staffing formula. An above formula entitlement has not been applied for through the primary personnel branch.

SCHOOLS - COLLIER PRIMARY
Upgrading

963. Hon JOHN HALDEN to the Minister for Education:

With regard to Collier Primary School -

(1) As the school is now 46 years old, is the school due to undergo a general maintenance program?

(2) If so, when?

(3) Is the school to be provided with a car park?

(4) When is the school to be provided with a covered assembly area?

(5) When is the school to be provided with a library?

(6) Is the school to be provided with an interview room?

Hon N.F. MOORE replied:

(1)-(2) An amount of $22 000 has been committed for toilet and drainage alterations from the 1994-95 maintenance program. The balance of the work required will be considered for funding by the District Minor Works Committee in 1995-96.

(3)-(6) The school is being considered for a future upgrade of which provision of a car park, covered assembly area, library resource centre and interview room will be considered for inclusion. No firm date has been set for these works.

SCHOOLS - CARSON STREET
Changerooms; Extra Teaching Staff

965. Hon JOHN HALDEN to the Minister for Education:

With regard to Carson Street Education Support School -

(1) Is the Education Department planning to provide the school with pool changerooms or student changerooms?

(2) If yes, when?

(3) Are there any plans to provide the school with extra teaching staff?

Hon N.F. MOORE replied:

(1)-(2)

Yes. Work will be commenced early in 1995.

(3) Carson Street Education Support School will be staffed according to the number of students enrolled and the severity of their disability.

SCHOOLS - CAPEL PRIMARY
Upgrading

968. Hon JOHN HALDEN to the Minister for Education:

With regard to Capel Primary School -

(1) Has the Education Department any plans to provide insulation to reduce summer heat at the school?

(2) When is the school to receive permanent classrooms to replace demountables and provide for a staff room and music room?

(3) When are the school's gutters scheduled to receive maintenance?

Hon N.F. MOORE replied:

(1) No. The Parents and Citizens Association is currently proceeding with the provision of insulation at the school.

(2) The provision of additional facilities at Capel Primary School will continue to receive every consideration in relation to the needs of other schools when the details of future capital works programs are being prepared.

(3) An amount of $15 000 has been allocated for general restoration at the school as part of the 1994-95 maintenance program. The replacement of gutters is included in the program.

SCHOOLS - HUNTINGDALE PRIMARY
Upgrading

973. Hon JOHN HALDEN to the Minister for Education:

With regard to Huntingdale Primary School -

(1) Is the school scheduled to be repainted?

(2) If yes, when?

(3) Are the phones to be upgraded?

(4) If yes, when?

(5) Does the Education Department propose to expand the office space at the school?

Hon N.F. MOORE replied:

(1)-(2)

An amount of $15 000 has been allocated for painting in 1994-95. The balance of painting listed will be considered for funding by the Thornlie District Minor Works Committee in 1995-96.

(3)-(4)

No. The telephone system at the school was upgraded in 1991.

(5) The school is rated priority 2 in the Thornlie Education District for provision of an administration upgrade. Therefore, the proposed work will continue to be considered for inclusion in a future capital works program.

SCHOOLS - GRAYLANDS PRIMARY
Upgrading

975. Hon JOHN HALDEN to the Minister for Education:

With regard to Graylands Primary School -

(1) Is the school scheduled for repainting?

(2) Is the school scheduled for recarpeting?

(3) Is there to be a sick bay provided at the school?

(4) Is the school to receive extra staff to cater for students with special needs?

(5) If yes, when?

Hon N.F. MOORE replied:

(1) An amount of $28 000 has been allocated for external repair and painting in 1994-95.

(2) No funding has been allocated for carpets in 1994-95.

(3) A sick bay would be provided at the school as part of an administration

upgrade. Graylands Primary School is rated priority 19 within the Swanbourne District Education Office for an administration upgrade. It is unlikely that such an upgrade will proceed in the near future.

(4) Yes. There has been a full time teacher allocated to be shared equally between Graylands and Swanbourne Primary Schools for students with special needs.

(5) 1995.

SCHOOLS - GLEN FORREST PRIMARY
Upgrading

976. Hon JOHN HALDEN to the Minister for Education:

With regard to Glen Forrest Primary School -

(1) Is there a proposal to fix the flooding problem with the school's oval?

(2) Is the school to be provided with an upgrade in library facilities?

(3) When will the school get an art and music room so these lessons can be moved out of the activity area?

Hon N.F. MOORE replied:

(1) The school is liaising with the Mundaring Shire Council to have water run off from adjacent streets directed off the school site. If flooding continues the Education Department will list the school for a drainage upgrade as part of the 1995-96 budget process.

(2) The existing library facilities are considered adequate.

(3) The school has been listed for art/craft and music facilities and they will be considered as part of the 1995-96 budget process.

SCHOOLS - GIBBS STREET PRIMARY
Upgrading

977. Hon JOHN HALDEN to the Minister for Education:

With regard to Gibbs Street Primary School -

(1) When is the school scheduled for a repaint?

(2) When is the school to receive a classrooms upgrade?

(3) Is there any proposal to expand the office space at the school?

(4) When is the school to receive permanent music and arts facilities?

Hon N.F. MOORE replied:

(1)-(2) An amount of $20 000 has been approved for painting in 1994-95. The balance of painting listed will be considered for funding by the Thornlie District Minor Works Committee in 1995-96.

(3) The Thornlie District Education Office does not rate the school with priority for an administration upgrade. Therefore, there is unlikely to be an extension to the administration area in the near future.

(4) There are no plans to provide a music room or an art/craft room at present. Based on projected enrolments, it is unlikely that there will be a surplus permanent classroom at the school within the next three years.

SCHOOLS - EAST HAMILTON HILL PRIMARY
Maintenance

983. Hon JOHN HALDEN to the Minister for Education:

With regard to East Hamilton Hill Primary School, when is the school due for repair and maintenance?

Hon N.F. MOORE replied:

An amount of $6 300 was spent on repairs at the school earlier this year. An additional $4 000 has been allocated from the 1994-95 program maintenance budget for general restoration and repair work.

SCHOOLS - CUNDERDIN DISTRICT SENIOR HIGH
Maintenance

989. Hon JOHN HALDEN to the Minister for Education:

With regard to Cunderdin District Senior High School -

(1) Are the basketball courts to undergo maintenance?

(2) Is the school to receive a covered assembly area?

Hon N.F. MOORE replied:

(1) An amount of $8 000 has been approved to upgrade the courts in 1994-95.

(2) The school has been listed for a covered assembly area and it will be considered as part of the 1995-96 budget process.

SCHOOLS - ONGERUP PRIMARY
Upgrading

1005. Hon JOHN HALDEN to the Minister for Education:

With regard to Ongerup Primary School -

(1) When will the school be provided with extra exhaust fans?

(2) Will remedial teaching be improved at the school?

(3) Will access to a regional school psychologist be improved?

(4) When will the playground be resurfaced?

(5) Does the Education Department plan to have the school repainted?

(6) Is the school's roof to be realigned?

(7) When is the guttering to be repaired?

Hon N.F. MOORE replied:

(1) The provision of exhaust fans will need to be considered by the school within the context of district minor works.

(2) The school will need to assess its remedial teaching requirements and liaise with the Esperance District Education Office in regard to the provision of professional development and support.

(3) The Esperance district management group has recommended an increase for the district's school psychology service for 1995. The service functions on a needs basis and Ongerup Primary School can access this student service.

(4) An amount of $9 477 was expended on resealing the bitumen area as part of the 1992-93 maintenance program.

(5) An amount of $10 000 has been allocated for painting in 1994-95.

(6) Some remedial work was undertaken during 1994. Further remedial work will be undertaken as required.

(7) Some remedial work was undertaken during 1994 as part of the fault system. Further repairs will be considered for funding by the Esperance District Minor Works Committee in 1995-96.

POLICE - INTERNAL AFFAIRS BRANCH
Telephone Interception Equipment

1015. Hon J.A. SCOTT to the Leader of the House representing the Minister for Police:

(1) Does the internal affairs branch have -

(a) telephone intercepting equipment; and

(b) keys for Telecom junction boxes?

(2) Have members of the internal affairs unit ever intercepted telephone conversations for -

(a) the Commissioner of Police;

(b) the National Crime Authority;

(c) the Fisheries Department; and

(d) any other agency?

(3) If yes, on how many occasions for each of the above categories?

(4) What Statute or authority was relied upon for each case?

Hon GEORGE CASH replied:

The Minister for Police has provided the following reply -

I have been advised by the Commissioner of Police as follows -

(1)-(2) No.

(3)-(4) Not applicable.

WITTENOOM - MESOTHELIOMA
Government Compensation

1027. Hon MARK NEVILL to the Minister for Health representing the Attorney General:

In respect of claims by residents of Wittenoom who contract mesothelioma, and considering that government departments deposited most of the tailings in the townsite -

(1) Why does the Government not have a standing offer to pay each such person an amount of compensation similar to the amount paid by CSR/Midalco; that is, equal to the lesser of $50 000 or 25 per cent of the assessed value of the claim?

(2) What is the Government's policy position with respect to "resident" claims?

Hon PETER FOSS replied:

(1)-(2)

It is not accepted that government departments deposited most of the tailings in the Wittenoom townsite. Until 30 November 1992 CSR and Midalco Pty Ltd were prepared without admission of liability to offer, in settlement of mesothelioma claims by residents of Wittenoom, the sum of $50 000 or 25 per cent of the common law value - assuming liability - of the claim, whichever was the lesser amount. On 30 November 1992, that standing offer was withdrawn. The present position of CSR Ltd and Midalco Pty Ltd is that each case is assessed on its legal merits. The Government's position is that each resident claim should be assessed on its individual legal merits, so that a standing offer of the type previously made by CSR Ltd and Midalco Pty Ltd is inappropriate. The Government's position is that each resident claim is assessed on its individual legal merits.

MACE SPRAYS - LEGAL OR ILLEGAL

1045. Hon MARK NEVILL to the Minister for Health representing the Attorney General:

(1) Is the possession of MACE sprays illegal in Western Australia?

(2) If so, under what legislation is the possession of a MACE spray illegal?

(3) Is the sale of MACE spray legal in Western Australia?

(4) If not, why not?

Hon PETER FOSS replied:

(1)-(2) The possession of a MACE spray is not illegal in Western Australia unless -

(i) it can be established that the container in which the MACE spray is held is a "dangerous or offensive weapon or instrument" and it can also be established that the person in possession of the MACE spray has that possession with intent to commit a crime. If those elements can be satisfied the possession with an intent would constitute an offence against section 407 of the Criminal Code; or

(ii) a breach can be established under section 65 of the Police Act 1892 which provides, among other things, that by subsection (4a) "every person who, without lawful excuse, carries or has on or about his person or in his possession . . . any other article made or adapted for use for causing injury to the person or intended by him for such use by him" commits an offence.

(3) Yes.

(4) Not applicable.

PRISONS - SEX OFFENDERS PROGRAM
Review by Thomas-Peter, Report

1056. Hon A.J.G. MacTIERNAN to the Minister for Health representing the Attorney General:

During Estimates hearings into the budget of the Ministry of Justice, reference was made to a review by Professor Bernard-Peter into the effectiveness of the ministry's prison based sex offenders programs -

(1) Will the Attorney General release the report of the review?

(2) If not, why not?

Hon PETER FOSS replied:

(1)-(2) The report on the review of the sex offender treatment program by visiting research fellow B.A. Thomas-Peter PhD was commissioned as an internal review. Undertakings were given to staff that the report would not be published and that the findings of the review would remain confidential.

CHRISTIAN BROTHERS - ST JOSEPH'S FARM AND TRADES SCHOOL, BINDOON
Education Department Certificate of Efficiency

1061. Hon CHERYL DAVENPORT to the Minister for Education:

(1) Was a certificate of efficiency issued by the Education Department in respect of St Joseph's Farm and Trades School, Bindoon?

(2) If so, when?

Hon N.F. MOORE replied:

(1)-(2) A search of files archived by the Education Department of Western Australia indicated that St Joseph's (Boys' Town), Bindoon, was certified

to be "efficient" in 1958. No earlier record could be found. In accordance with the provisions of section 32B of the Education Act Amendment Act 1952, St Joseph's was certified to be efficient for the purpose of the said Act for the current (1958) year. This information was published in the *Government Gazette*.

CHRISTIAN BROTHERS - ST JOSEPH'S SCHOOL, CLONTARF
Education Department Certificate of Efficiency

1062. Hon CHERYL DAVENPORT to the Minister for Education:

(1) Was a certificate of efficiency issued by the Education Department in respect of St Joseph's School, Clontarf?

(2) If so, when?

Hon N.F. MOORE replied:

(1)-(2) A search of files archived by the Education Department of Western Australia indicated that Clontarf Orphanage, Victoria Park, was certified to be "efficient" in 1958. No earlier record could be found. In accordance with the provisions of section 32B of the Education Act Amendment Act 1952, Clontarf Orphanage was certified to be efficient for the purpose of the said Act for the current (1958) year. This information was published in the *Government Gazette*.

CHRISTIAN BROTHERS - ST VINCENT'S ORPHANAGE, CASTLEDARE
Education Department Certificate of Efficiency

1063. Hon CHERYL DAVENPORT to the Minister for Education:

(1) Was a certificate of efficiency issued by the Education Department in respect of St Vincent's Orphanage, Castledare?

(2) If so, when?

Hon N.F. MOORE replied:

(1)-(2)

A search of files archived by the Education Department of Western Australia indicated that Castledare Orphanage, Queen's Park, was certified to be "efficient" in 1958. No earlier record could be found. In accordance with the provisions of section 32B of the Education Act Amendment Act 1952, Castledare Orphanage was certified to be efficient for the purpose of the said Act for the current (1958) year. This information was published in the *Government Gazette*.

CHRISTIAN BROTHERS - ST MARY'S AGRICULTURAL SCHOOL, TARDUN
Education Department Certificate of Efficiency

1064. Hon CHERYL DAVENPORT to the Minister for Education:

(1) Was a certificate of efficiency issued by the Education Department in respect of St Mary's Agricultural School, Tardun?

(2) If so, when?

Hon N.F. MOORE replied:

(1)-(2)

A search of files archived by the Education Department of Western Australia indicated that Christian Brothers College Agricultural School, Tardun, was certified to be "efficient" in 1958. No earlier record could be found. In accordance with the provisions of section 32B of the Education Act Amendment Act 1952, Christian Brothers College Agricultural School was certified to be efficient for the purpose of the said Act for the current (1958) year. This information was published in the *Government Gazette*.

CROWN SOLICITOR'S OFFICE - REPORT BY BDO NELSON PARKHILL

1078. Hon A.J.G. MacTIERNAN to the Minister for Health representing the Attorney General:

(1) Has the Attorney General received a report prepared by BDO Nelson Parkhill into the Crown Solicitor's Office?

(2) If yes, will the Attorney General table the report?

(3) If no, when does the Attorney General expect to receive the report which was completed in mid-September 1994?

Hon PETER FOSS replied:

(1) No.

(2) Not applicable.

(3) The report is currently being considered by the Director General and the Crown Solicitor. When consultation with key stakeholders is finalised the report will be forwarded to the Attorney General.

EDUCATION DEPARTMENT - CORPORATE SERVICES REVIEW; REVIEWS

1099. Hon JOHN HALDEN to the Minister for Education:

(1) Is there a review being conducted on the corporate services of the Education Department?

(2) If yes, who is carrying out the review?

(3) Are reviews being carried out on any other services of the Education Department?

(4) If yes to part (3), which services?

Hon N.F. MOORE replied:

(1) Yes, a management consultancy group is reviewing aspects of Education Department resources and services, and human resources.

(2) Coopers and Lybrand.

(3) Yes.

(4) The following services are being reviewed by external consultants: Transport and Fleet Management; Property Services.

EDUCATION DEPARTMENT - EDUCATION OF STUDENTS WITH DISABILITIES AND SPECIFIC LEARNING DIFFICULTIES
Budget Allocation; Programs

1101. Hon JOHN HALDEN to the Minister for Education:

How much of the $6m allocation in this year's Education budget, as a result of the Shean report into disabilities, will actually get to schools at the classroom level and in what specific programs over the next three years?

Hon N.F. MOORE replied:

The $6m has been allocated from the Education budget for the three year period 1994-95, 1995-96 and 1996-97. In 1994-95, the allocation is $1.54m, and of this $170 000 will be used for administration and development costs; 89 per cent of the allocation for 1994-95 will end up in the classroom, through direct funding from the school seeding grants, trialling of policy and professional development programs. It is envisaged that similar ratios will continue throughout the following two years of this important project.

SCHOOLS - HOLIDAYS, CHANGES PROPOSAL
Port Hedland Letter

1109. Hon TOM HELM to the Minister for Education:

(1) Has the Minister read the letter from the Town of Port Hedland with regard to the proposed changes to school holidays?

(2) Does the Minister realise the potential danger this may do to the tourism industry considering the reduced time to travel from the south of the State to the north?

(3) Has the Minister consulted with the people north of the 26th parallel?

(4) Does the Minister support the initiative of the Premier with regard to promoting the tourism potential of the north?

Hon N.F. MOORE replied:

(1)-(2) Yes.

(3) The Minister has called for public submissions in order that a broad range of opinion can be obtained from throughout the State.

(4) Yes.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - FAMILY CRISIS PROGRAM
Offices, South West, Allocations and Expenditure

1110. Hon DOUG WENN to the Minister for Transport representing the Minister for Community Development:

(1) What was the amount allocated to the family crisis program for 1993-94 and 1994-95 (estimate) for the following offices -

(a) Mandurah;

(b) Bunbury;

(c) Collie;

(d) Manjimup; and

(e) Albany?

(2) What amount was spent by those offices in 1993-94?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Community Development -

(1) Separate allocations of family crisis program funds to districts were only made with respect to the family crisis category in 1993-94, and the family crisis and unforeseen crisis categories in 1994-95. Within the program the following allocations were made for the family crisis and unforeseen crisis categories, which are a part of the overall program.

1993-94 Family crisis category			
(a)	Mandurah	$42 784	
(b)	Bunbury	$57 024	
(c)	Collie	$16 637	
(d)	Manjimup	$23 381	
(e)	Albany	$45 440	
1994-95 Family crisis category			1994-95 Unforeseen Crisis
(a)	Mandurah	$14 261	$8 557
(b)	Bunbury	$19 008	$11 405

(c)	Collie	$5 546	$3 327
(d)	Manjimup	$7 794	$4 676
(e)	Albany	$15 147	$9 088

The remainder of family crisis program funds are held centrally.

(2) The total amount spent within the family crisis category for each office in 1993-94 was as follows -

(a)	Mandurah	$7 953
(b)	Bunbury	$13 495
(c)	Collie	$2 900
(d)	Manjimup	$16 319
(e)	Albany	$15 187

The total amounts spent for each office in all categories of the family crisis program, with the exception of special needs continuous and funerals, in 1993-94 were -

(a)	Mandurah	$55 660
(b)	Bunbury	$65 858
(c)	Collie	$25 329
(d)	Manjimup	$53 106
(e)	Albany	$65 852

EDUCATION DEPARTMENT - REPAIRS AND MAINTENANCE TRANSFERRED TO BUILDING MAMAGEMENT AUTHORITY

1115. Hon JOHN HALDEN to the Minister for Education:

(1) Is it correct that the Building Management Authority will carry out the function of repair and ongoing servicing previously performed by the machinery maintenance section of the Education Department?

(2) How will they carry out this function on a statewide basis?

(3) Why did the Minister allow this section to close without a comprehensive maintenance and service arrangement being in place?

Hon N.F. MOORE replied:

(1) Yes.

(2) Schools will report repairs to the Building Management Authority's fault service as a normal breakdown item. The Building Management Authority will also include ongoing long term maintenance as part of the annual school building survey report.

(3) Due to some restructuring within the Department of Training, the Education Department made arrangements for the smooth transition of this function to the Building Management Authority.

WESTRAIL - LOCOMOTIVES, GAUGE CONVERSIONS; RECONDITIONED BOGIES

1146. Hon BOB THOMAS to the Minister for Transport:

Further to question on notice 906 of 1994 -

(1) What was the cost per unit of fitting the reconditioned Pilbara iron ore standard gauge railway bogies onto locomotives NA1873 and NA1872?

(2) Are any other Westrail locomotives undergoing gauge conversion at A. Goninan and Co Ltd in Western Australia?

(3) Have any other Westrail locomotives been gauge converted at Goninans but are yet to be accepted by Westrail?

(4) In each of those cases in parts (2) and (3) above, are reconditioned bogies from a Pilbara iron ore railway being used?

(5) Do those bogies have a holding brake on each axle?

(6) If not, why not?

(7) With reference to the answer to question on notice 906 of 1994, part (8), how many Westrail staff are involved in the physical checking of clearances of sidings and crossing loops on the standard gauge network and how much will that cost?

(8) On which lines were those engines to be utilised?

Hon E.J. CHARLTON replied:

(1) $278 000 per locomotive.

(2)-(3) No.

(4)-(6) Not applicable.

(7) Three employees at a total cost of $1 200.

(8) The locomotives will be utilised between Forrestfield and Koolyanobbing.

ROADS - MITCHELL FREEWAY
Extension to Burns Beach Road

1153. Hon GRAHAM EDWARDS to the Minister for Transport:

When will the Government extend the Mitchell Freeway north to Burns Beach Road?

Hon E.J. CHARLTON replied:

There are no plans to extend the Mitchell Freeway north to Burns Beach Road in the foreseeable future.

MIDLAND WORKSHOPS - EMPLOYMENT STATISTICS ON CLOSURE DATE

1155. Hon N.D. GRIFFITHS to the Minister for Transport:

(1) When the closure of the Westrail Midland Workshop was announced how many persons were employed at the Midland Workshop by Westrail?

(2) Of the persons employed by Westrail at the Midland Workshop, on the date the closure was announced, how many of them have left the employment of Westrail?

(3) Of the persons employed by Westrail at the Midland Workshop, on the date the closure was announced, how many of them have left the public sector?

(4) Of the persons employed by Westrail at the Midland Workshop, on the date the closure was announced, how many received redundancy payments?

Hon E.J. CHARLTON replied:

(1) 805.

(2) 559.

(3) 553.

(4) 470.

ROAD TRAINS - METROPOLITAN AREA

1156. Hon N.D. GRIFFITHS to the Minister for Transport:

(1) For each month since and including 1 September 1994 how many road train permits have been issued for the passage of road trains into the metropolitan area?

(2) For each month since 1 September 1994 how many road train movements into the metropolitan area from the Apple Street road train assembly area have taken place?

Hon E.J. CHARLTON replied:

(1)

September 1994	8
October 1994	31
November 1994 (to date)	21

Note: Fertiliser trial commenced 12 October 1994.

(2)

September 1994	48
October 1994	31
November 1994	Returns not available at this time.

WESTRAIL - HENSHAW, BARRY, CONSULTANCY WORK

1161. Hon KIM CHANCE to the Minister for Transport:

(1) Has Mr Barry Henshaw, a former Westrail employee, been engaged on a consultancy basis to complete a review of all Westrail staff?

(2) What is the purpose of the review?

(3) What is the cost of the review?

(4) Did Mr Henshaw receive a termination payment when he left Westrail?

(5) Has Mr Henshaw been awarded any other consultancy work by Westrail since he left his former post?

Hon E.J. CHARLTON replied:

(1) No. Henshaw and Associates, of which Mr Henshaw is a principal, has been engaged as a consultant to provide advice on the possible outsourcing of maintenance tasks and the options available for the sourcing of locomotives.

(2)-(3) Not applicable.

(4) Termination payment was made in accordance with the provisions for termination contained in Mr Henshaw's contract. Mr Henshaw did not receive a redundancy payment from Westrail.

(5) Henshaw and Associates have been awarded other consultancy work since Mr Henshaw left his post with Westrail.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1170. Hon GRAHAM EDWARDS to the Minister for Transport:

For each department and agency or statutory authority under the Minister's portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon E.J. CHARLTON replied:

(1)-(2) General Manager, Stateships - 29 January 1994.
Commissioner of Railways - 10 October 1994.

(3) Acting General Manager, Stateships.

(4) October 1993.

(5) In view of the tender process being in force until recently, for the possible private sector management of Stateships, no appointment has been made.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1174. Hon GRAHAM EDWARDS to the Minister for Health representing the Attorney General:

For each department and agency or statutory authority under the Attorney General's portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon PETER FOSS replied:

(1) None.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1175. Hon GRAHAM EDWARDS to the Minister for Health representing the Minister for Women's Interests:

For each department and agency or statutory authority under the Minister for Women's Interests' portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon PETER FOSS replied:

(1) None.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1176. Hon GRAHAM EDWARDS to the Minister for Health representing the Minister for Parliamentary and Electoral Affairs:

For each department and agency or statutory authority under the Minister for Parliamentary and Electoral Affairs' portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon PETER FOSS replied:

(1) None.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1182. Hon GRAHAM EDWARDS to the Minister for the Arts:

For each department and agency or statutory authority under the Minister's portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon PETER FOSS replied:

(1) No chief executive officers within the Arts portfolio are employed in an acting capacity However, the Chief Executive Officer of the Department for the Arts, Ms Andrea Hull, is currently on annual leave and Mr Ellis Griffiths is acting chief executive officer during the period of her leave.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1186. Hon GRAHAM EDWARDS to the Minister for Transport representing the Minister for Community Development:

For each department and agency or statutory authority under the Minister for Community Development's portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Community Development -

(1) None.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1187. Hon GRAHAM EDWARDS to the Minister for Transport representing the Minister for the Family:

For each department and agency or statutory authority under the Minister for the Family's portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for the Family -

(1) None.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CHIEF EXECUTIVE OFFICERS, ACTING

1192. Hon GRAHAM EDWARDS to the Leader of the House representing the Minister for Police:

For each department and agency or statutory authority under the Minister for Police's portfolio -

(1) Which chief executive officers are currently employed in an acting capacity in that position?

(2) When did they commence acting in the position?

(3) Which of them has applied for appointment to the substantive position?

(4) When did they apply for this appointment?

(5) What is the reason for any delay in confirming any of these appointments?

Hon GEORGE CASH replied:

The Minister for Police has provided the following reply -

(1) None.

(2)-(5) Not applicable.

HUMPHREYS, EVELYN MILDRED, THE LATE - ESTATE ADMINISTRATION IRREGULARITIES

1260. Hon KIM CHANCE to the Minister for Health representing the Attorney General:

(1) Has the Attorney General been approached regarding irregularities in the administration of the estate of the late Evelyn Mildred Humphreys?

(2) What action has the Attorney General taken to have those irregularities investigated?

(3) Has a breach of fiduciary duty been committed by an officer of a credit society in connection with this estate?

(4) If so, what action has the Attorney General taken to ensure a legal remedy is pursued?

(5) Did the Attorney General seek the advice of the Western Australian Financial Institutions Authority in relation to a possible breach of fiduciary duty?

(6) Is the Attorney General aware that in responding to a member of the late Mrs E.M. Humphreys' family, an officer of the Western Australian Financial Institutions Authority referred to withdrawals from accounts of another person altogether, a Mrs Montgomery?

(7) Is the same officer of the credit society referred to in part (3) above also connected with the Mrs Montgomery referred to in the letter from the Western Australian Financial Institutions Authority, dated 27 April 1994?

(8) Was a withdrawal made from the account of Mrs E.M. Humphreys by an officer of a credit society at the time that a power of attorney was held by another person?

(9) If yes to part (8) above -

(a) has the propriety of the withdrawal been investigated;

(b) what was the result of this investigation;

(c) will charges be laid as a result of the investigation; and

(d) have the police been advised of the circumstances and facts surrounding this withdrawal?

(10) Did the Western Australian Financial Institutions Authority conduct a thorough investigation of the alleged irregularity?

(11) Did the Western Australian Financial Institutions Authority take into its possession all documents relevant to the alleged irregularity?

Hon PETER FOSS replied:

(1) The Attorney General has been approached several times regarding the estate of the late Mrs Evelyn Mildred Humphreys. The Attorney General understands that there is a dispute before the Supreme Court regarding the appointment of a legal personal representative of the late Mrs Humphreys. Accordingly, there is no administration of the estate as yet. The question of whether there are any irregularities in the estate may be determined by the court or by the legal personal representative when appointed.

(2) A representation has been referred to the Western Australian Financial Institutions Authority which provides day-to-day administration of credit societies in Western Australia.

(3)-(4) All the facts regarding this matter including any alleged breach by another person will not be known until such time as a legal personal representative has completed his or her investigations.

(5) No. The Western Australian Financial Institutions Authority is an independent body created by Statute and funded by levies imposed on the building societies and credit unions which it regulates.

(6)-(7) Yes. In a letter dated 27 May 1994 it was made clear that the reference to Mrs Montgomery was an error and should have been a reference to Mrs Humphreys.

(8) A cheque withdrawal authorisation was signed by an officer of a credit society at the time that a power of attorney was held by another person. The view of the credit society communicated to the Western Australian Financial Institutions Authority was that the withdrawal was with the authority of the late Mrs Humphreys and that no internal management

rules had been breached in processing the withdrawal from the account. It would now be impossible for a similar incident to occur. This instance happened at such time when there were fewer regulatory restrictions imposed on financial institutions concerning the opening and operation of accounts.

(9) This is a matter for the legal personal representative to investigate when appointed.

(10) The Chief Executive Officer of the Western Australian Financial Institutions Authority has sought and obtained explanations from the credit society regarding the matter.

(11) The Western Australian Financial Institutions Authority has not taken possession of any documents regarding this matter.

WESTRAIL - A. GONINAN AND CO, CONTRACT TERMINATION

1263. Hon BOB THOMAS to the Minister for Transport:

Further to questions on notice 1111 and 1112 of 1994 -

(1) Has Westrail terminated the contract with the firm which performed the work on the wheels of these trains?

(2) Is it correct that the problem arose because the firm was heating the tyres and then pressing them on the rims with a five tonne press whereas the Midland Workshops used a 20 tonne press to fit them cold for a tighter fit?

(3) Did Westrail serve an order on the firm for $7.3m to recover the cost of damage to Westrail property and repairs to rolling stock previously serviced by the company? .

(4) How was the figure arrived at?

(5) Is it correct that the company carried insufficient business insurance to cover the amount being claimed by Westrail?

Hon E.J. CHARLTON replied:

(1)-(3) No.

(4)-(5) Not applicable.

WESTRAIL - LOCOMOTIVE L255, REBUILDING CONTRACT

1264. Hon BOB THOMAS to the Minister for Transport:

(1) Did Westrail recently contract Goninans, or another private firm, to rebuild locomotive L255 after it was badly damaged at Kwinana last year?

(2) Was the compressor bolted onto the chassis in a fixed position rather than on a flexible mounting?

(3) Is this locomotive back in service?

(4) Has it broken down en route to Kalgoorlie on at least three occasions with the furthest distance from Perth being Cunderdin?

(5) Was the problem on each occasion caused by the compressor breaking down?

(6) What is the total cost of -

(a) repairs to this locomotive since it was rebuilt after the initial damage at Kwinana;

(b) delays to the train it was hauling;

(c) relief locomotives and crews; and

(d) other trains on the same route?

(7) In the last five years of its operation, how many similar incidents of this nature were the result of faulty workmanship by workers at the Midland Workshops?

Hon E.J. CHARLTON replied:

(1) Yes.

(2) Yes. The compressor was fixed on a standard mounting supplied by the manufacturer.

(3) Yes.

(4) The locomotive failed on three occasions, one of which was beyond Cunderdin.

(5) No. Breakdowns were related to compressor problems on two occasions.

(6) (a) These costs have not been finalised.

(b)-(d) These costs were not calculated.

(7) Records of this nature were not kept.

MEDIA DECISIONS WA - GOVERNMENT PAYMENTS

1266. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

With respect to the Attorney General's department and each of the bodies administered within that department, what is the total of payments of media accounts made to Media Decisions Western Australia in each of the following months -

(a) December 1993
(b) January 1994
(c) February 1994
(d) March 1994
(e) April 1994
(f) May 1994
(g) June 1994
(h) July 1994
(i) August 1994
(j) September 1994
(k) October 1994?

Hon PETER FOSS replied:

The following relates to payments by the Ministry of Justice -

(a) $12 144.36
(b) $10 991.99
(c) $9 732.13
(d) $8 621.21
(e) Nil
(f) $8 046.44
(g) $11 363.27
(h) $6 995.75
(i) $9 124.06
(j) $12 609.36
(k) $13 306.02

MEDIA DECISIONS WA - GOVERNMENT PAYMENTS

1268. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Women's Interests:

With respect to the Minister for Women's Interests' department and each of the bodies administered within that department, what is the total of

payments of media accounts made to Media Decisions Western Australia in each of the following months -

(a) December 1993
(b) January 1994
(c) February 1994
(d) March 1994
(e) April 1994
(f) May 1994
(g) June 1994
(h) July 1994
(i) August 1994
(j) September 1994
(k) October 1994?

Hon PETER FOSS replied:

(a)-(k) Nil.

MEDIA DECISIONS WA - GOVERNMENT PAYMENTS

1285. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Community Development:

With respect to the Minister for Community Development's department and each of the bodies administered within that department, what is the total of payments of media accounts made to Media Decisions Western Australia in each of the following months -

(a) December 1993
(b) January 1994
(c) February 1994
(d) March 1994
(e) April 1994
(f) May 1994
(g) June 1994
(h) July 1994
(i) August 1994
(j) September 1994
(k) October 1994?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Community Development -

(a) Nil
(b) Nil
(c) $29 779.66
(d) $9 137.50
(e) $9 137.50
(f) $32 550.04
(g) $106 769.31
(h) $107 880.87
(i) $22 189.13
(j) $29 341.58
(k) $147 642.48

MEDIA DECISIONS WA - GOVERNMENT PAYMENTS

1286. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for the Family:

With respect to the Minister for the Family's department and each of the bodies administered within that department, what is the total of payments of media accounts made to Media Decisions Western Australia in each of the following months -

(a) December 1993
(b) January 1994
(c) February 1994
(d) March 1994
(e) April 1994
(f) May 1994
(g) June 1994
(h) July 1994
(i) August 1994
(j) September 1994
(k) October 1994?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for the Family -

Refer to the answer to question 1285 for the response. The expenditure outlined was incurred by the Minister under the portfolios of Community Development and the Family.

MEDIA DECISIONS WA - GOVERNMENT PAYMENTS

1288. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Seniors:

With respect to the Minister for Seniors' department and each of the bodies administered within that department, what is the total of payments of media accounts made to Media Decisions Western Australia in each of the following months -

(a) December 1993
(b) January 1994
(c) February 1994
(d) March 1994
(e) April 1994
(f) May 1994
(g) June 1994
(h) July 1994
(i) August 1994
(j) September 1994
(k) October 1994?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Seniors -

(a) $300
(b)-(c) Not applicable
(d) $500.20
(e) $2 038.60
(f) $2 313.40
(g) Not applicable
(h) $776.80
(i)-(k) Not applicable

Media Decisions is a division of Marketforce Advertising which the Government has advised agencies to use when booking media.

MEDIA DECISIONS WA - GOVERNMENT PAYMENTS

1290. Hon N.D. GRIFFITHS to the Minister for Transport:

With respect to the Minister's department and each of the bodies administered within that department, what is the total of payments of media accounts made to Media Decisions Western Australia in each of the following months -

(a) December 1993
(b) January 1994
(c) February 1994
(d) March 1994
(e) April 1994
(f) May 1994
(g) June 1994
(h) July 1994
(i) August 1994
(j) September 1994
(k) October 1994?

Hon E.J. CHARLTON replied:

Stateships -		Fremantle Port Authority -	
(a)	$2 360.16	(a)	$11 310.42
(b)	2 950.20	(b)	24 790.59
(c)	2 306.52	(c)	10 068.66
(d)	1 676.25	(d)	1 502.99
(e)	1 341.00	(e)	3 125.03
(f)	1 341.00	(f)	3 983.06
(g)	2 576.25	(g)	4 143.15
(h)	1 791.00	(h)	18 018.62
(i)	3 748.65	(i)	5 909.30
(j)	1 941.00	(j)	9 848.29
(k)	1 941.00	(k)	1 369.98

MTT -		Department of Transport -	
(a)	$10 341.29	(a)	$7 022.40
(b)	34 526.80	(b)	Nil
(c)	15 491.36	(c)	1 625.00
(d)	36 179.28	(d)	2 585.60
(e)	382.89	(e)	Nil
(f)	6 915.46	(f)	42 354.70
(g)	16 270.43	(g)	47 541.80
(h)	32 989.20	(h)	Nil
(i)	1 414.99	(i)	34 228.53
(j)	Nil	(j)	7 239.65
(k)	3 250.80	(k)	17 666.20

Westrail -		Main Roads Department -	
(a)-(c)	Nil	(a)-(c)	Nil
(d)	$19 799.41	(d)	$90 .00
(e)	Nil	(e)-(g)	Nil
(f)	73 489.04	(h)	5 322.00
(g)	Nil	(i)	10 614.00
(h)	7 630.44	(j)-(k)	Nil
(i)	464.98		
(j)	1 828.80		
(k)	18 531.00		

MEDIA DECISIONS WA - GOVERNMENT PAYMENTS

1295. Hon N.D. GRIFFITHS to the Leader of the House representing the Minister for Resources Development:

With respect to the Minister for Resources Development's department and each of the bodies administered within that department, what is the total of payments of media accounts made to Media Decisions Western Australia in each of the following months -

(a) December 1993
(b) January 1994
(c) February 1994
(d) March 1994
(e) April 1994
(f) May 1994
(g) June 1994
(h) July 1994
(i) August 1994
(j) September 1994
(k) October 1994?

Hon GEORGE CASH replied:

The Minister for Resources Development has provided the following response -

	DRD	EPPB
(a)-(f)	Nil	Nil
(g)	$2 344.90	$5 158.07
(h)-(i)	Nil	Nil
(j)	$2 573.93	Nil
(k)	Nil	Nil

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1305. Hon N.D. GRIFFITHS to the Minister for Health:

With respect to the Minister's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon PETER FOSS replied:

(1) Function	Details	FTE savings
Medical Services		
Radiology	Bentley Health Service	14 FTE of which 12 have left the public sector
	Kalamunda Health Service	2 FTE (expected)
	RPH (Radiation Oncology)	6 FTE
General medical services	Wiluna Nursing Post to Nangganwili Aboriginal Community Health and Medical Services	4 FTE transferred across
Nursing Home Services	Devolution of nursing home beds to the private sector	
	Mt Henry Health Service	54.5 FTE
	Swan Health Service (Pollard Nursing Home)	9.9 FTE
Gardening Services	Armadale/Kelmscott Health Service	1 FTE
	Rockingham/Kwinana Health Service	1.5 FTE
	Kalgoorlie	1 FTE
	Peel Health Service	1 FTE
	Murchison Health Service	1 FTE

Information Systems	KEMH Facilities Support - hardware maintenance PC Training	) 3.2 FTE that) would have had) to be employed) in the public) sector
Window Cleaning	RPH	2 FTE
Printing	RPH	1 FTE
Steam Supply	RPRH	2 FTE
	Total FTE savings	104.1 FTE

(2) As above.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1307. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Women's Interests:

With respect to the Minister for Women's Interests' department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon PETER FOSS replied:

(1) None.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1308. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Disability Services:

With respect to the Minister for Disability Services' department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon PETER FOSS replied:

(1) Engineering (wholly) and Supply (partly).

(2) 34 FTEs.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1323. Hon N.D. GRIFFITHS to the Minister for Transport:

With respect to the Minister's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

Stateships -

(1) Maintenance workshops.

(2) 20 FTEs.

Fremantle Port Authority -

(1) Fremantle pilotage services
Port training centre
Fremantle Port Authority diving services
Fremantle Port Authority stevedoring maintenance.

(2) 10 FTEs
2 FTEs
1 FTE
50 FTEs.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1325. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Seniors:

With respect to the Minister for Seniors' department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Seniors -

(1) Not applicable.

(2) None.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1328. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for the Family:

With respect to the Minister for the Family's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for the Family -

(1) None.

(2) Nil.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1329. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Community Development:

With respect to the Minister for Community Development's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Community Development -

(1) None.

(2) Nil.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1336. Hon N.D. GRIFFITHS to the Minister for Mines:

With respect to the Minister's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon GEORGE CASH replied:

Department of Minerals and Energy -

(1) Nil.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1337. Hon N.D. GRIFFITHS to the Minister for Lands:

With respect to the Minister's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 6 February 1993?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon GEORGE CASH replied:

Department of Land Administration -

(1) The Department of Land Administration has transferred to the private sector, either wholly or partly, the following functions since 6 February 1993 -

Air photography
Geodetic field services
Land planning
LAN/PABX management
LAN support and computer operations
Courier service
Typing of document endorsements
Stereoplotting
PABX switchboard operation
Vehicle fleet management

(2) 150 FTEs.

Western Australian Land Authority -

(1) (a) Joondalup landscaping was contracted out to the Wanneroo City North.

(b) All specialised professional services are now provided by private sector consultants.

(2) (a) 13 - landscape crew.

(b) 24.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1345. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Women's Interests:

With respect to the Minister for Women's Interests' department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since the coming into operation of the Public Sector Management Act 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon PETER FOSS replied:

I refer the member to my reply to question 1307.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1362. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Community Development:

With respect to the Minister for Community Development's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since the coming into operation of the Public Sector Management Act 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Community Development -

(1) None.

(2) Nil.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1363. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for the Family:

With respect to the Minister for the Family's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since the coming into operation of the Public Sector Management Act 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for the Family -

(1) None.

(2) Nil.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1365. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Seniors:

With respect to the Minister for Seniors' department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since the coming into operation of the Public Sector Management Act 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for the Seniors -

(1) None.

(2) None.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1367. Hon N.D. GRIFFITHS to the Minister for Transport:

With respect to the Minister's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since the coming into operation of the Public Sector Management Act 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon E.J. CHARLTON replied:

(1) None.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1370. Hon N.D. GRIFFITHS to the Leader of the House representing the Minister for Police:

With respect to the Minister for the Police's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since the coming into operation of the Public Sector Management Act 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon GEORGE CASH replied:

The Minister for Police has provided the following reply -

(1) None.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - PRIVATISATION OF FUNCTIONS

1374. Hon N.D. GRIFFITHS to the Minister for Mines:

With respect to the Minister's department and to each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since the coming into operation of the Public Sector Management Act 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon GEORGE CASH replied:

Department of Minerals and Energy -

(1) Nil.

(2) Not applicable.

WESTRAIL - LOCOMOTIVE, PURCHASED FROM COMALCO

1381. Hon BOB THOMAS to the Minister for Transport:

Further to question on notice 754 of 1994 -

(1) Is a second diesel electric locomotive to be purchased from Comalco at Weipa or has it already been purchased?

(2) What is the cost?

(3) When will it be delivered and by what method?

(4) In relation to answer 3(b) to question on notice 754 of 1994, what was the cost of diverting the ship from its South East Asia voyage to Fremantle?

(5) Are the drivers' cabins of either of these locomotives fitted for two person operation to conform with accepted safety rules?

(6) Are the drivers' controls to be removed and the units to be used as slave units?

Hon E.J. CHARLTON replied:

(1) No.

(2)-(3)

Not applicable.

(4) $267 663.05.

(5)-(6)

Independent driving controls have been disconnected. The locomotive operates only as a support unit.

FISHERIES AMENDMENT BILL - ABORIGINAL PEOPLE, CONSULTATIONS

1383. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

What specific consultations were undertaken by the Aboriginal Affairs Planning Authority with Aboriginal people in Western Australia prior to the introduction into the State Parliament of the Fisheries Amendment Bill 1994?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

No specific consultations were undertaken by the Aboriginal Affairs Planning Authority at the time of drafting of the legislation and its introduction to State Parliament. However, the authority was aware from previous consultations of the importance of traditional fishing rights and communicated this to the Fisheries Department.

FREEDOM OF INFORMATION ACT - AGENCIES NOT PROVIDING INFORMATION STATEMENTS AS REQUIRED

1384. Hon TOM STEPHENS to the Minister for Health representing the Attorney General:

Which agencies have not provided information statements as required under the Freedom of Information Act 1992?

Hon PETER FOSS replied:

The information commissioner advises that copies of information statements are currently being received by her office on a daily basis. All agencies, except Ministers or exempt agencies, are required to prepare an information statement as of 1 November 1994 and provide the commissioner with a copy as soon as practicable after it is published. A list of agencies which have submitted their information statement to the commissioner up to 25 November 1994 is attached. [See paper No 621.]

MINISTERIAL OFFICES - STAFF OR CONTRACTS FOR SERVICE

1398. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

(1) What number of individuals performed services for the Minister for Housing's office either as an officer or under a contract for service as at 22 November 1994?

(2) What is their -

(a) name;

(b) qualifications;

(c) position held or title of the position set out in the contract; and

(d) function and duty as detailed in any job description document for the position held by the person or the nature of services to be provided and described in the contract?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

Name	Position	Level	Salary Range $ pa
D.J. Brewster	Principal private secretary	7	52 721-56 567
C. Bos	Executive officer	5	38 660-42 815
Chieng Yii	Personal secretary	3 - subst.L2 HDA to L3.1	30 696-33 399
B. Rhodes	Appointments secretary	3	30 696-33 399
L. Hambright	Correspondence officer	2	26 533-29 573
J. Shean	Receptionist	1	20 331-25 616
S. Lazaroo	Officer	1	20 331-25 616
J. Hudson	Personal assistant (Principal private secretary)	2	26 533-29 573
T. Tann	Senior policy officer Aboriginal Affairs	6	45 126-50 059

G. Finlay*	Policy officer housing	5	38 660-42 815
E. McCreery	Ministerial liaison officer housing	3 - subst L1 HDA to L3	30 696-33 399
T. Barker-May	Press secretary	6	45 128-50 059

* On leave until January 1995 - P. Hedges, A/Parliamentary Liaison Officer Homeswest L4 to act in position.

TAFE - FASHION PROGRAMS PERTH CAMPUS, RELOCATION TO FREMANTLE PRISON

1402. Hon JOHN HALDEN to the Minister for Education:

(1) Are there any proposals to relocate the fashion and textiles at Perth campus of TAFE to Fremantle Prison?

(2) Has the department conducted any studies into the feasibility of this proposal?

(3) If so, has there been any consultation with students or staff about this proposal?

Hon N.F. MOORE replied:

(1) Yes. The relocation of fashion programs, which is planned at this stage for the commencement of the 1996 academic year, is due to the programs complementing other provisions planned for the Fremantle campus in jewellery, and fibre and textiles - a new course. It is considered that the groupings available in these disciplines at Fremantle offer students a better array of electives than those currently available at Aberdeen Street, although the option of undertaking some units at the Aberdeen Street campus would still be available.

(2) The proposal is being considered in the context of planning for the establishment of the new WA school of art and design, which followed a detailed review of fine arts education in TAFE. The issue of feasibility does not arise as the facility will be modified to meet the specific purpose of study.

(3) A committee, comprising industry and staff representatives, is overseeing the establishment of the school. This will be replaced by an industry based advisory board once the school commences operations in 1995. Students currently enrolled in the fashion course are not likely to be affected by the changes, and new students will enrol in full knowledge of the new arrangements.

RAILWAYS - TRAIN DERAILMENTS
Mundijong Incident, Wheels and Axles Check

1405. Hon KIM CHANCE to the Minister for Transport:

I refer the Minister to question without notice 575 of 1994 -

(1) What method was used to check the wheels and axles which had recently been serviced by the contractor who had serviced the wheels and axles of the train involved in the Mundijong incident?

(2) Were wheels and axles tested on a press to determine the pressure required to fit the wheels to the axle?

(3) Is electronic data used to record the pressure required to fit the wheels?

(4) Is the pressure required to fit the wheel to the axle stamped on the axle stub?

Hon E.J. CHARLTON replied:

(1) Wheels and axles overhauled under contract are inspected by Westrail on a random basis. Information recorded by the contractor, which includes dimension measurements and the force applied to fit the wheels, is also audited by Westrail on a random basis. This was the process used in connection with checking of the wheels and axles fitted to the train involved in the Mundijong accident.

(2) Yes.

(3) No.

(4) Yes.

WESTRAIL - CONTRACT FOR REFITTING WHEELS ON AXLES

1406. Hon KIM CHANCE to the Minister for Transport:

(1) What is the specified pressure, expressed as tonnage per inch diameter of axle, allowed for in the contract for refitting wheels on axles for Westrail wagon bogies and railcars?

(2) How is the contractor's compliance with this specification monitored?

Hon E.J. CHARLTON replied:

(1) The pressure equivalent to the force specified in the contract is from 10 tonnes to 15.25 tonnes per inch diameter of axle.

(2) Compliance is monitored by checking the contractor's record of all measurements and forces and by random inspection of the process by Westrail officers.

RAILWAYS - *PROSPECTOR*
Wheels Moving on Axles

1407. Hon KIM CHANCE to the Minister for Transport:

(1) Have wheels on the *Prospector* been found to have moved on the axle?

(2) If so, in how many instances has this occurred?

(3) On what date was the first instance of a wheel moving on its axle discovered?

Hon E.J. CHARLTON replied:

(1) No.

(2)-(3)
Not applicable.

RAILWAYS - *AUSTRALIND*
Mundijong Accident

1408. Hon KIM CHANCE to the Minister for Transport:

(1) What was the cost of the accident involving the *Australind* at Mundijong?

(2) Will Westrail have to meet all of this cost?

(3) If not, what part of the cost will Westrail have to meet?

(4) Who else, other than Westrail, will be liable for the cost of the incident?

Hon E.J. CHARLTON replied:

(1)-(4)
I am not aware of any recent accident involving the *Australind* at Mundijong. If the member can provide a date and any other relevant information I will have the matter examined further.

WESTRAIL - PORTMAN MINING, IRON ORE TRAINLOADS, KOOLYANOBBING-ESPERANCE

1412. Hon KIM CHANCE to the Minister for Transport:

(1) What tonnage of iron ore does Westrail anticipate hauling for Portman Mining from Koolyanobbing to Esperance during -

(a) 1994-95;

(b) 1995-96; and

(c) 1996-97?

(2) What is the rail distance of the Koolyanobbing to Esperance journey?

(3) What is the usual loading time and unloading time for each trainload?

Hon E.J. CHARLTON replied:

(1) (a) 1.2 million tonnes
(b) 1.5 million tonnes
(c) 1.5 million tonnes

(2) 578 kilometres.

(3) Loading - three hours; unloading - 2.5 hours.

WESTRAIL - PORTMAN MINING, IRON ORE TRAINLOADS, KOOLYANOBBING-ESPERANCE

1413. Hon KIM CHANCE to the Minister for Transport:

(1) What is the average tonnage carried per journey by Westrail on iron ore hauls between Koolyanobbing and Esperance?

(2) Is the tonnage in part (1) above, similar to the planned average payload by 1996-97, or it is planned to achieve a larger payload per journey?

Hon E.J. CHARLTON replied:

(1) 3 412 tonnes.

(2) Similar tonnages are forecast for 1996-97.

WESTRAIL - PORTMAN MINING, IRON ORE TRAINLOADS, KOOLYANOBBING-ESPERANCE

1414. Hon KIM CHANCE to the Minister for Transport:

(1) How many loads per week does Westrail carry for Portman Mining from Koolyanobbing to Esperance?

(2) What is the average time per loaded journey?

(3) What is the average time per return journey?

(4) Do the average times in parts (2) and (3) above, fall within the parameters of the planned journey times?

Hon E.J. CHARLTON replied:

(1) Nine.

(2) Seventeen hours.

(3) Thirteen hours.

(4) Yes.

WESTRAIL - ROAD COACH SERVICES
Albany, Bunbury, Geraldton and Kalgoorlie, Privatisation

1418. Hon KIM CHANCE to the Minister for Transport:

(1) Will Westrail road coach services and staffing levels be maintained for services to Albany, Bunbury, Geraldton and Kalgoorlie?

(2) Does Westrail intend to privatise any or all of these services?

Hon E.J. CHARLTON replied:

(1) There are no current proposals to alter staffing levels at Albany, Bunbury, Geraldton and Kalgoorlie, or road coach services to these points.

(2) No.

WESTRAIL - ROAD COACH SERVICES
Depot, New Location; Servicing

1419. Hon KIM CHANCE to the Minister for Transport:

(1) Where will Westrail road coaches be garaged following the completion of the East Perth development project?

(2) Will Westrail maintain its present level of vehicle servicing by Westrail staff in respect of road coaches?

Hon E.J. CHARLTON replied:

(1) No decision has been taken in respect of relocating the road coach depot.

(2) No.

ROAD FUNDING, FEDERAL - ROAD CONSTRUCTION AND MAINTENANCE

1421. Hon KIM CHANCE to the Minister for Transport:

What is the amount of federal funding for all levels of road construction and maintenance in Western Australia including tied funds, untied funds and funds allocated by the Grants Commission for local government roads, for the years 1980 to 1994 inclusive?

Hon E.J. CHARLTON replied:

Federal road funds allocated to Western Australia including tied funds, untied funds and funds paid through the Local Government Grants Commission for local roads are as follows -

Year	Actual $m	Adjusted by Implicit Price Deflator to 1994-95 Values $m
1979-80	69.6	169
1980-81	77.2	170
1981-82	83.9	166
1982-83	100.4	179
1983-84	146.1	243
1984-85	152.5	240
1985-86	159.6	235
1986-87	154.4	211
1987-88	148.6	190
1988-89	149.5	177
1989-90	160.4	178
1990-91	162.9	174
1991-92	178.6	187
1992-93	212.7	220
1993-94	150.7	155
1994-95	153.8	154

In real terms federal road funds were cut by $65m in 1993-94 compared with 1992-93 and have remained at this level in 1994-95. There is a real need in Western Australia for the Government and the Opposition to come together on this issue for the benefit of the road system in Western Australia. I am more than willing to arrange for a detailed briefing for the

Opposition by the Commissioner of Main Roads on the overall road needs for the State.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - RENOVATIONS

1427. Hon JOHN HALDEN to the Minister for Education representing the Minister for the Environment:

(1) What renovations and refurbishments have been undertaken at the Department of Environmental Protection in the past 18 months?

(2) What is the cost of each of those renovations or refurbishments?

(3) Which offices have been upgraded?

(4) What new equipment and furniture has been acquired by the Department of Environmental Protection for its head office in the past 18 months?

(5) What is its cost and for which officer was it acquired?

(6) What new software has been obtained by the Department of Environmental Protection?

(7) What is its cost, the purpose for its acquisition and which officer is it for?

(8) What is the total budget for the office of Chief Executive of the Department of Environmental Protection and support staff for 1994-95?

(9) What was the budget for 1992-93 and 1993-94?

(10) What is the budget for the Chairman of the Environmental Protection Authority Board and his support staff?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

(1)-(3) Renovations/alterations to -

	$
Accounts Section	4 800
Community Awareness Branch	7 600
CEO's secretary work station	1 900
Central computer room	1 900
Kwinana office	2 200
Fremantle office	780
Human Resources Branch	6 500
Evaluation Division	840
Kalgoorlie office	1 000

(4)-(5)

Refer to attached schedule. [See paper No 620.]

(6)-(7)

Refer to attached schedule. [See paper No 620.]

(8) 1994-95 -
There is no separate budget for the Chief Executive Officer; it is included in the departmental budget which is -
$10 474 000 (plus $4 754 000 Office of Waste Management).

(9) 1992-93 -
$10 929 000 (included EPA)
1993-94 -
$10 235 000 (plus $386 000 Office of Waste Management).

(10) 1994-95 -
$380 000.

MOTOR VEHICLES, GOVERNMENT - ALBANY OFFICE

1429. Hon BOB THOMAS to the Minister for Transport representing the Minister for Community Development:

(1) Since March 1993, what new vehicles have been acquired by officers of the Minister for Community Development's department in Albany?

(2) How many of those vehicles were fitted with roo bars or bull bars and were any supplied by Albany businesses?

(3) How many of those vehicles were fitted with tow bars and were any supplied by Albany businesses?

(4) How many of those vehicles were fitted with window tinting and were any supplied by Albany businesses?

(5) What is the Government policy for the purchase of the extras listed in parts (2), (3) and (4) above for vehicles to be based in country areas?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following reply -

(1) Since March 1993 three replacement vehicles have been acquired for Albany.

(2) All three vehicles were fitted with roo bars, two of which were supplied by Albany businesses.

(3) All three vehicles were fitted with tow bars, two of which were supplied by Albany businesses.

(4) All three vehicles were fitted with window tinting, two of which were supplied by Albany businesses.

(5) Accessories purchased need to be as approved by the motor vehicle manufacturer and be in accordance with Australian standards.

MOTOR VEHICLES, GOVERNMENT - ALBANY OFFICE

1439. Hon BOB THOMAS to the Minister for Health representing the Minister for Disability Services:

(1) Since March 1993, what new vehicles have been acquired by officers of the Minister for Disability Services' department in Albany?

(2) How many of those vehicles were fitted with roo bars or bull bars and were any supplied by Albany businesses?

(3) How many of those vehicles were fitted with tow bars and were any supplied by Albany businesses?

(4) How many of those vehicles were fitted with window tinting and were any supplied by Albany businesses?

(5) What is the Government policy for the purchase of the extras listed in parts (2), (3) and (4) above for vehicles to be based in country areas?

Hon PETER FOSS replied:

(1) Nil.

(2)-(4) Not applicable.

(5) There is no specific motor vehicle fleet policy governing this issue. However, State Supply Commission policy on regional purchasing would determine this.

MINISTERS OF THE CROWN - INVITATIONS TO COMMUNITY FUNCTIONS, INVOLVEMENT IN OFFICIAL PROCEEDINGS

1450. Hon GRAHAM EDWARDS to the Minister for Health representing the Attorney General:

When the Attorney General receives an invitation from a community group to attend a function, does the Attorney General or her office in any way insist that the Attorney General, or her representative, officiate or be involved in official proceedings at that function?

Hon PETER FOSS replied:

No.

MINISTERS OF THE CROWN - INVITATIONS TO COMMUNITY FUNCTIONS, INVOLVEMENT IN OFFICIAL PROCEEDINGS

1452. Hon GRAHAM EDWARDS to the Leader of the House representing the Minister for Resources Development:

When the Minister for Resources Development receives an invitation from a community group to attend a function, does the Minister or his office in any way insist that the Minister, or his representative, officiate or be involved in official proceedings at that function?

Hon GEORGE CASH replied:

The Minister for Resources Development has provided the following reply -

No.

MINISTERS OF THE CROWN - INVITATIONS TO COMMUNITY FUNCTIONS, INVOLVEMENT IN OFFICIAL PROCEEDINGS

1454. Hon GRAHAM EDWARDS to the Minister for Mines:

When the Minister receives an invitation from a community group to attend a function, does the Minister or his office in any way insist that the Minister, or his representative, officiate or be involved in official proceedings at that function?

Hon GEORGE CASH replied:

No.

MINISTERS OF THE CROWN - INVITATIONS TO COMMUNITY FUNCTIONS, INVOLVEMENT IN OFFICIAL PROCEEDINGS

1456. Hon GRAHAM EDWARDS to the Minister for Education:

When the Minister receives an invitation from a community group to attend a function, does the Minister or his office in any way insist that the Minister, or his representative, officiate or be involved in official proceedings at that function?

Hon N.F. MOORE replied:

No, although on those occasions where it is unclear my staff have to clarify whether I, or my representative, have an official role to perform to enable the necessary arrangements to be put into place.

EDUCATION DEPARTMENT - DISTRICT OFFICES
Staffing Level

1466. Hon JOHN HALDEN to the Minister for Education:

Can the Minister indicate the level of staffing at district offices of the Department of Education as at -

(a) January 1994; and

(b) October 1994?

Hon N.F. MOORE replied:

I refer the member to his question on notice 1055 of 26 October 1994.

EDUCATION DEPARTMENT - REVIEW BY CONSULTANTS

1467. Hon KIM CHANCE to the Minister for Education:

(1) Will the Minister confirm that a number of consultants are currently reviewing various aspects of Education Department Corporate Services?

(2) If so, for each of the consultants will the Minister provide to the House the details of -

(a) the name of the consultants;

(b) the brief they have been given or what is their task;

(c) whether they have concluded their review or when they are due to conclude it;

(d) what has been the outcome of any completed reviews; and

(e) what is the cost for each consultant?

Hon N.F. MOORE replied:

(1) Yes, currently a management consultancy group is reviewing aspects of Education Department resources and services, and human resources.

(2) (a) Coopers and Lybrand.

(b) The aim of the consultancy is to identify opportunities to improve efficiencies in the operations of the central office of the Education Department, while at the same time improving services to clients. Consideration will be given to the cost-effectiveness of outsourcing options.

(c) The review is due to be completed by the end of December 1994.

(d) Not applicable.

(e) The cost of the review being undertaken by Coopers and Lybrand is $75 000.

WESTRAIL - LOCOMOTIVES, D1562 AND D1563, WORK

1469. Hon BOB THOMAS to the Minister for Transport:

Further to question on notice 1485 of 8 December 1993 -

(1) What work has been done, or is to be done, to D1562 and D1563?

(2) What is the cost per unit?

(3) What is the cost of work for the class overall?

(4) Which firm did this work and at which facility?

Hon E.J. CHARLTON replied:

(1) Fitting of air-conditioning and radio equipment.

(2) $32 700.

(3) Question not understood.

(4) In respect of (1) and (2), A. Goninan and Co Ltd at its Bassendean premises.

WESTRAIL - LOCOMOTIVES, K204, K205 AND K208, WORK

1470. Hon BOB THOMAS to the Minister for Transport:

Further to question on notice 1485 of 8 December 1993 -

(1) What work has been done, or is to be done, to K204, K205 and K208?

(2) What is the cost per unit?

(3) What is the cost of work for the class overall?

(4) Which firm did this work and at which facility?

Hon E.J. CHARLTON replied:

(1) Fitting of air-conditioning and side windows.

(2) $32 270.

(3) Question not understood.

(4) In respect of (1) and (2), A. Goninan and Company Ltd at its Bassendean premises.

WESTRAIL - LOCOMOTIVES, AB1531-1535, WORK

1471. Hon BOB THOMAS to the Minister for Transport:

Further to question on notice 1485 of 8 December 1993 -

(1) What work has been done, or is to be done, to AB1531, AB1532, AB1533, AB1534 and AB1535?

(2) What is the cost per unit?

(3) What is the cost of work for the class overall?

(4) Which firm did this work and at which facility?

Hon E.J. CHARLTON replied:

(1) AB 1531, AB 1532 and AB 1533 - fitting of air-conditioning and radio equipment.
AB 1534 - fitting of air-conditioning, radio equipment and sound insulation.
AB 1535 - fitting of air-conditioning.

(2) AB 1531, AB 1532 and AB 1533 - $32 200 for each unit.
AB 1534 - $48 000.
AB 1535 - $29 500.

(3) Question not understood.

(4) In respect of (1) and (2), A. Goninan and Company Ltd at its Bassendean premises.

WESTRAIL - LOCOMOTIVE, L253, REBUILDING QUOTE

1472. Hon BOB THOMAS to the Minister for Transport:

Further to question on notice 1488 of 8 December 1993 -

(1) What was the quote for the item by item rebuild of L253?

(2) What was the cost of parts?

(3) What was the cost of labour?

Hon E.J. CHARLTON replied:

(1) $149 696.38.

(2) Cost of new parts - $65 007.93.
Cost of repairs to reusable components - $43 286.95.

(3) $41 401.50.

WESTRAIL - LOCOMOTIVES, DA1571 AND DA1577, WORK

1473. Hon BOB THOMAS to the Minister for Transport:

Further to question on notice 1485 of 8 December, 1993 -

(1) What work has been done, or is to be done, to DA1571 and DA1577?

(2) What is the cost per unit?

(3) What is the cost of work for the class overall?

(4) Which firm did this work and at which facility?

Hon E.J. CHARLTON replied:

(1) Fitting of air-conditioning and radio equipment to DA 1577 and fitting of air-conditioning to DA 1571.

(2) DA 1571 $23 500.
DA 1577 $26 200.

(3) Question not understood.

(4) In respect of (1)-(2), A. Goninan and Co Ltd at its Bassendean premises.

PRISONS - SUICIDE ATTEMPTS

1474. Hon TOM HELM to the Minister for Health representing the Attorney General:

With regard to the number of attempted suicides in Western Australian prisons in the years 1990, 1991, 1992, 1993 and 1994, can the Attorney General indicate how many were of Aboriginal descent?

Hon PETER FOSS replied:

Records are maintained of the number of prisoners who attempt or threaten to attempt to harm themselves. The number of incidents involving Aboriginal prisoners are as follows -

1.7.90 to 30.6.91	56
1.7.91 to 30.6.92	34
1.7.92 to 30.6.93	27
1.7.93 to 30.6.94	26

These incidents include multiple attempts at self-harm by individual prisoners.

SPORT AND RECREATION - SOCCER, RUGBY UNION, RUGBY LEAGUE, AND HOCKEY PLAYERS, NUMBERS

1485. Hon SAM PIANTADOSI to the Minister for Sport and Recreation:

Can the Minister indicate to the House the number of active participants playing -

(a) soccer;

(b) rugby union;

(c) rugby league; and

(d) hockey?

Hon N.F. MOORE replied:

Based on the 1993 Sport Census returns, participant numbers for the nominated sports are -

soccer	15 273;
rugby union	5 500;
rugby league	2 823;
hockey	28 848.

EMERGENCY RELIEF - NON-GOVERNMENT AGENCIES, BUDGET ALLOCATION

1498. Hon SAM PIANTADOSI to the Minister for Transport representing the Minister for Community Development:

What was the total amount of money allocated to non-government agencies for emergency relief in the State Budgets for -

(a) 1992;

(b) 1993; and

(c) 1994?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following reply -

(a)-(c) Nil.

Funding to non-government agencies for emergency relief is a Commonwealth Government responsibility.

NATURAL DISASTER RELIEF PACKAGE - BUDGET ALLOCATION

1499. Hon SAM PIANTADOSI to the Minister for Transport representing the Minister for Community Development:

Under the natural disaster relief package, what was the amount of money allocated in the State Budgets for -

(a) 1992;

(b) 1993; and

(c) 1994?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following reply -

(a)-(c) Nil.

NOTE: When the Premier decrees a natural disaster in need of government funding, the state Treasury provides a once off funding package to enable assistance to be provided.

SCHOOLS - LANGUAGES OTHER THAN ENGLISH (LOTE) PROGRAMS

1503. Hon JOHN HALDEN to the Minister for Education:

(1) At which schools have principals dropped or refused to introduce languages other than English (LOTE) classes?

(2) On what basis is LOTE funding distributed to the schools?

(3) How does the funding formula or distribution differ from that which applied previously?

Hon N.F. MOORE replied:

(1) Although there was some public comment to the contrary by a group of principals, no advice has been received from any primary schools that it is dropping languages other than English or refusing to introduce a LOTE program. The general trend is for an increase of LOTE programs in primary schools.

(2) A small establishment grant in the order of $500 is provided to primary schools which have a teacher of suitable language competence trained in LOTE methodology in order to commence LOTE programs in the school.

(3) This establishment grant has been available to primary schools over the past two years. There is a new staffing formula being introduced for the purposes of 1995 staffing which seeks to provide schools with systematic rather than negotiated access to additional teachers in the LOTE area. Some 15 FTEs have been added across the system to achieve this.

EDUCATION DEPARTMENT - PROJECTS
Expressions of Interest; Coopers and Lybrand Tender

1504. Hon JOHN HALDEN to the Minister for Education:

I refer to a news item in *The West Australian* on Saturday, 19 November 1994 under the headline "Liberals in row over State project deals", and I ask -

(1) Is it normal practice for the Premier's department to call for expressions of interest for Education Department projects?

(2) Was the Education Department project put out to tender?

(3) If so, how many tenders were received and was the Coopers and Lybrand tender the lowest submitted?

(4) Will the Minister table the Tender Board's advice in relation to this contract?

Hon N.F. MOORE replied:

(1)-(4) The engagement of Coopers and Lybrand was in accordance with Supply Commission guidelines and procedures. This consultancy was not the lowest tender but represented the best value for money, again in accordance with the objectives of the Supply Commission's processes.

WITTENOOM - TENEMENTS SURRENDERED BEFORE EXPIRY

1511. Hon MARK NEVILL to the Minister for Mines:

I refer to page 51 of the Legislative Assembly Select Committee Report on Wittenoom -

(1) Is it correct that companies associated with the mining of asbestos at Wittenoom were not able to pay for their leases and as a consequence the tailings of Wittenoom Mine were transferred to the Crown?

(2) What is the usual way in which tenements are surrendered before expiry or what is the usual way tenements are relinquished at the end of the lease?

Hon GEORGE CASH replied:

(1) Tailings from the Wittenoom Mine were deposited on tailings lease 1 WP which was forfeited for non-payment of rent on 8 August 1979. Under section 111 of the Mining Act 1904, the tailings became the property of the Crown six months after forfeiture.

(2) (a) The usual way to relinquish title before expiry is for the holder to execute and lodge a Form of Surrender.

(b) Provided rent payments and other commitments are maintained a lease continues until its term expires.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - INCEST ALLEGATIONS, REPORTING PROTOCOLS

1524. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Community Development:

(1) What protocols are in existence for the reporting of suspected incest by officers of the Department of Community Development?

(2) When were the protocols last reviewed?

(3) What changes, if any, are being considered?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following reply -

(1) The Department for Community Development has a reciprocal agreement with the police in relation to allegations of physical and sexual abuse made to the department. Under this agreement officers of the department are required to notify the police when there is an allegation of sexual abuse.

(2) These protocols have not been formally reviewed since their implementation in 1988.

(3) A review of these protocols is being considered in order to streamline the referral processes between the police and the department. Meetings will occur in the near future between departmental staff and the Police Child Abuse Unit.

DIRECTOR OF PUBLIC PROSECUTIONS - ATTORNEY GENERAL
Performance of Functions Consultation

1546. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

(1) From 1 July 1994 to 23 November 1994, has the Attorney General been requested pursuant to section 26(2) of the Director of Public Prosecutions Act 1991 by the Director of Public Prosecutions to consult with the director with respect to matters concerning the performance of the director's functions?

(2) If so, with respect to what matters?

(3) If so, in each case on what dates?

(4) If so, and in each case, on what dates did consultations take place if at all?

(5) In the event that consultation did not take place pursuant to the director's request, why did such consultation not take place?

Hon PETER FOSS replied:

(1) No.

(2)-(5)
Not applicable.

DIRECTOR OF PUBLIC PROSECUTIONS - ATTORNEY GENERAL
Performance of Functions Consultation

1547. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

(1) From 1 July 1994 to 23 November 1994 has the Attorney General pursuant to section 26(1) of the Director of Public Prosecutions Act 1991 requested the Director of Public Prosecutions to consult with the Attorney General with respect to matters concerning the performance of the director's functions?

(2) If so, with respect to what matters and in each case on what dates?

Hon PETER FOSS replied:

(1) No.

(2) Not applicable.

DIRECTOR OF PUBLIC PROSECUTIONS - ATTORNEY GENERAL
Directions

1548. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

(1) From 1 July 1994 to 23 November 1994 has the Attorney General pursuant to section 27(1) of the Director of Public Prosecutions Act 1991 issued directions to the director?

(2) If so, what directions were issued and in each case when?

Hon PETER FOSS replied:

(1) No.

(2) Not applicable.

GOVERNMENT PUBLICATIONS - DISABILITY SERVICE PLAN DOCUMENT

1549. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Disability Services:

(1) Who printed the document "A Guide to Preparing a Disability Service Plan for State Public Authorities in Western Australia, Disability Services Commission, October 1994"?

(2) In each case what was the printer paid?

Hon PETER FOSS replied:

(1) Supreme Print in West Leederville.

(2) $2 545.00.

GOVERNMENT PUBLICATIONS - DISABILITY SERVICE PLAN DOCUMENT

1550. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Disability Services:

(1) Who printed the document "Resource Information for State Public Authorities Developing Disability Service Plans in Western Australia, Disability Services Commission, October 1994"?

(2) In each case what was the printer paid?

Hon PETER FOSS replied:

(1) Supreme Print in West Leederville.

(2) $1 980.00.

ENERGY POLICY AND PLANNING BUREAU - ANNUAL REPORT, PRINTER

1553. Hon N.D. GRIFFITHS to the Leader of the House representing the Minister for Energy:

(1) Who printed the document "Energy Policy and Planning Bureau Annual Report 1993/94"?

(2) What was the printer's price?

(3) Was the printing work put out to tender?

Hon GEORGE CASH replied:

The Minister for Energy has provided the following reply -

(1) Picton Press.

(2) $15 191.

(3) Yes.

MINISTERIAL OFFICES - MOBILE PHONES AND PAGING DEVICES

1573. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Local Government:

(1) What number of mobile phones are currently available for use in the Minister for Local Government's office for the use of the Minister and his staff?

(2) What number of mobile phones were in use last financial year and what was the cost of the mobile phone accounts associated with the Minister's office during the last financial year?

(3) What is the anticipated cost of mobile phone accounts associated with the Minister's office for the current financial year?

(4) What number of paging devices are paid for from the budget for the Minister's office?

Hon E.J. CHARLTON replied:

The Minister for Local Government has provided the following reply -

(1) Four.

(2) Three - $2 177.

(3) Anticipated cost - $3 300.

(4) Two.

MINISTERIAL OFFICES - MOBILE PHONES AND PAGING DEVICES

1574. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Community Development:

(1) What number of mobile phones are currently available for use in the Minister for Community Development's office for the use of the Minister and his staff?

(2) What number of mobile phones were in use last financial year and what was the cost of the mobile phone accounts associated with the Minister's office during the last financial year?

(3) What is the anticipated cost of mobile phone accounts associated with the Minister's office for the current financial year?

(4) What number of paging devices are paid for from the budget for the Minister's office?

Hon E.J. CHARLTON replied:

The Minister for Community Development; the Family; Seniors has provided the following reply -

(1) Five.

(2) Five - $5 688.02.

(3) $5 800.

(4) One.

MINISTERIAL OFFICES - MOBILE PHONES AND PAGING DEVICES

1581. Hon TOM STEPHENS to the Minister for Mines:

(1) What number of mobile phones are currently available for use in the Minister's office for the use of the Minister and his staff?

(2) What number of mobile phones were in use last financial year and what was the cost of the mobile phone accounts associated with the Minister's office during the last financial year?

(3) What is the anticipated cost of mobile phone accounts associated with the Minister's office for the current financial year?

(4) What number of paging devices are paid for from the budget for the Minister's office?

Hon GEORGE CASH replied:

(1) Two.

(2) (a) Two;

(b) $1 213.19.

(3) $1 400.

(4) One.

CHRISTIAN BROTHERS - SULLIVAN, ANTHONY, DEATH

1635. Hon CHERYL DAVENPORT to the Minister for Transport representing the Minister for Community Development:

With reference to the Minister for Community Development's reply to question on notice 904 of 1994 concerning the death of Anthony Sullivan, 15, schoolboy at Christian Brothers St Joseph's Farm and Trades School, Tardun on 24 September 1958 of a fractured skull: Do records held by the Department of Community Development indicate that death certificate 2622/1958 of the District Registry of Perth in respect of Sullivan's death show there was a coroner's determination on 19 December 1958 as to Sullivan's death from falling to the floor while sliding down the bannister?

Hon E.J. CHARLTON replied:

The Minister for Community Development; the Family has provided the following reply -

No.

CHRISTIAN BROTHERS - DUNCAN, BRIAN, DEATH

1636. Hon CHERYL DAVENPORT to the Minister for Transport representing the Minister for Community Development:

With reference to the Minister for Community Development's reply to question on notice 903 of 1994 concerning the death of Brian Duncan, 13, schoolboy at Christian Brothers St Joseph's Farm and Trades School, Bindoon on 12 March 1957 of a fractured skull -

(1) Do records held by the Department of Community Development indicate that death certificate 37/1957 of the District Registry of Swan show there was a coroner's determination on 25 March 1957 as to Duncan's death?

(2) Do the same records indicate, as does that death certificate, that Duncan was born in Aberdeen, Scotland?

Hon E.J. CHARLTON replied:

The Minister for Community Development; the Family has provided the following reply -

(1) No.

(2) In a previous answer it was advised that departmental records did not indicate the birthplace of Brian Duncan. Further examination of these records has confirmed that he was in fact born in Aberdeen, Scotland.

CHRISTIAN BROTHERS - GLASHEEN, KEVIN, DEATH

1639. Hon CHERYL DAVENPORT to the Minister for Transport representing the Minister for Community Development:

(1) Recalling the Minister for Community Development's reply to question on notice 902 of 1994 concerning the death of Kevin Glasheen, 12, a schoolboy at Christian Brothers Agricultural School, Tardun on 23 May 1949 of a fractured skull, do records held by the Department for Community Development indicate that death certificate 54/1949 of the District Registry of Geraldton in respect of Glasheen's death show that there was a coroner's determination on 28 July 1949 as to that death from a fall from a balcony while he was sleepwalking?

(2) Do the same records indicate, as does that death certificate, that Glasheen was born in Romsey, England?

Hon E.J. CHARLTON replied:

The Minister for Community Development; the Family has provided the following reply -

(1) Department for Community Development records indicate only that Kevin Glasheen died as a result of a fractured skull. They do not refer to the cause of the injury sustained.

(2) Department for Community Development records do not indicate Kevin Glasheen's place of birth.

FREEDOM OF INFORMATION - COORDINATING OFFICER FOR GOVERNMENT DEPARTMENTS AND AGENCIES

1663. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Local Government:

What is the name of the freedom of information coordinating officer for each department or agency within the Minister for Local Government's portfolio areas as at 30 November 1994?

Hon E.J. CHARLTON replied:

The Minister for Local Government has provided the following reply -

Ross Earnshaw - Department of Local Government.
Karen Shelley - Water Authority of Western Australia.

WESTERN AUSTRALIAN ALCOHOL AND DRUG AUTHORITY - OFFICERS OR CONTRACTS FOR SERVICES

1692. Hon TOM STEPHENS to the Minister for Health:

(1) What number of individuals performed services for the Western Australian Alcohol and Drug Authority either as an officer, or under contract for services as at 30 November 1994.

(2) What is their -

(a) name;

(b) qualifications;

(c) position held or title of the position set out in the contract; and

(d) function and duty as detailed in any job description document for the position held by the person, or the nature of services to be provided and described in the contract?

Hon PETER FOSS replied:

(1) 165.

(2) (a) Refer list attached. [See paper No 622.]

(b) Unlike public servants whose staffing details are appended to the Public Service Act, details of authority staff as government officers are not provided in an automated form. There would be considerable resource implications in providing this information.

(c) Refer list attached.

(d) While duty statements have been compiled and registered, there is no readily available automated printout of this information. There would be considerable resource implications in providing this information.

RURAL HOUSING AUTHORITY - OFFICERS OR CONTRACTS FOR SERVICES

1704. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

(1) What number of individuals performed services for the Rural Housing Authority either as an officer or under a contract for services as at 30 November 1994?

(2) What is their -

(a) name;

(b) qualifications;

(c) position held or title of the position set out in the contract; and

(d) function and duty as detailed in any job description document for the position held by the person, or the nature of services to be provided and described in the contract?

Hon MAX EVANS replied:

(1) Three officers and no contract employees.

(2) (a) (i) A.D. Broun
(ii) S.E. Marshall
(iii) K.M. Ravi.

(b) (i) TEE equivalent (Q.P.)
(ii) TEE equivalent (Q.P.)
(iii) TEE equivalent (Q.P.)

(c)-(d) Not applicable.

QUESTIONS WITHOUT NOTICE

PATHOLOGY SERVICES - JOINT VENTURE PARTNERSHIPS

753. Hon KIM CHANCE to the Minister for Health:

Which branches of public sector pathology services will establish joint venture schemes as reported in Information Sheet No 6 on 17 November 1994?

Hon PETER FOSS replied:

I thank the member for some notice of this question. No joint ventures have been established. The process for selecting which branches of State Health Laboratory Services may participate has not been completed.

WESTERN DIAGNOSTIC PATHOLOGY - STATE HEALTH LABORATORY SERVICES, JOINT VENTURE ARRANGEMENT

754. Hon KIM CHANCE to the Minister for Health :

(1) Is it true that senior staff from Western Diagnostic Pathology are currently working in State Health Laboratory Services?

(2) If yes, what positions are they occupying?

(3) Have they been involved in discussions for the possible joint venture arrangement with State Health Laboratory Services?

(4) Have they access to information which may put Western Diagnostic Pathology in a privileged position with regard to any possible joint venture arrangements?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No.

(2)-(3) Not applicable.

(4) Future joint venture partnerships will follow a formal competitive tendering process. All candidates will have access to relevant information.

HOSPITALS - ROYAL PERTH
Pathology Services Privatisation

755. Hon KIM CHANCE to the Minister for Health:

Have any private organisations had discussions with Royal Perth Hospital about the privatisation of the hospital's pathology services?

Hon PETER FOSS replied:

I thank the member for some notice of this question. Royal Perth Hospital has had some preliminary discussions with a private pathology provider on a wide range of topics. No conclusions have been reached nor agreements entered into.

WESTERN DIAGNOSTIC PATHOLOGY - FORMER GOVERNMENT PATHOLOGISTS' EMPLOYMENT

756. Hon KIM CHANCE to the Minister for Health:

(1) How many state-employed pathologists have resigned from the public sector to join Western Diagnostic Pathology?

(2) What positions did these pathologists hold in the public sector?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The member should direct his question to Western Diagnostic Pathology. Records are not available or kept on what future employment opportunities former employees pursue upon resignation.

(2) Not applicable.

WESTERN DIAGNOSTIC PATHOLOGY - OFFER FOR STATE HEALTH LABORATORY SERVICES

757. Hon KIM CHANCE to the Minister for Health:

I refer the Minister to his answer to question 1919 on 16 November 1994 and point out that he was being asked not whether the Government was considering any offer made for the purchase of State Health Laboratory Services but whether Western Diagnostic Pathology had made such an offer.

(1) Has Western Diagnostic Pathology made an offer to the Government for the purchase of and/or management of State Health Laboratory Services since the state election in February 1993?

(2) If yes -

(a) what was the nature of the offer;

(b) to whom was the offer made; and

(c) what was the response?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Upon taking office as Minister for Health, I received an approach from Western Diagnostic Pathology and other pathology services to provide public pathology services. However, no consideration was given to these proposals as the Government was formulating a policy for pathology services, which was released in May 1994.

(2) See (1).

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - GNANGARA WATER MOUND CATCHMENT AREA, HERBICIDES SPRAY

758. Hon J.A. SCOTT to the Minister for Education representing the Minister for the Environment:

(1) Is the Department of Conservation and Land Management spraying or proposing to spray herbicides on plantations which are part of the Gnangara water mound catchment area?

(2) What chemical or chemicals is CALM using or proposing to use and are these chemicals residual?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The Minister for the Environment has provided the following reply -

(1) CALM does not currently use any herbicides in the plantations which are part of the Gnangara water mound catchment area. CALM is in the process of submitting a proposal to conduct trials into the use of herbicides in establishing pine plantations on the Gnangara water mound catchment area. These proposals will be considered by the Environmental Protection Authority, the Pesticide Advisory Committee, the Health Department and the Advisory Committee for the Purity of Water.

(2) Chemicals which will be included in this proposal are amitrole, glyphosate, chlorotriazine, pendimethyline, triazophyr and oryzalin; of these, chlorotriazine, pendimethyline, triazophyr and oryzalin are residual.

STATESHIPS - TENDERS

759. Hon JOHN HALDEN to the Minister for Transport:

How does the Minister for Transport reconcile his statements in the media in regard to not awarding a tender to manage Stateships to any of the tenderers when he said in the *Daily Commercial News* that "the tenders were turned down because of the severe debt exposure related to Stateships' leasing arrangements" and in today's *The West Australian* that "the Government could find itself in a hole if it negotiated its way successfully out of the lease and bought the three ships, only to find that the successful management tenderer did not want them", with parts 1.2 and 1.4 of the tender document, which state respectively that "the manager will manage all revenues earned and expenses incurred during the management period with the exception of the following: charter or lease payments on the vessels" and "existing vessel leases will not be assigned

to the manager and the vessel leasing costs will continue to be met by the Commission"?

Hon E.J. CHARLTON replied:

I am quite amazed that any member opposite would have the gall to ask a question about Stateships, considering those members' abysmal and despicable -

Hon Mark Nevill: Cut out the crap!

Hon E.J. CHARLTON: Does Mr Nevill not like the truth?

Hon John Halden: Just answer the question.

The PRESIDENT: Order! When members ask a question, they run the risk of getting an answer.

Hon John Halden: Not from this bloke!

The PRESIDENT: Order! Stop the interjections.

Hon E.J. CHARLTON: I find it absolutely amazing that anyone opposite should ask any questions about Stateships -

Hon John Halden: You will get a few more in the next few days.

Hon E.J. CHARLTON: I hope so. I look forward to it, because the Leader of the Opposition and his colleagues might learn a bit more. Obviously they never asked questions when they were in government about the dirty deals that went on. It is obvious to me that the Opposition is getting its information from a very disenchanted person involved -

Hon John Halden: Len Buckeridge? You have not done a good job for him, have you?

Hon E.J. CHARLTON: Doug Wilson, Marco Lucido, Hai San Hup, Len Buckeridge, Sealink, Mark Newton and all the other tenderers are probably a bit disenchanted.

Three proposals were taken to Cabinet - two from the private sector and one from Stateships. I am convinced that members opposite well understand the situation but are disappointed that the Government did not make a decision to give the tender to the private sector because then they could have harassed the Government, from their own narrow-minded union point of view, about the consequences for some of their supporters. Having missed out on that opportunity, they now have to try to dig up a bit of dirt.

Having received the expressions of interest and then having gone to tender, I took to Cabinet those three proposals. Without going into the detail of all the options, it was considered that it would not be appropriate to award a two year contract to one of the private sector operations, considering the Government had made a commitment to continue the service for three years, one year of which had elapsed. The Government considered that it would be in the best interests of the private sector and of the people who depend on the service to have a longer tender period.

Hon John Halden: The first offer was for seven years.

Hon E.J. CHARLTON: Little man, that is what your Government would have done. Mr Lucido wanted me to do a deal without going to tender. Obviously he had some experience of how the previous Government did business. This Government does not operate like that. It went out to public tender. After taking three proposals to Cabinet, the option the Government chose was to request Stateships' management to put forward a proposition for the operation of Stateships. The management of Stateships wanted to tender as well, but I recommended against that and

suggested it put forward a proposal for changes to its management. Every proposal that went to Cabinet - two private sector proposals and one from Stateships - was based on the same management changes. As a consequence the Government decided that Stateships would remain in the government sector, but with significant changes that would take effect forthwith.

In addition, the Government will renegotiate the Westpac leases, so the private sector can consider a longer term proposal for the shipping service to the north west. That is what members opposite should be interested in; but, of course, they are not.

Hon Kim Chance: What makes you say that?

Hon E.J. CHARLTON: The Government will review the situation to look after the interest of the taxpayers of Western Australia. I do not know who was responsible - Dowding, Parker and Pearce were involved - for not accepting Stateships' recommendation to build the ships overseas, but the previous Government entered into a scheme which cost an additional $8m.

Several members interjected.

The DEPUTY PRESIDENT (Hon Cheryl Davenport): Order! The Opposition should stop interjecting, and the Minister conclude his remarks.

Hon E.J. CHARLTON: As a consequence of that decision, it placed an horrendous burden on the taxpayers of Western Australia, and did nothing to alleviate it.

TRAINING, DEPARTMENT OF - FUNDING INDEPENDENT STATUTORY AUTHORITIES

760. Hon JOHN HALDEN to the Minister for Education:

Can the Minister indicate the statutory authority that enables the Western Australian Department of Training to fund the authorities of an independent statutory authority such as the State Employment and Skills Development Authority?

Hon N.F. MOORE replied:

SESDA, at its fortieth meeting, held on 22 December 1993, resolved to place all its property, other than the money in the SESDA account, at the disposal of the Department of Training for the purpose of the administration of the SESDA Act. Expenditure for the purpose of administering the industry employment and training councils and the Skills Standards and Accreditation Board, established under the SESDA Act, was incurred by the Department of Training against its own appropriation. The authorised activities of the Department of Training, as expressed in the 1993-94 program statements and presented to Parliament, were considered broad enough to accommodate such expenditure.

FORESTS - CHEMICALS USED TO SPRAY BLUE GUM PLANTATIONS

761. Hon J.A. SCOTT to the Minister for Education representing the Minister for the Environment:

What chemicals are being used to spray blue gum plantations on private land in Western Australia?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The Minister for the Environment has provided the following reply -

Simazinc, glyphosate, metasulfuron-methyl, sulfometuron-methyl, amitrole, alphamethrin, alphacypermethrin.

MINERALS AND ENERGY, DEPARTMENT OF - POTASSIUM AMYL XANTHATE INCIDENT REPORT

762. Hon MARK NEVILL to the Minister for Mines:

When will the Department of Minerals and Energy release its report into the events following the recent off-loading of methyl xanthate in Fremantle?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The report into the potassium amyl xanthate incident will be available during the week commencing 12 December 1994.

NUCLEAR WASTE FACILITY - GOLDFIELDS SUBMISSION

763. Hon MARK NEVILL to the Leader of the House representing the Premier:

(1) Has Cabinet considered a submission in relation to the siting of a national nuclear waste dump in the goldfields?

(2) If yes -

(a) when; and

(b) what was the decision?

(3) If not, why not?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The Premier has provided the following reply -

(1) Yes.

(2) (a) 21 November 1994.

(b) To decline support for the establishment of a waste facility not connected with the establishment of a national nuclear research reactor.

(3) Not applicable.

HOSPITALS - BUNBURY, NEW
St John of God Healthcare Systems Decision

764. Hon DOUG WENN to the Minister for Health:

In an answer to a question without notice asked in the House on Tuesday, 22 November, the Minister indicated that the St John of God Healthcare Systems decision on participation in the proposed Bunbury Hospital would be made known in the week beginning 28 November.

(1) Has a decision now been made by St John of God Healthcare Systems?

(2) If yes, what is that decision?

(3) If no, when does the Minister expect the decision will be made?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No.

(2) Not applicable.

(3) The Bunbury Health Service Board requires a response for the next board meeting due on 20 December 1994.

FORESTS - SOUTH WEST
Dispute over Forest Management Plans

765. Hon DOUG WENN to the Minister for Education representing the Minister for the Environment:

(1) Has the Minister taken any steps to seek conciliation between the timber industry and conservationists in the dispute over the future of south west forests?

(2) If yes, could he outline these steps?

(3) If no, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The Minister for the Environment has provided the following reply -

(1)-(2) The dispute between the timber industry and the conservation movement is over forest management plans developed over three years during which endless consultation has taken place. The philosophical stance taken by the extreme conservation movement precludes sensible conciliation. The Minister for the Environment and the Department of Conservation and Land Management have always been available for consultation in relation to the forest management plans.

(3) Extreme conservationists have forced an injunction which has stopped the legal timber harvesting operations in some areas of forest. As the dispute will now come before a court, conciliation is not possible at this stage.

WESTRAIL - SECURITY PATROL OFFICERS

766. Hon KIM CHANCE to the Minister for Transport:

Following the abolition of the 88 passenger service officers, special passenger service assistants and passenger service assistants positions from Westrail, will the Minister advise the House -

(1) How many of the 88 employees concerned are expected to be able to take up the new security oriented positions?

(2) Will training be available for those who can take up the new positions?

(3) What other options will be available for those who are displaced by the change and cannot take up the new position of security patrol officer?

(4) When will employees currently working as PSOs, SPSAs and PSAs be given formal advice of what their individual options are?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) All affected passenger service staff will have the opportunity to apply for the newly created positions. However, until the new positions have been advertised and the applications processed, the number able to take up the positions cannot be determined

(2) Yes.

(3) Passenger service staff who were unsuccessful in obtaining one of the new positions, or any other vacancy existing within Westrail, will be treated in accordance with the conditions of the Public Sector Management Act, which provides for redeployment within the public sector and severance.

(4) Westrail is currently discussing options for the new positions with the affected rail unions. These discussions should be completed by 15 December, after which passenger service staff will be advised.

To put the record straight, there will be 114 passenger service assistants under the new arrangements because the current 40 patrol officers will be required to look after the needs of passengers as well. In future the dual role of security and passenger services will be performed by all those employed to do so.

NARROGIN SPEEDWAY CLUB - GOVERNMENT GRANT

767. Hon KIM CHANCE to the Minister for Sport and Recreation:

I refer the Minister to his answer to question on notice 822.

(1) Did the member for Wagin present a cheque representing a government grant of $12 000 to the Shell Narrogin Hillside Speedway on 5 February 1994?

(2) Was this grant one made through the Ministry of Sport and Recreation?

(3) If yes, why is it not included in the list of recipients contained in the Minister's answer to question on notice 822?

(4) If it was not a grant made through the Ministry of Sport and Recreation, given the sporting function of the recipient body can the Minister advise the House of the government source of the grant?

(5) What other grants to sporting bodies have been made by the Ministry of Sport and Recreation that are not included in the answer provided by the Minister to question on notice 822?

(6) What applications to the ministry for grants have been rejected since February 1993?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) Yes.

(3) The information provided in response to question on notice 822 related to grants made - that is, approved - since 1 February 1993. The grant for the Narrogin speedway club was approved in June 1992.

(4) Not applicable.

(5) The answer to question on notice 822 related only to community sporting and recreation facilities fund grants approved since 1 February 1993. It did not address CSRFF grants approved before that date or sports lottery funds grants.

(6) A huge number of approaches have been made to the ministry and to the Minister's office seeking financial assistance for various projects. These approaches were in person, by telephone or in writing. It would be impossible to list all of these requests.

PEEL INLET MANAGEMENT AUTHORITY - CHAIRMAN, APPOINTMENT

768. Hon J.A. COWDELL to the Minister for Education representing the Minister for the Environment:

(1) Has the current term of the Chairman of the Peel Inlet Management Authority expired?

(2) If so, who has been appointed to the position?

(3) If no appointment has been made, when will this occur?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The current term of the Chairman of the Peel Inlet Management Authority expired on 30 November 1994.

(2) The present chairman, Mr O.H. Tuckey, was reappointed by the Governor in Executive Council on 22 November 1994.

(3) Not applicable.

VACCINATIONS - CHILDHOOD, CHARGE PLANS

769. Hon KIM CHANCE to the Minister for Health:

(1) Are there any plans to introduce a charge for childhood vaccinations?

(2) If yes -

(a) why is there such a plan;

(b) how much will the charge be;

(c) on whom will the charge be levied;

(d) on what vaccinations will the charge be placed; and

(e) when will the charge be implemented?

Hon PETER FOSS replied:

(1) No. Vaccines are provided free of charge; however, a private doctor may charge a service fee for immunisation. There is no service charge levied by public health professionals. It is not proposed to make any change to that.

(2) Not applicable.

ENVIRONMENTAL RESEARCH - FUNDING

770. Hon J.A. SCOTT to the Minister for Education representing the Minister for the Environment:

(1) Is it correct that Western Australia has the lowest level of environmental research funding per capita of all Australian States and Territories?

(2) What are the relative per capita values of Western Australia and other States and Territories?

(3) Does the Minister support an increase in research funding and what has he done to bring this about?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. As the information sought will require considerable time to research and collate, it is requested that this question be put on notice.

TRANSPERTH - ANNUAL REPORT TABLING

771. Hon KIM CHANCE to the Minister for Transport:

(1) When will Transperth's annual report be tabled?

(2) Why has its annual report been delayed?

(3) Is the delay in any way a consequence of new legislation dealing with Transperth?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) During the week ending 16 December 1994, subject to the printer meeting the promised deadline.

(2) It has not been delayed. It has been awaiting the issue of the Auditor General's certificate, which was subject to the Auditor General's priorities.

(3) No.

SETTLEMENT AGENTS - TRANSACTIONS, CONFLICTS OF INTERESTS

772. Hon N.D. GRIFFITHS to the Minister for Fair Trading:

(1) Has the Ministry of Fair Trading obtained industry and community views on possible conflicts of interest in settlement agent transactions?

(2) What is the Government's policy on the issue?

Hon PETER FOSS replied:

(1) Yes.

(2) There is a discussion paper as a result of that and I will arrange for the member to have a copy of it.

STATE EMPLOYMENT AND SKILLS DEVELOPMENT AUTHORITY - MEMBERS, INDEMNITY AGAINST LEGAL ACTION LETTER

773. Hon JOHN HALDEN to the Minister for Education:

(1) On behalf of the State of Western Australia did the Minister provide in writing to all members of the State Employment and Skills Development Authority an indemnity in respect of any personal liability which might otherwise arise from any act done, or committed to be done, from 1 December 1993, in the name of the function of the SESDA Act, and in respect of which section 38 of the SESDA Act does not apply?

(2) If yes, why was such an indemnity given?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The letter was written in response to concerns expressed by the chair of the authority to indemnify members of the authority against any legal action which may have arisen during the period between which the staff of the authority were transferred to the Department of Training and the implementation of the delegation of powers and functions to the interim State Training Board. It was this period, from 1 December 1993, during which the chair of the authority considered that, while the authority did not have available resources, it remained accountable under the Act for the discharge of its functions.

PHYSIOTHERAPISTS ACT - AMENDMENT
Masseurs Treatment Prohibition

774. Hon A.J.G. MacTIERNAN to the Minister for Health:

Is it the Government's intention with the proposed amendment to the Physiotherapists Act to prohibit treatment by masseurs of non sports-related conditions such as -

(a) headaches,

(b) frozen shoulder,

(c) arthritis,

(d) lower back pain, and

(e) spinal scoliosis?

Hon PETER FOSS replied:

I thank the member for some notice of this question. It is the intention of the Government not to alter the scope of practice of physiotherapists, which is already regulated under the Physiotherapists Act 1950. It is not intended to prohibit anything which is not currently prohibited or allow anything which is not currently allowed.

SCHOOLS - ASSETS REVIEW BY GOVERNMENT PROPERTY OFFICE

775. Hon JOHN HALDEN to the Minister for Education:

Some notice of this question has been given. I refer to the current review of school assets being conducted by the Government Property Office.

(1) Will the Minister advise whether assets at any of the schools undergoing the rationalisation process are also part of this review?

(2) If so, which assets at which schools?

Hon N.F. MOORE replied:

(1)-(2)

The Government Property Office has been asked to provide a valuation of those sites identified for a rationalisation review to assist in the process of identifying the potential level of funds that could be generated for quality improvement programs.

ABATTOIRS - MT BARKER AREA, GOVERNMENT ASSISTANCE

776. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

Has the Government undertaken, or proposed to undertake, to provide any form of assistance to the proponents of the new abattoir which the Minister recently announced would be constructed near Mt Barker?

Hon E.J. CHARLTON replied:

The proponents have been advised of the Government's industry incentive program which may be available to industry establishing in regional Western Australia.

PRODUCTIVITY AND LABOUR RELATIONS, DEPARTMENT OF - WAGELINE SERVICE DELAYS

777. Hon A.J.G. MacTIERNAN to the Minister for Health representing the Minister for Labour Relations:

(1) Is the Minister aware of the significant delays faced by callers to the Department of Productivity and Labour Relations' WageLine service seeking information on award wages and conditions?

(2) Are these delays a result of a deliberate downgrading of the WageLine service?

(3) If not, what is the cause of the delay?

Hon PETER FOSS replied:

(1) Yes.

(2) No.

(3) Callers are now being provided with more detailed information.

By leave, Hon N.F. Moore (Minister for Education) tabled a document relating to question on notice 1427.

[See paper No 620.]

By leave Hon Peter Foss (Minister for Health) tabled documents in relation to questions on notice 1384 and 1692.

[See papers Nos 621 and 622.]