Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Wednesday, 28 June 2000

THE PRESIDENT (Hon George Cash) took the Chair at 3.00 pm, and read prayers.

CITY OF MANDURAH CONSOLIDATED LOCAL LAWS AMENDMENTS AND ADDITIONS - DISALLOWANCE

CITY OF CANNING CONSOLIDATED LOCAL LAWS - DISALLOWANCE

Orders Discharged

HON TOM HELM (Mining and Pastoral) [3.04 pm]: I move -

That Orders of the Day Nos 1 and 2 be discharged from the Notice Paper.

I advise the House that the local government authorities have satisfied the concerns of the Joint Standing Committee on Delegated Legislation regarding these local laws.

Question put and passed.

SAFE INJECTING ROOMS AND HEROIN PRESCRIPTION TRIAL

Motion

Resumed from 27 June on the following motion moved by Hon Norm Kelly -

That the Legislative Council -

(1) Notes the drug policies of Switzerland and the Netherlands, and their impacts.

(2) Notes the progress being made in Australia for the establishment of safe injecting rooms.

(3) Supports the provision of safe injecting rooms that are a part of primary health-care centres catering to the needs of drug users.

(4) Supports the introduction of a heroin prescription trial in Western Australia.

HON NORM KELLY (East Metropolitan) [3.05 pm]: This has been a rather disjointed speech, but I hope to bring my remarks to a conclusion today to allow members to speak on this very important motion. We would like some indication from the Government about how it is setting criteria on the success or otherwise of its drug strategy. It would be good to see some level of key performance indicators to gauge whether the goals that the Government is setting are being reached. Such key indicators could include the number of drug overdose deaths. In the past couple of years there has been a consistently high number of deaths of around 80 a year. There have been 41 deaths even before this year is half over. We are not seeing any improvement. I would like to hear from the Government when it expects its policies to have an effect on the number of heroin deaths. We also believe that other key performance indicators should include the number of recorded non-fatal overdoses, the availability of illicit drugs, the actual usage of illicit drugs and the amount of illicit drugs that are seized in Western Australia. All these factors could become quite important key performance indicators in gauging the success or otherwise of government policies. If the Government does not believe they are suitable, I would like to know what it believes to be a suitable determination or gauge of its policies.

To highlight how the zero tolerance policy has not been successful and how there have not been any positive signs in the past few years, I will refer to the 1998-99 Australian Bureau of Criminal Intelligence report into illicit drugs. That report contains some disturbing Australian statistics. The number of people who have tried heroin has increased by 50 per cent between 1995 and 1998. The number of heroin arrests has increased by 38 per cent between 1997-98 and 1998-99. There is a trend for drug users to be younger than has been the case in previous years. The purity of drugs has also improved, and drugs are becoming cheaper. Also, a record amount of over half a tonne of heroin was seized in 1998-99, which is almost twice as much as that seized in any other year. Importantly, there was one seizure of 390 kilograms within that half a tonne of heroin.

The current cost of heroin addicts and heroin addictions for untreated dependent heroin users has been shown to be about $75 000, including the costs of criminal activity related to those heroin users. The cost of sending a heroin user to jail is approximately $50 000 a year. Various treatment options which are currently available for heroin users cost anywhere between $2 000 and $20 000.

In the Australian Capital Territory a heroin maintenance program as part of a heroin prescription program as an alternative treatment to assist addicts costs approximately $10 000 a year. The idea of a heroin prescription trial as another form of management is, in economic terms, comparable with other treatment options currently available.

I will move on to some matters in relation to heroin prescription trials. I would encourage a committee inquiry to investigate such a trial to determine whether it is a feasible and worthwhile option for the treatment of heroin addicts. As I said before, I am expecting that an amendment will be moved along the lines of what I sought to do a few weeks ago by leave, which was denied, so that this motion, rather than ask the Legislative Council to support safe injecting rooms and

a heroin prescription trial, would ask it to conduct a committee inquiry to determine the need for and merits of such initiatives.

A heroin prescription trial has been conducted in Switzerland with some positive results. I refer to a report entitled "Final Report of the Research Representatives of the Program for a Medical Prescription of Narcotics", published 10 July 1997. The report states that the housing situation rapidly improved and stabilised, fitness for work improved considerably, those with permanent employment more than doubled from 14 per cent to 32 per cent, and the number of unemployed fell by more than half, from 44 per cent to 20 per cent. Income from illegal and semi-legal activities decreased dramatically, from 10 per cent as opposed to 69 per cent originally. The number of offences and the number of criminal offences decreased by about 60 per cent during the first six months of treatment.

Hon Simon O'Brien: Is that in the case of the individual being treated?

Hon NORM KELLY: That is right.

Hon Peter Foss: Have you got any information since 1997?

Hon NORM KELLY: Not with me at the moment. The retention rate of people on the program, which was 89 per cent over a period of six months and 69 per cent over a period of 18 months, proved to be above average compared with other treatment programs for heroin dependents. The report concludes that, as a result of the above average retention rates, significant improvements can be obtained in lifestyle and that these persist even after the end of the treatment. Of special interest is the striking decline of criminal activities. The economic benefit of heroin-assisted treatment is considerable, particularly due to the reduction in the costs of criminal proceedings and imprisonment and in disease treatment. Heroin-assisted treatment is useful for the designated target group and can be carried out with sufficient safety. These results are from the Swiss program.

It is important that rather than simply adopt the Swiss program as a good thing for Western Australia, a committee should inquire into whether the results achieved in Switzerland could be readily translated to the Western Australian environment. Likewise, we should also look at what is happening in other Australian jurisdictions to gain information from them.

The Australian Democrats would like to see a reduction in the amount of money being spent on the detection of criminal activity. It would like to see that money target drug traffickers and dealers. We would also like to see an increase in the amount of funding going to harm minimisation and education programs. In Australia at the moment, about 86 per cent of the money allocated to drug strategies is spent on crime detection. Only 14 per cent is spent on harm minimisation or education strategies, whereas in countries such as Switzerland it is more like 50 per cent. As I have said, the Government's prohibition and zero tolerance policies do not appear to be working. It is important that, with the implementation of the recent initiatives of the Government such as drug courts, a committee of inquiry look at the success or otherwise of those initiatives which the Australian Democrats applaud. Unfortunately, it seems that there have been delays in implementing the drug courts. I understand they were meant to be up and running now but it will be another few months before that will occur. As much as the Australian Democrats applaud their introduction, we feel that more can be done in other areas. When looking at heroin treatment programs we should not look at any single treatment program as being the elixir that will cure all heroin problems. We must look at the various personalities of people who have addictions. Different treatments will have varying degrees of success depending on the personalities and lifestyle of the people being treated.

The motion as it stands is a good one. It can be strengthened by holding an inquiry into the feasibility of things such as safe injecting rooms and, more importantly, into a heroin prescription trial. Today's *The West Australian* indicates that I have dropped my push for the immediate introduction of safe injecting rooms and that an inquiry is a far better way to look at the effectiveness of preventing overdose deaths. The main thing we should be looking at is how to keep people alive. Once a person dies of an overdose there is nothing more we can do. The primary concern must be to keep people alive so that they can receive treatment.

Amendment to Motion

HON HELEN HODGSON (North Metropolitan) [3.16 pm]: I move -

That the motion be amended by deleting parts (3) and (4) and inserting -

(3) Establish a select committee, comprising 3 members, to inquire into heroin use in Western Australia, with the following terms of reference -

(a) To examine the implementation of the Government's drug courts policy, and its impacts on the supply of, and demand for, drug treatment services;

(b) to examine the feasibility and need for a trial of safe injecting facilities;

(c) to examine the feasibility and need for a trial of medically-prescribed heroin to dependent, adult, long-term heroin addicts; and

(d) to examine whether safe injecting facilities and heroin prescription programs will result in more dependent drug users entering drug treatment programs.

The reasons for this amendment have been outlined by Hon Norm Kelly, who previously sought leave to have this amendment incorporated into the motion but was denied leave to do so.

The Australian Democrats recognise that it is questionable whether the provision of a safe injecting room is necessary in Perth, as we do not have a street scene of heroin users on the same scale as that in Sydney and Melbourne. The Australian Democrats also believe that it is important to inquire into the success or otherwise of the Government's drug policies. This will assist in determining whether a prescription heroin trial will complement existing harm minimisation measures. The Australian Democrats see the establishment of a committee inquiry as a positive measure to look at heroin addiction issues on a holistic basis. I urge members to support the amendment.

HON N.D. GRIFFITHS (East Metropolitan) [3.20 pm]: The first part of the motion asks that the Legislative Council note the drug policies of Switzerland and the Netherlands and the impact of those policies.

Hon Simon O'Brien: It is hard to note them when we have not been told what they are.

Hon N.D. GRIFFITHS: The Australian Labor Party thinks that is appropriate. The second part of the motion asks that the Legislative Council note the progress that has been made in Australia for the establishment of safe injecting rooms. It is a fairly neutral comment and the Opposition thinks it appropriate that it is noted. The third part of the motion - I will deal with the amendment shortly - asks that the Legislative Council "Supports the provision of safe injecting rooms that are a part of primary health-care centres catering to the needs of drug users". The Australian Labor Party does not support that part of the motion. However, it would support an examination of the issue. The fourth part of the motion relates to the introduction of a heroin prescription trial in Western Australia. The opposition spokesperson for these issues, the member for Willagee, has stated that the Labor Party supports such a trial. That position is not particularly radical, especially when one notes the views of some members opposite and the position of many Australian jurisdictions.

The amendment to the motion seeks to delete the third paragraph, which is a welcome move. It also seeks to delete the fourth paragraph, and then insert certain words. That part of the amendment relates to the establishment of a select committee as the vehicle to make the inquiries.

The PRESIDENT: Order! The question before the Chair does not appoint a select committee. The motion is that the Legislative Council do certain things; it is not an appointment as such. A future motion would be needed.

Hon N.D. GRIFFITHS: I think my comments are in line with the President's observation. The establishment of the select committee is part of the process. The issue is whether a select committee is the appropriate vehicle to make the inquiries set out in the proposed amendment. A select committee is not an inappropriate body; however, I note the age of the Parliament. It will not be long before an election is called. I also note the workload, availability and duties of members of the House. In those circumstances, I strongly doubt that a select committee is the appropriate method of dealing with such an inquiry, although I think it would be worthwhile. Despite the unfortunate timing of this matter coming before the House, the Australian Labor Party feels it is appropriate to support the motion as proposed to be amended, if a select committee is the only vehicle for such an inquiry. The timing of this motion is beyond any individual's control. The Labor Party agrees to the motion in its amended form.

If the motion were agreed to, a select committee would inquire into the implementation of the Government's policy on drug courts. It is an important policy and it is reasonable to examine it, although it might be a bit premature to do so.

Hon Peter Foss: It is a bit early.

Hon N.D. GRIFFITHS: I suggested it might be a bit premature. However, I have no difficulties with the principles involved in the proposed amendment to the motion. The Labor Party is comfortable with them, although I have made my observations on the timing.

Hon Simon O'Brien: You are entirely uncomfortable.

Hon N.D. GRIFFITHS: I am sorry?

Hon Simon O'Brien: I accept your apology.

Hon N.D. GRIFFITHS: And my regret.

Hon Simon O'Brien: You have had to betray your own principles.

The PRESIDENT: Order! Members should let Hon Nick Griffiths be heard.

Hon N.D. GRIFFITHS: I am most obliged. It is reasonable for the impact of the supply and demand for drug treatment services to be examined. There is widespread concern in the community about that issue. As a community, we should be mindful of the suffering that occurs and do our utmost to minimise it. The feasibility and need for a trial of safe injecting facilities must be examined. It is reasonable to examine the feasibility of a trial of medically prescribed heroin to long-term heroin addicts and whether safe injecting facilities and heroin prescription programs would result in more dependent drug users entering treatment programs. The proposed amended version of the motion is reasonable and not radical. The House should feel no discomfort in supporting it, nor should it scare the horses of any description. I do not think agreement or disagreement to this motion would be driven by a notion of vote snatching through the raising of a false law and order debate. I know Hon Simon O'Brien does not like the word "sorry", but I will say it anyway. I am sorry that the timing of this motion -

Hon Simon O'Brien: Again, I accept your apology.

Hon N.D. GRIFFITHS: I am sorry that the member feels such a great need to interject. I was about to conclude my remarks. I am also sorry that the timing of our dealing with this will probably mean the exercise will be pointless. However, at some stage this exercise will be entered into. I am assured by the member for Willagee and my caucus colleagues that dealing with these issues will be a matter of high priority for an incoming Labor Government.

Hon Christine Sharp: Please explain what you mean by a "false" law and order debate.

Hon N.D. GRIFFITHS: I do not want to encourage members opposite to engage in a false law and order debate. By that I mean those on the so-called conservative side of politics suggesting that only they can deal with these matters of concern. I am concerned that they will deal with them by using some rhetorical device to suggest that they will fix it up by carrying on a war against drugs, which regrettably has not been successful.

HON PETER FOSS (East Metropolitan - Attorney General) [3.34 pm]: It is true that the amendment was moved because leave was denied for the mover to amend his motion prior to moving it. That was done advisedly. I do not believe that the mover of this motion should be allowed to escape the consequences of the conclusion that people should draw from the fact that he is prepared to move a motion in these terms. Certainly, the proposed amendment indicates a greater degree of contemplation of the issue and a wish to establish the facts before jumping to a conclusion. However, the motion as he moved is irresponsible. As moved, he is suggesting that we should note the drug policies of Switzerland and the Netherlands and their impact. However, I note that he has not attempted to explain those policies.

Hon Norm Kelly: I have.

Hon PETER FOSS: I listened to the member's contribution. He told the House what the policies did, but not what they were.

Hon Norm Kelly: Yes I did.

Hon PETER FOSS: I missed that. I apologise. Hon Simon O'Brien was in the Chamber yesterday and he did not think the member said very much about the policies.

Hon N.D. Griffiths: That may say something about his powers of comprehension.

Hon PETER FOSS: Having visited the Netherlands, the last thing I would want is a policy anything like its drug policy. Having seen people in the streets and the effect that a laissez faire attitude has had, I believe it would be most undesirable to follow its lead. It indicates that, although it may solve some problems - but I doubt that - a laissez faire attitude ends up causing a social harm that is far greater than the social harm it seeks to avoid.

I was also interested to hear what was said about Switzerland. I interjected by asking whether the member had any information after 1997 because I was interested in the results after that date. I have had an interest in this issue since before I entered Parliament. I have followed studies all over the world that involved supplying heroin to avoid the difficulties associated with illicit drugs. I note that the member did not make any reference to the policies implemented in the United Kingdom. One of the problems it has had is that it is almost impossible to get any satisfactory result after about two years. I am very interested to hear about how the member intends to interpret the results in Switzerland after two years.

Those involved in the studies in the United Kingdom were faced with a number of questions. Who should be supplied? Should it be those who are already addicted? Should it be those who are not already addicted but who have used heroin for recreation? Should it be those who have never used heroin but who have decided that they would like to? Should adults and children be supplied, or only adults? Once those questions are posed, it becomes interesting.

First, should we supply addicts? That proposal was pursued in the United Kingdom, and only declared addicts were supplied. However, many people were very unwilling to register as addicts for obvious reasons. In addition, a large number of those people were involved in drugs because they did not like conforming to the ordinary values of society. One does not normally find drug addicts who are very orderly in their habits and who conform. Inherent in the problems underlying the habit is that many of those values are anathema.

Hon Norm Kelly: That is why it is not applicable to everyone.

Hon PETER FOSS: I will get to that later.

The next question is whether the drug will be supplied to people who are not addicts but who use the drug for recreation. The suggestion that we supply drugs to people who are not addicted is offensive. It would make it easier for a person to go from being a recreational user to being an addicted user. Any suggestion that we supply to recreational users is unacceptable.

Hon Norm Kelly: No-one is proposing that.

Hon PETER FOSS: The member is saying that, but he is suggesting that we set up a system that forces us to make a distinction. In that scenario, we would have to start by saying that people must be addicted. Having said what I did about recreational use, it would be even more offensive if we were to set up a process to supply people who were not users. I am sure Hon Norm Kelly would agree.

The next question to consider is whether we should supply children. That is fascinating. Again, I would say absolutely not.

Hon Norm Kelly: Again, no-one is suggesting that.

Hon PETER FOSS: Can the member say that consistently or must he engage in some form of inconsistency? The member is suggesting that supplying heroin under prescription is a good thing for some people - it is a good form of treatment. If so, why would we deny it to children?

Hon Norm Kelly: Four of the five parties are saying that it should be supplied only to adults.

Hon PETER FOSS: I know. However, one can consistently maintain opposition only to both. One must engage in some form of inconsistency once it is determined that heroin will be supplied to adults but not to children. The member is saying that we should provide it because it is a good form of treatment. If it is good for adults, would it not equally be a good form of treatment for children?

The member has also said that supplying heroin prevents crime. If he wishes to prevent crime among adults, why does he not also wish to prevent it among children?

Hon Christine Sharp: Why not extend the cautioning system for cannabis to children if you do not want to draw these boundaries?

Hon PETER FOSS: I do not want to draw these boundaries. We have always had a cautioning system for children. The member does not appear to understand that children go through a totally different process from that experienced by adults. Most children are cautioned at the very beginning of the process. It is a matter of extending the cautioning process for children to adults. That shows how much the member knows about our system. The big problem here is inconsistency. If we were to use the member's arguments - I am grateful to Hon Christine Sharp - we would probably be more justified in using them for children rather than for adults. However, I do not think they can be justified for either.

The next interesting matter is this: One of the big things being suggested is that the introduction of these safe injecting rooms will get rid of crime. There is a fascinating thing about that; that is, what is the reason behind many people using drugs? Why is so much criminal activity associated with drugs? Many people who use drugs do so because of their illicit nature. In Western Australia, one of the most significant drugs involved in crimes such as burglary - one need only check the fast-track day for burglary at the District Court of Western Australia - is not heroin; it is amphetamines. I do not know what the situation is in Switzerland, but I know what the situation is in Western Australia. Is it being suggested that we should do the same thing with amphetamines? It would be a very interesting proposition if the member suggested the same should apply for amphetamines. I suggest two things: First, if the process is not the same for amphetamines, we will certainly not be tackling one of the major causes of crime in Western Australia; that is, the crime associated with amphetamines. Secondly, if the profit in heroin is taken away from those people who make money out of pushing it, what will they push instead? Will they be as keen to get people involved in heroin if they are not making any money out of it, or will those people involved in the production and distribution of drugs, like many other people engaged in business, take a new tack to get more money? I guarantee they will take the latter course. There is already from time to time a variation in the particular drug being pushed by drug pushers. That happens from time to time because of various marketing reasons. It is a totally free and uncontrolled market by virtue of its being illegal, and the people involved in it, just like anybody else, look at ways to make sure their product is sold and to increase their profit. It would be naive to think that if the profit motive associated with heroin was taken away, everyone involved in drug dealing would suddenly say that they may as well give up drugs now because there is no money in it, and they would quietly fold up their tents like Arabs and softly steal away. They will not do that.

Members will find reference in a report to this House of my visit to the drug enforcement authorities in the United States. They told me about the line of development of drugs sold in the United States. It was interesting that they were able to tell me the various drugs that were from time to time the drugs of choice in the United States and how they progressed. It was amazing to see a similar progression in Western Australia and in Australia as a whole. One of the things they were most concerned about was what they call heroin tar. That is a form of heroin which is smoked. People will not use injectable heroin because it does not fit in with their self-image. They do not see themselves as junkies; they see themselves as sophisticates, in the same way as the people who take cocaine see that as a sophisticated drug. For a long time it was a drug for the rich and the famous. Since the invention of crack, of course - another response to market forces - that has changed. The ever-vigilant marketing drug lords worked out that if they could present heroin in a form in which people could smoke it, as opposed to injecting it, it would get rid of the self-image problem that people had with injecting heroin, and they could start to use heroin in a form that they regarded as more sophisticated and capable of being taken without the problem of injecting.

Hon Greg Smith: Is it just as addictive to take it that way?

Hon PETER FOSS: Yes, it is, and it is available to a very wide market. One of Hon Norm Kelly's suggestions is that we should keep up with the market and not just confine ourselves to injectable heroin. To make sure that we are competing with the drug lords in the supply of heroin, we should also provide heroin tar. I have another concern. Is the member suggesting, to make sure people do not swap their drug to something we are not supplying, that we should perhaps look at supplying amphetamines, ecstasy, LSD and all the other substances that people use? Where does one stop? If the member thinks he will have an effect on those people, the most important effect he must take into account is that people take those drugs because they have an underlying social problem, which this harm minimisation policy does absolutely nothing to address. In fact, all that harm minimisation policy is likely to do is to cause those people to move to other drugs. I will deal with the other drugs people use under those circumstances.

One of the matters of most concern is that there are two drugs in society which I believe by far and away leave all other drugs behind because of their ill-effects - absolutely miles behind. Those two drugs are tobacco and alcohol - two perfectly legal drugs. Obviously, once a drug is declared legal, once it becomes highly used and people do not see any social problem with it, it tends to be abused. At that stage it becomes impossible to turn back. I will go through some of the consequences of those two drugs. If people want to know the drug that causes the most concern to me, as Attorney General and Minister for Justice, the drug that keeps people in jail the most and the drug that leads to most violent offences, I can tell the House it is alcohol. Heroin has nothing on alcohol. Alcohol is behind the vast majority of offences by Aboriginal prisoners - not just a small number but the vast majority. I do not have a great deal to do with all those prisoners because the Parole Board of WA generally reviews them. I review those prisoners who seek parole and who have a sentence of more than 15 years, an indefinite sentence or a life sentence. Of course, they are usually violent repeat offenders, and almost without exception the problem that those people must overcome is an addiction to alcohol - not heroin. They might take a bit of heroin and a bit of cannabis, but that is not the cause of their violent crimes.

One of the most terrifying things is that those violent crimes are on many occasions not against total strangers but against their own families, their own friends and their own communities. Of course, there are exceptions to that; many violent crimes against total strangers are also caused by alcohol. However, the vast majority of those violent crimes are against people the offenders know. Those prisoners, in prison without alcohol, are model prisoners; they are not a problem. They do not cause disruption and fights. Generally speaking, they are models of behaviour. When one sees them, they seem to be very mild and pleasant people. However, the big problem is that as soon as they are released on parole, the one thing they have to avoid, and which if they do not avoid will have them straight back in prison again, is alcohol - absolutely.

I do not make the following comment as a criticism of Aboriginal people, but because it shows the absolute tragedy of this legal drug: Two of the biggest causes of Aboriginal people being in jail are violent offences, usually committed while under the influence of alcohol, and breaches of parole and conditional orders; that is, the mechanisms by which they are allowed not to be in jail, be it in the first instance or when on parole. What is the cause of their breaching the order and ending up back in jail? It is alcohol, not cannabis.

We would say it is a harm minimisation measure to make alcohol legally available. I think America showed that once a drug is legalised and becomes commonly and socially accepted, it is impossible to turn back the clock and try to reduce the harm by outlawing that substance. We seem to be obsessed with the other drugs as though they are the font of all our problems. They are not the font of problems with property crimes. The principal drugs that cause a fast track to burglary are amphetamines, not heroin. Amphetamines are very carefully promoted by the marketers; namely, the various bikie gangs. The same thing happened in the United States of America.

Hon Mark Nevill: Why not have an organised crime Bill with some of the powers that were put in the Prostitution Bill and take action to tackle those people?

Hon PETER FOSS: Watch this space, and I look forward to the member's support for that measure.

Hon Mark Nevill: Get it in and target it at the right people this time.

Hon PETER FOSS: The fact is that various interests promote various drugs. If members think that allowing the prescription of heroin will affect vast quantities of crime in this State, I am sorry but they have another think coming.

Hon Norm Kelly: Your party supported extending the liquor trading hours. You must look at the consequences of that decision.

Hon PETER FOSS: I am glad the member mentioned that matter. I remember the six o'clock swill. People used to drive to Waikiki or Wooroloo in order to get a grog, and then drive home again. A good aspect is that people are taking home packaged liquor, although it is a problem when abused. It has taken some crime off the road. I agree with the member to an extent as there is no solution. If I thought there was a solution to that matter, I would wholeheartedly embrace it. This problem goes back to biblical times. The difficulty is that alcohol has been socially accepted for so long. America's attempt to ban alcohol failed pitifully. That does not mean we should legalise every drug which causes problems. The suggestion that we should legalise a drug as a solution is simplistic.

Hon Mark Nevill: Can you tell me a society which has not had its drugs in the last couple of thousand years?

Hon PETER FOSS: I do not think any society has not had alcohol, except prior to the arrival of the white man in Australia.

Hon Mark Nevill: They had pituri.

Hon PETER FOSS: Well, they did not have breweries and large quantity supplies, which might have been the saving grace. Hon Mark Nevill might have missed the beginning of my speech, as his comments are not inconsistent with what I say. At least alcohol has the capacity to be consumed in a way that need not cause harm.

Hon Norm Kelly: So has heroin, if you want to use that argument.

Hon PETER FOSS: Really. That does not help the member, as I say it does not solve the problem. At least alcohol can be consumed in quantities in which it has some beneficial effect. I do not think the member can say that about heroin. They say that the odd glass of red wine is good for the heart. One need not necessarily become abusive and angry because one has had a glass of wine. Too many people consume far too much alcohol; and all too much of the family's budget for some people goes on alcohol. However, another legal drug was unnecessarily legalised in the first assistance; namely, tobacco.

I remind members of an interesting situation in the state of Oregon, where smoking in jails was banned. It took about three steps to achieve it.

Hon N.D. Griffiths: I wish Hon Bruce Donaldson were here because he has a great interest in Oregon!

Hon PETER FOSS: He has. Interestingly, when tobacco was banned in jails, people smuggled in tobacco rather than other drugs. It was fascinating. It had an enormous reduction effect on the use of cannabis and heroin. Members might think that is a bit strange, but that is the way human beings work.

Hon N.D. Griffiths: Perhaps we should ban sugar.

Hon PETER FOSS: Who knows? Salt might have the impact. My point is that one cannot assume that because a human being does one thing under one set of circumstances, that person will behave in the way one predicts in changed circumstances. Therefore, if one makes heroin available on prescription, people will not necessarily blithely turn up and behave exactly as they did before they had heroin on prescription. As members of Parliament, we all learn fairly quickly in the job that people are utterly unpredictable. At one's hazard, one assumes that people will behave as expected after making a decision. The classic example is tax laws, which people move around like traffic around an obstacle.

The motion as originally moved contains an enormous number of suppositions that indicate that Hon Norm Kelly has leapt to the conclusion that everything is wonderful in Switzerland and Netherlands and we that should adopt what is done there. I do not agree that we should look anything like the Netherlands. If one likes Switzerland, that is partly due to the character of the Swiss people. This is a classical example of assuming that something will work when transposed to another place. I have some concerns about Switzerland's drug initiative results anyway.

Some people say we should have whipping in Western Australia and we should look at how it works in Singapore. Does that mean we should have whipping because of the way it works in Afghanistan? Crime is rife in that country, despite having some of the most virulent and severe punishments in the world. Crime is not rife in Singapore. Has anyone thought that the two societies might be different? Singapore society has enormous respect for authority - particularly for ministers - and for the family, and a very strict Confucian ethic operates in that society. The biggest difference between us and Singapore is the way people think and the way the societies operate. If one wanted such results in Western Australia, we would need to become a society like Singapore's. Western Australia is not ready for that sort of society. Similarly, one cannot assume that if we were to introduce the punishments used in Afghanistan, we would end up with a society like Afghanistan's.

We have no indication how the Swiss initiatives would function in Western Australia. Western Australia is notoriously anti-authoritarian, anti-organisation and anti almost everything that we would regard as Swiss. We have an attitude to life which is totally different from that in Switzerland.

Debate adjourned, pursuant to standing orders.

COURTS LEGISLATION AMENDMENT BILL 2000

Second Reading

Resumed from 21 June.

HON HELEN HODGSON (North Metropolitan) [4.00 pm]: This Bill was adjourned by the Australian Democrats last week for two reasons. The first reason is that this Bill came to us under unusual circumstances, and I needed to have an opportunity to go through the Bill and make sure that no changes had been made over the past few months. It is probably good that I did that, because I thought that amendments had been moved to this Bill, but it was a different Bill that I was thinking about. The second reason is that the minor parties and the Labor Opposition had reached an understanding with the Leader of the House about the way in which business was to be ordered, and I wanted to ensure that the proper procedures for the order of business had been followed on that occasion. I have now had a few days and the weekend to look at this Bill, and I have satisfied myself that the Bill is in the same format as when it left this place earlier this year. Due to the procedures that have been followed, it has had to come back to this place, but we are happy to support it in its current form.

Question put and passed.

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

REVENUE LAWS AMENDMENT (ASSESSMENT) BILL 2000

Second Reading

Resumed from 20 June.

HON N.D. GRIFFITHS (East Metropolitan) [4.03 pm]: The Australian Labor Party supports this Bill. This measure must go through this financial year, because it will have some effects which will take place as from 1 July. The Bill seeks to amend two significant pieces of legislation: The Stamp Act, and the Land Tax Assessment Act. The amendments to the Stamp Act deal with corporate reconstructions, the reassessment power and division 4. The amendments to the Land Tax Assessment Act deal with the land tax to be paid by statutory authorities, and exemptions from land tax for owners of land for the owner's principal place of residence where a mortgagee has taken possession pursuant to a right to sell.

I will keep my comments on this Bill fairly brief, because this Bill comes from the Legislative Assembly and is a bar 1 Bill, and has the support of the Australian Labor Party, as it has had from the outset. In 1996, towards the end of the last Parliament, exemptions from stamp duty were provided for corporate reconstructions to enable more efficient corporate structures to be entered into, provided there was little or no substantive change in the underlying ownership. The circumstances are set out in detail in section 75JB of the Stamp Act. That is one of the more interesting sections of the Stamp Act for those who enjoy light reading; and I know Hon Max Evans would be very interested in a detailed explanation of this issue, because I suspect that every time he has picked up the document and looked at it, it has prevented him from having any sleep at night. I do not intend to delve into the intricacies of the so-called English language that is contained in section 75JB of the Stamp Act. The policy behind that exemption was to promote commercial efficiency but at the same time not to permit relief from stamp duty when the purpose was to engage in a bit of old-fashioned asset stripping. It may be old-fashioned, but it is still with us, and perhaps it always will be, because notwithstanding the best endeavours of the taxation authorities, every time a loophole is closed, another one seems to open up; but that is the way of the world.

In 1999, an application for the predetermination of duty was made pursuant to section 31 of the Stamp Act. I will deal with section 31 when I make my observations about the amendment to the reassessment power. A difficulty with the wording of section 75JB came to light, a loophole was discovered, and as a result the Bill provides for a rather complex set of words to amend what most people would consider to be a very complex section. When this issue came to light, our colleague Hon Max Evans, the then Minister for Finance, issued a media release dated 25 October 1999, in which the Government made it clear that it intended to legislate to prevent this emerging area of tax avoidance. I understand that one transaction has been caught - reference is made to that transaction in the second reading speech - and that it involves some $730 000 in stamp duty, but it is a corporate entity dealing with its own assets. I am advised that the State Revenue Department is of the view that the restructuring in question occurred on a commercial basis in the knowledge of that media statement.

Proposed new section 75JDA of the Stamp Act refers to the transitional period as beginning on 25 October 1999. In the area of corporate reconstructions, the Bill also provides for a general avoidance provision. It is always pleasing to note these attempts. I hope this one is successful. I will not pass judgment on the chances of success. All I can say to the State Revenue Department is, "Good on you for having a go!"

Section 31 of the Stamp Act provides for the commissioner, when required to do so by another person, to express an opinion on an executed instrument. When such an opinion is expressed the commissioner is then to issue an assessment. I refer to section 31(4) which reads -

> An instrument on which the duty has been assessed by the Commissioner shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment of duty issued under subsection (2) in respect of that instrument.

Section 31(2) says that the commissioner, having expressed an opinion, must then go on to assess duty. That wording is fairly clear. In any event, the case of Venture Management Ltd v the Commissioner of State Taxation made it clear that the commissioner cannot correct a stamp duty liability upwards once an assessment has issued under that section. The commissioner's view is that he has not relied on section 31 to make upward adjustments, that he has made assessments under section 23 of the Stamp Act, and that by using the power under section 23 he has reassessed upwards or downwards as the case may be. Section 23 reads -

> It is the duty of the Commissioner or any person required or authorized under this Act to impress stamps, make out and affix adhesive coupons or cancel adhesive stamps, to determine whether any instrument produced for stamping or to have the stamp cancelled may be stamped, and the amount of the duty payable, and the fine (if any), and, in case of doubt on the part of any person, other than the Commissioner, the question shall be referred by such person to the Commissioner.

The case of Superior Holding v The Commissioner of State Taxation brought it home to the commissioner. In that instance the commissioner thought he was looking at a section 23 assessment when it was a section 31 assessment. This provision seeks to amend section 31 so that the commissioner can adjust upwards. There is a five-year clawback provision that can only operate prospectively; that is, at some time in the future the commissioner will be able to go back up to five years. The commencement date is envisaged to be when the Bill receives royal assent.

The third area under the proposal to amend the Stamp Act relates to division 4 and the exemption from duty on licensing of modified motor vehicles. The third schedule to the Bill provides for exemptions. Division 4 of the Bill amends the third schedule to provide for an exemption from stamp duty in circumstances where, as a result of modifying a motor vehicle, a new licence is required. The example given in the second reading speech - I do not purport to be an expert in transport - is a modification to an existing five-axle truck trailer referred to as a dog trailer. I note Hon Simon O'Brien nods knowingly and I look forward to his contribution explaining what that piece of apparatus is.

Hon Simon O'Brien: Are you inviting my interjection?

Hon N.D. GRIFFITHS: No, but the member may interject at his peril. I understand that sort of modification resulted in the creation of two distinct trailers. Those trailers are referred to as a dolly - as in the magazine, and a dog semitrailer.

Hon Helen Hodgson: I do not think *Dolly* readers are allowed to drive trucks.

Hon N.D. GRIFFITHS: I know Hon Helen Hodgson is an expert in the field of dolly trucks and trailers, and I look forward to her contribution. When a new licence for a semitrailer is required, the vehicle is treated as a new unit and stamp duty

is chargeable on the market value of the semitrailer. This is considered to be unfair as the vehicle ownership has not changed nor the market value of the vehicle increased. That unfairness is sought to be dealt with in the provisions of the Bill.

The Land Tax Assessment Act has two aspects. The first relates to the subjection of ports to land tax. From the year of assessment beginning on 1 July 2000 assessments will be based on the state of play as at 30 June 2000. That is why we must get a move on with respect to this Bill. A number of statutory authorities are currently liable to land tax. I am advised that technical doubt arose and the Bill seeks to deal with that. In the issue of ownership of land vested in a statutory authority by the Crown, I am advised that legal advice obtained by the Commissioner of State Revenue suggested that land does not vest in the statutory authorities as owner, but rather in a more limited sense being for the purpose of management and control. Prior to that it was believed that statutory authorities were owners of vested land for land tax purposes, and the relevant liable statutory authorities have been paying land tax on that basis. The amendments are designed to put beyond doubt that non-exempted statutory authorities will have a liability to land tax for both owned and vested land.

The Bill also deals with that issue of exemption from land tax for an owner of land in which a mortgagee has taken possession of the owner's principal place of residence pursuant to a right to sell. It is a beneficial provision to look after the situation in which a person defaults on meeting the mortgage payments, and the mortgagee takes the land to sell, and because the person would currently not be residing in the principal place of residence the person would miss out on land tax exemption. It is considered to be a bit rough for somebody who is having their land sold out from under them by the mortgagee to also have another impost, namely, the operation of the land tax laws; so they will have the land tax bill on top of those other dire consequences that they are experiencing as a result of those circumstances which gave rise to the mortgagee's actions.

In short, these matters are not controversial They are beneficial, and they need to be passed this financial year. I trust it will be this afternoon.

HON J.A. SCOTT (South Metropolitan) [4.19 pm]: The Greens (WA) also support this Bill. The Bill appears to have five sensible measures to largely bring about corrections to either unfair provisions or wrongfully used provisions of the Stamp Act which meant that amounts could not be altered upwards. This Bill rectifies that and we are happy with that rectification. Secondly, the Bill has a provision which will prevent companies from receiving relief in an unfair way by externalising their corporate reconstruction. That provision will be retrospective to catch companies that may have already taken advantage of this relief. We support that.

Thirdly, the exemption from stamp duty linked to licence conversions for dolly trailers, as explained by Hon Nick Griffiths, is a simple conversion which provides for articulation to a vehicle to make it simpler to reverse. It is a good measure to reduce road wear as I imagine an articulated vehicle would cause less road wear than a vehicle which drags its load sideways as it corners. This exemption will have a double advantage in that it will be fair to the people who have made the conversion and good for our roads. Of course, we support that.

The fourth provision relates to land tax so that vested land under an exempt but corporatised agency, such as a port authority, will now attract tax under this amendment which will also be retrospective. That is a reasonable provision and I look forward to the day when such agencies also pay rates to the local councils.

The fifth provision exempts property which is the principal place of residence of someone subject to a mortgagee action and who may not be living in that place because of that action. Clearly, that is a fair change to the legislation to ameliorate what is already a very difficult situation for those people. We support that and the Bill.

HON HELEN HODGSON (North Metropolitan) [4.23 pm]: The Australian Democrats support this Bill. The specific measures in the Bill have been raised already, not only in the minister's second reading speech, but also in the contributions we have heard today from Hon Nick Griffiths and Hon Jim Scott. I do not have a great deal to add to their comments.

The two most significant issues in this Bill are both stamp duty issues relating to the ability to reconstruct transactions and corporate reconstruction and anti-avoidance provisions. The way in which to deal with a transaction that results in its being struck down in some way has been an issue at different levels of tax law for many years. Members who know about income tax law will know that one of the issues that required the redrafting of the general anti-avoidance provision in the early 1980s was the question of whether a transaction can be reconstructed when only one half of the transaction needs to be addressed. An example I can think of, again drawing from my own experience which was more in the taxation field, is that if somebody is avoiding tax by splitting it off into another entity, it can always be included in the avoider's income. However, can the whole transaction be reconstructed and annihilated so that it is taken out of the entity into which the income was pushed? This Bill presents the same type of question. Do we simply strike down the transaction or do we have an ability to reconstruct the transaction and return it to the state it would have been in if the transaction had never occurred? Now that it has become an issue raised at the Supreme Court level in this State, it is appropriate for it to be addressed in legislation. The moves in that area in this legislation will serve the good administration of the stamp duty laws in this State.

The second core issue relates to corporate reconstructions. When I read the minister's second reading speech, I noted a reference to the fact that originally a general anti-avoidance provision was proposed in the legislation when it was introduced in 1996. However, as a result of consultation with industry, the general anti-avoidance provision was removed and it was expected that the provisions, as drafted, would be sufficiently robust to withstand any potential anti-avoidance. That optimism in the robustness of any tax laws has been proved to be misplaced. I concur with the earlier comments of Hon Nick Griffiths about tax law: As soon as one loophole is closed or as soon as a particular type of legislation is

implemented that gives people an advantage, people will do their best to explore and exploit that situation to gain an advantage outside the terms for which it was intended. For this reason I support the inclusion of general anti-avoidance provisions, provided they are used appropriately and the courts have an overseeing role of being able to interpret marginal issues.

I went back to the original second reading speech when this measure was introduced, as a consequence of comments about the consultation process. I refer to *Hansard* of Wednesday, 18 September 1996 at pages 5563 and 5564 which lists the parameters within which the relief was intended to apply. Those parameters are stated as -

> a corporation or group of companies to incorporate a holding company and transfer assets from certain subsidiaries to it;
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> a corporation to incorporate a new subsidiary and transfer assets to the new subsidiary;
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> the movement of assets between associated companies provided the companies were associated for three years;
>
> where the three year test is not satisfied, the movement of assets between associated companies where the companies were associated at the time the transferor acquired the assets.

I recognise that often there are good commercial reasons for complex transactions. I would not presume to say that there are anti-avoidance motives just because the transaction is complex. However, I apply a yardstick which says that the more complicated it is, the more closely one must look at the reasons why people enter into these complex transactions. For those reasons, it is worth having an anti-avoidance provision in place, particularly as it has transpired that practices have emerged which suggest the relief will be exploited. However, I understand from the second reading speech that there has been no damage so far to the revenue.

Another aspect in the legislation is the treatment of certain public authorities as owners for the purpose of land tax. That deals with the technicality of who is to be treated as the owner when land title is held in a specific form.

Motor vehicles are another issue, and this issue is almost like a corporate restructuring. A vehicle changes its form but is essentially the same as it started, so there is a question of how to calculate any duties payable. They are the key measures in the Bill.

The final point I want to raise is the commencement dates of the various provisions of this Bill. We have heard some reference to the fact that the anti-avoidance provisions will be backdated to the date of the minister's announcement. This practice is very difficult to approve of when wearing a professional hat. The minister identifies a problem and announces that it will be eliminated, but we do not see the wording of the legislation for some months. That means that when one is dealing with a transaction that is genuinely commercial, one is faced with the problem of how to go about conducting an urgent restructure while waiting for the wording of legislation to be finalised and agreed to by the House. It has been generally accepted in the profession that when anti-avoidance provisions are involved and loopholes are being closed, people can work within the framework provided the matters are not backdated earlier than the minister's announcement. I note that that is what is happening here. The dates that the new anti-avoidance provisions are due to take place corresponds with the date of the minister's announcement that the loopholes were to be closed.

I note also that the commencement clause, clause 2, specifies that part 3, other than section 19(2), is deemed to come into operation on 30 June 1995. That is quite a substantial backdating. In principle, the Australian Democrats do not approve of retrospective legislation. However, part 3 relates to the issue of deeming ownership. Under the circumstances, we do not see that this will create any problem for revenue. It is more a matter of clarifying a legal technicality rather than imposing or removing any particular obligation. For those reasons we think that it is not unacceptable to have a backdated commencement date in this instance. It is not something that we generally approve of, particularly when it involves a backdating of five years.

The Australian Democrats will support the second reading of the Bill. We will facilitate it as part of the Government's budget Bills.

Question put and passed.

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

TREASURER'S ADVANCE AUTHORISATION BILL 2000

Second Reading

Resumed from 20 June.

HON N.D. GRIFFITHS (East Metropolitan) [4.33 pm]: I hope that it is never said of this Opposition that we are obstructive in any way; we legislate with appropriate speed when it is required after giving the matters before us due scrutiny. The Treasurer's Advance Authorisation Bill 2000 authorises the Treasurer to make certain payments. The key parts of the authorisation are to do with the financial year commencing 1 July, thus the importance of the passage of the Bill occurring with due expedition. I note that the Bill, very properly, comes from the other place.

The amount authorised is not to exceed $300m. I think that is the same as last year. It was $200m two or three years ago - the amounts are increasing. The purposes for which the money can be paid or advanced are either extraordinary or

unforeseen circumstances or for the temporary financing of works and services of the State. With respect to these advances, the processes ensure that they come back before the Parliament by way of appropriation. I know that recently we dealt with appropriation Bills Nos 3 and 8 dealing with amounts advanced pursuant to Treasurer's Advance Authorisation Bills of some years past. This Government has shown a tendency to increase the amount of money involved and to then delay the ultimate parliamentary authorisation for a considerable period of time. That prevents timely parliamentary scrutiny, and it undermines accountability and the authority of Parliament. To the degree that it occurs it is extremely unwelcome and is about time that it ceased. Having said that, there are proper purposes for Treasurer's Advance authorisation. I note that in question time today in the other place the Premier asserted that, with respect to the Narrows Bridge works, the project was on budget, and I trust that is the case.

Hon Dexter Davies: And on time.

Hon N.D. GRIFFITHS: I will get to "on time" in a moment. That was a timely interjection. He said it was on budget. If we take the Premier's word, we can be sure that the Treasurer's Advance will not be used in any way to deal with the question of time with respect to the Narrows Bridge works. He said it would be completed by a particular day, but the completion date has been put back a few months. I think the work was going to be finished in August, but the second bridge will now be opened some time in 2001. In respect of Hon Dexter Davies' interjection, the work is on budget but it certainly does not seem to be on time.

It is important that this Bill be passed. I note the tendency on the part of this Government to be unaccountable in its practices, as evidenced by appropriation Bills Nos 3 and 4 which we passed recently. I hope that does not persist.

Question put and passed.

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

VEXATIOUS PROCEEDINGS RESTRICTION BILL 2000

Introduction and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [4.40 pm]: I move -

That the Bill be now read a second time.

The Vexatious Proceedings Restriction Bill 2000 addresses the difficulties of having persons declared to be vexatious under the existing Vexatious Proceedings Restriction Act 1930, which is proposed to be repealed.

Currently the criteria under which a person might be declared to be a vexatious litigant are in section 3 of the Act. That section requires that the Supreme Court must be satisfied, first, that proceedings previously instituted are vexatious, secondly, that they were begun habitually and persistently and, thirdly, that they were without any reasonable ground. The effect of this is that, in practice, an application is brought by the Attorney General only in the clearest of cases, which involves close consideration of all the relevant court documentation and associated correspondence.

It is understood that since the Act came into operation in December 1930 there may have been up to eight applications under the Act. There have certainly been seven successful applications, and one unsuccessful application was made last year. At first sight, these numbers may not appear significant. However, it should be remembered that the applications are invariably brought by the Attorney General following lengthy legal proceedings between persons, generally in relation to what might best be referred to as a vendetta. It is thought possible that, when enacted, the Bill will extend to about half a dozen vexatious litigants who are presently on the borderline. This may, however, provide a great deal of relief to many people. In one known case, the legal costs incurred by a person defending a variety of actions by a vexatious litigant exceeded $100 000.

Importantly, the Bill will widen the range of persons who may seek an order that a person is a vexatious litigant. A determination that a person is a vexatious litigant may, primarily, be made by a judge or either the Supreme Court or the District Court on its own motion. In addition, an application to the court for an order that a person is a vexatious litigant may be made by the Attorney General or the principal registrar of the relevant courts. The Bill also provides that a person against whom another person has instituted vexatious proceedings or a person with a sufficient interest in the matter may also, with the leave of the court, make an application.

Clearly the right of an Australian resident to approach the courts for redress is an important right and, accordingly, the Bill establishes a process by which a person who has been declared to be a vexatious litigant may obtain leave to institute proceedings in appropriate cases. However, to protect any potential defendant, the first stage of the process for applying for that leave is conducted ex parte; that is, without the potential defendant being notified or otherwise made aware of the action.

To ensure that all relevant materials are before the court, the application for leave must be accompanied by an affidavit disclosing all material facts, whether supporting or adverse. It is specifically provided that at this stage the application for leave is not to be served on any other person. The court may dismiss the application for leave if the affidavit does not disclose everything required to be disclosed, if the proceedings are vexatious or if there is no prima facie ground for the proceedings.

In the event that the court decides not to dismiss the application, before granting leave it is to order service of the application and the affidavit on the proposed defendant, on the original applicant for the order and on the Attorney General. These persons are also to be given an opportunity to oppose the application for leave to proceed. The court must hear those persons if they so wish. Following the hearing, the court may dismiss the application or grant leave to institute the proceedings, subject to such conditions as the court thinks fit.

Another key feature of the Bill is that it also provides for the rescission or variation of an order that a person is a vexatious litigant and for the recognition of orders made in another jurisdiction. This concludes my substantive comment on the Bill.

I bring to members' attention that the Western Australian Law Reform Commission, in its September 1999 review of the criminal and civil justice system, also considered the problem of vexatious litigants. The relevant discussion is at paragraphs 19.10 to 19.13, inclusive of the final report, where the commission recommended that 10 amendments should be made to the Vexatious Proceedings Restriction Act 1930.

While drafting of the Bill was proceeding, the Law Reform Commission report was being prepared. I am pleased to advise that nine of the 10 changes recommended by the Law Reform Commission have been adopted in one form or another in the Bill. The exception is that the commission recommended that the Act be named the "Malicious Proceedings Restriction Act". However, it has been decided that the word "vexatious" should continue to apply.

The reason for this is that the word "malicious" at law conveys an evil intent as an element in guilt, whereas the word "vexatious" refers to litigation which is designed to annoy or which has the effect of causing annoyance, and as such the word "vexatious" is used in all other States and Territories. As an action may be vexatious but not malicious, use of the term "malicious" may raise the bar for establishing whether a person is a "vexatious" litigant.

The Bill provides a right to a person to seek the legal redress to which the person may be entitled, notwithstanding that the person has previously been declared to be a vexatious litigant. Where such a person has a case with merit, it will clearly be allowed to proceed. However, if the case is without merit or is being taken vexatiously in relation to a matter, the courts will have a power to stop it or to allow it to proceed on such conditions as the court thinks fit.

The Bill also provides protection to a person who may be the target of a vexatious litigant, by the two-stage approach reflected in clause 6. I commend the Bill to the House

Debate adjourned, on motion by Hon Bob Thomas.

PARLIAMENTARY SUPERANNUATION LEGISLATION AMENDMENT BILL 1999

Second Reading

Resumed from 11 May.

HON N.D. GRIFFITHS (East Metropolitan) [4.45 pm]: This Bill seeks, first, to close the existing scheme to future members of Parliament. Secondly, it seeks to allow certain current members to withdraw from the existing scheme and to transfer to new arrangements. Thirdly, it transfers responsibility for changes to the rules of the existing scheme to the Salaries and Allowances Tribunal. Fourthly, it empowers that tribunal to determine the level of superannuation for future members of Parliament and for any current members who choose to withdraw from the existing scheme.

In his second reading speech the Attorney General made a number of points. The following words were uttered in the fifth paragraph -

> For example, currently spouses of deceased members or former members -

I read that to be "currently spouses of deceased members or currently spouses of former members". To continue -

> - who are entitled to a reversionary pension have the ability to commute up to 50 per cent of their pension entitlement to a lump sum.

I trust I am reading that incorrectly. I am not aware of a provision to the effect that spouses of former members have that ability.

A former member was very concerned about the provision. Sometimes spouses become former spouses.

Hon Peter Foss: It is meant to refer to widows, I think.

Hon N.D. GRIFFITHS: That may be the case, but the Attorney General's second reading speech refers to deceased former members. I do not think it will take long to clarify that. I think the Attorney General referred to the correct meaning of those words.

I note that matters are being shunted off to the Salary and Allowances Tribunal. Sometimes the tribunal surprises many people with its factual analysis. I refer briefly to the determination of 17 December 1999 in which the tribunal pointed out how generous the travel allowances of former members of Parliament are. The Tribunal made this interesting observation -

> The tribunal has valued the average cost per annum of the post retirement entitlements for Western Australian Parliamentarians at $10,000 per former Member.

It is referring to the cost of rail, air and other travel. This matter has been raised with me by former members. They wonder where their $10 000 has gone, because they have never received any amount of that kind. One or two individuals may have received it.

Hon Peter Foss: I thought it was abolished recently.

Hon N.D. GRIFFITHS: They say the tribunal has valued this at $10 000 per former member, and I am concerned about that.

Hon Peter Foss: Perhaps they want a cash contribution instead.

Hon N.D. GRIFFITHS: When these assertions are made about the value and those who are supposed to have received it say it is not so, one wonders what processes have been entered into. Members should be aware of what they are doing when sending this very important issue to others.

Hon Derrick Tomlinson: Did they say an average of $10 000?

Hon N.D. GRIFFITHS: Yes, someone must be getting an awful lot. I note the content of the Bill.

HON HELEN HODGSON (North Metropolitan) [4.51 pm]: This issue of parliamentary superannuation has been around for some time, and members have had substantial opportunity to provide input to the various reviews since I have been a member of this place. The whole point of the parliamentary superannuation scheme is that it is a question of balancing a number of issues. We must ensure that members of Parliament receive an adequate remuneration to limit the possibility of any corruption or need for illicit income. In some other regimes, there is often a temptation to supplement that income if it does not provide a decent living allowance. For those reasons, it is not only a matter of remuneration as members of Parliament, but also of the superannuation benefits which become part of the whole question. We must also ensure there are no disincentives for people to leave the private sector to serve as a member in this place. At the same time, it is not intended that members' superannuation be a generous drain on public funds. All these needs must be balanced when determining how a superannuation fund operates.

Part of the problem with the perception of the parliamentary superannuation scheme and how it operates is that it was set up under old laws. As community expectations and standards for superannuation have changed, the parliamentary superannuation scheme has not kept pace. Issues have been identified, in that the current pension plan does not comply with current superannuation industry standards in a number of respects. That includes the fact that the scheme is not fully funded; the vesting provisions are totally inadequate; the defined benefit bears no relation to the amount paid into the fund by the beneficiary; there are inequities in the way members are treated on the basis of their years of service and their reasons for leaving Parliament; and members are able to access lump sum benefits before they reach the age of 55 years. Those provisions in the scheme do not comply with current community standards. For those reasons it is important to rectify some of these issues by moving to a form of superannuation more in keeping with the community standards established over the past decade in Australia.

One amendment is listed on the Notice Paper in my name, and that relates to same- sex couples. Many private superannuation deeds allow same-sex couples to benefit under superannuation schemes. The parliamentary superannuation deed is an Act of Parliament, and I seek to ensure that same-sex couples have the same entitlements under this superannuation fund as couples who are legally married. The Australian Democrats will support the Bill.

HON J.A. SCOTT (South Metropolitan) [4.54 pm]: The Greens (WA) will support the Bill. Clearly this has been a controversial issue, and the Government is trying to remove some of that controversy by bringing the parliamentary superannuation scheme more into line with the schemes in the rest of the community. Generally, this is a very sensible measure.

However, the Greens (WA) share the views of Helen Hodgson on same sex couples, and will support her amendment. We also feel the crossover point, as it applies to the current first-term members, is unfair. Those who must make this decision in a fairly open way will probably be asked by the Press which way they have voted and so on. It would have been wiser to implement it when new members are elected. Apart from those two aspects, the Greens (WA) support the Bill.

HON J.A. COWDELL (South West) [4.56 pm]: I note in clause 17 the proposed new section 28. I hope the Attorney General will respond to my request for clarification of this clause. Proposed section 28(2) states -

> Notwithstanding Parts III and IV and section 25 the Tribunal may inquire into and determine any matter in connection with contributions to and the benefits payable under the scheme.

That gives a very broad power to the tribunal. Proposed subsection (3) on the following page states -

> Without limiting subsection (2), the Tribunal may inquire into and determine any of the following matters -

Obviously under proposed subsection (2) all appropriate powers the tribunal may wish to exercise are allocated. Proposed subsection (3) gives no additional powers, but it specifies in paragraphs (a) to (j) areas in which the tribunal may or, it may be surmised, should act. As proposed subsection (3) fails to enhance the power in any way, it is presumably the intention of the Government to send a message to the tribunal with respect to proposed subsection (3)(a)-(j) that these areas should be addressed by the tribunal with respect to the continuing scheme. I seek clarification from the Attorney General of that, because I see no other reason for proposed subsection (3).

HON PETER FOSS (East Metropolitan - Attorney General) [4.58 pm]: I thank members for their contribution, and particularly the point made by Hon Helen Hodgson; that is, although there have been some criticisms of the generosity of the parliamentary superannuation scheme, it is sorely lacking in a number of matters that are now considered, or by law are required, as the minimum of a scheme for everybody else. One of the problems is that people do not realise the contribution made by members of Parliament is considerably higher than that required for many other people. Members effectively contribute about 25 per cent of their salary pre-tax, because they contribute 12.5 per cent after tax. That is a considerable amount of money going into the parliamentary superannuation scheme, none of which is tax deductible. Many people now have the benefit of a very generous scheme, in which the contribution is almost entirely provided by their employer.

The second point is that we do not have any vesting. For some years in other schemes there has been an immediate vesting of the employer's contribution, whereas we must wait 12 years before our employer's contribution is vested. That is a very unfortunate situation. It may lead to people staying in Parliament for a little longer than they otherwise would to ensure they get their superannuation. If they leave before the 12 years has elapsed, they will lose the absolute right to receive the employer's contribution. They have a contingent right if they leave after seven years.

[Questions without notice taken.]

Hon PETER FOSS: As I said, despite the criticism that has been levelled at this superannuation scheme, many of the difficulties that arise are inadequacies when compared with what is available to people elsewhere in society under the guarantees given by the commonwealth superannuation legislation. In fact, it has a contribution well in excess of what would normally be an employee contribution, if there is an employee contribution. There is no immediate vesting of the employer's contribution and no preservation to the age of 55 years, and it is not funded. Not only is it not funded, but the employees' contribution is spent by the Government. That was initiated by Premier Burke. Apart from the Government's not making a contribution, the employees' contribution is spent.

It is probably sufficiently specific for me to comment during the committee stage about the issue raised by Hon John Cowdell. He is correct in stating that the normal statutory interpretation is that we indicate things we believe should be dealt with but without in any way pre-empting that they should not come upon things other than that or that they must have all of those things. The member should refer to the limitation imposed in clause 17 -

> (4) A determination under subsection (2) -
>
> (a) shall not have the effect of reducing the amount of any benefits that -
>
> (i) had accrued or become payable to a person before the determination; or
>
> (ii) are, or may become, payable in relation to a period before the determination;

That is also a limitation on the general words in those clauses.

I thank members for their support of the Bill and commend it to the House.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 5 amended -

Hon HELEN HODGSON: I move -

> Page 4, lines 13 and 14 - To delete "of the opposite sex to the member or former member".

The effect of this amendment would be to ensure that same-sex couples are given the same recognition under the scheme as de facto couples. As I said earlier, this is consistent with many superannuation deeds in the community. It is not applying any particularly unusual standard and it is consistent with the Legislation Committee's report into the Acts Amendment (Sexuality Discrimination) Bill introduced in December 1998. I commend the amendment to the Committee.

Hon PETER FOSS: This is an inappropriate time to make a significant policy change of this nature and for the issue to be aired. It is ill-advised at this stage to seek to impose this policy change and to put in jeopardy an important piece of legislation that has substantial agreement by pursuing something that does not have widespread agreement. If the member wants to deal with this issue, she should introduce her own Bill.

Hon J.A. SCOTT: The Greens (WA) support the amendment. Unamended, the clause discriminates against same-sex couples. Like any other couples, they often have financial problems and children to support. If this is the Government's policy, it is very poor.

Hon N.D. GRIFFITHS: Can the Attorney General enlighten the Committee about how the superannuation schemes of other Parliaments deal with this issue?

Hon PETER FOSS: Offhand, I do not know. This sort of thing should not be sprung on members at the last minute. Had I had more warning of the question, I could have prepared a little more information. We have only just received the amendment. As I said, it is most inappropriate at this stage to pursue such a policy change. It is not a matter of asking me to justify something, but a matter of saying that one does not seek to make these changes at such short notice. This Government does not make this sort of policy decision on the run. There is no way I would suddenly have the capacity to adopt a policy change of this nature in the upper House at such short notice. It is unrealistic to expect that.

Hon N.D. GRIFFITHS: I note the Attorney General's view and the Government's view, which are consistent with the view expressed about an order of the day that deals with this issue in another but much broader context. The committee will note that the Australian Labor Party also has a view on that area of policy, and it will vote accordingly. It seems that this Bill will go back to the Legislative Assembly. It can very quickly come back here. There should be no difficulty in that. The Australian Labor Party proposes to support the amendment moved by Hon Helen Hodgson.

Hon HELEN HODGSON: I can perhaps answer Hon Nick Griffiths earlier question in general terms. I understand that the commonwealth superannuation scheme still does not address the issue of same-sex couples. However, all other States have antidiscrimination legislation in place. It is my understanding that even if their Bills and schemes do not address it, their overriding antidiscrimination legislation does. In a general sense, that is my understanding of the situation. I apologise that the Attorney General has not seen this amendment before now, but it was circulated yesterday. In view of the difficulties in ordering the Notice Paper this week, the issue has been in the ether. Since the parliamentary superannuation issue was addressed, people have commented about the same-sex couple issue. Although I apologise that, due to circumstances, the Attorney General has not seen the amendment until today, it is something to which I had hoped the Government would have given consideration.

Hon PETER FOSS: Victoria certainly does not have that antidiscrimination legislation. I noticed that it was reported in the newspaper recently that Attorney-General Hulls could not even get through transgender antidiscrimination legislation, and he certainly has not got anywhere with same-gender legislation.

Hon N.D. Griffiths: Is that because of the upper House?

Hon PETER FOSS: No. Premier Bracks does not seem to be very keen on the idea. However, leaving that aside, even if the ether had informed me or I had received the note yesterday, this sort of issue must be taken back to members of my party room. It is not a decision I can make just like that. It requires a determination by the people whom I am asking to vote one way or another. Although I have the conduct of this Bill, I cannot make a decision of that nature without in some way getting the approval of the members of my party room to a significant change of policy. Even if the member had told me about it yesterday, I cannot suddenly go pop and say, "It's been in the ether for a while. I would like you to think about it."

My problem is that I am being asked to agree to something when I cannot say that it has been to Cabinet or to the party room. It is a significant area. In all legitimacy, it is ridiculous at this stage to ask me to make a policy decision of that nature on the run. We have certainly been discussing parliamentary superannuation for a long time, and I had hoped that we would have legislation which was agreed. If it is not agreed, it causes considerable concern to me that the basis upon which this was brought into the Parliament is no longer extant. The legislation was brought in on the basis that it could be agreed to and dealt with fairly promptly. I do not know what will happen after this. Hon Nick Griffiths said that it will go to the other place and be dealt with. I think it might go to the other place and not be dealt with, and that would be unfortunate. We are in our second last day before prorogation, and I am expected to take something which has supposedly been agreed between the parties, make a radical alteration to it, go back to Cabinet and to my party room and say, "Don't worry, folks. I took a bit of a punt on this one and I thought you wouldn't mind." I certainly cannot do that. I do not think anybody in the other place will be in any better position than I. The net result is that this will now become a contentious Bill in the other place, and it may not receive the speedy attention that I thought it would otherwise receive. If that is what we are to do, so be it, as long as everyone understands the situation.

Hon DERRICK TOMLINSON: There has been talk of ether and things that have been floating around in it. Perhaps I have been floating around in it because I need some clarification. In proposed section 5(4), reference is made to a widow. The gender-specific language causes me concern, because whether or not the widow is the legal spouse, the widow is the spouse of the former member at the time of his death. Again there is the gender-specific pronoun. My question to the Attorney General and to the mover of the amendment is: Is it the intention that only a widow shall be a spouse - in other words, a person of the feminine gender? Is it intended that the husbands or widowers of former members who were of the feminine gender will not be beneficiaries? Does the mover of the amendment suggest that it is only homosexual relationships among women, who I am told must be called lesbians because they are not really homosexuals, to which this will apply, or does she want equality to extend to men as well?

Hon PETER FOSS: A number of Acts of Parliament predate the non-gender-specific drafting that has been adopted by the Parliament. When there are Acts of that nature, there are two choices: Either the wording is continued, in which case the male includes the female -

Hon Derrick Tomlinson: Man embraces woman.

Hon PETER FOSS: Yes, that is right - or the Act is repealed and re-enacted and the gender inconsistencies throughout are removed. I assume that in this case the intention was to keep the non-neutral language. It is a statutory interpretation anyway, but according to the view in the Interpretation Act, as the member said, man embraces woman.

Hon HELEN HODGSON: A more specific response to Hon Derrick Tomlinson's question can be found in section 19A of the principal Act, which the member probably does not have before him. It says -

> Any reference in this Act to a widow of a member or former member shall, by force of this section, be construed as including and extending to a widower of a member or former member.

I am sure my husband is very grateful for that.

Amendment put and a division taken with the following result -

Ayes (14)

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

Noes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Dexter Davies		Hon Simon O'Brien	Hon B.K. Donaldson
Hon Max Evans	Hon Barry House	Hon Greg Smith	*(Teller)*
Hon Peter Foss	Hon Murray Montgomery	Hon W.N. Stretch	

Pairs

Hon Tom Stephens	Hon Norman Moore
Hon Kim Chance	Hon Muriel Patterson
Hon Bob Thomas	Hon Barbara Scott

Amendment thus passed.

Clause put and passed.

Clause 6 put and passed.

Clauses 7: Section 9 repealed and Part IIA inserted -

Hon PETER FOSS: I move -

> Page 5, lines 26 and 27 - To delete "for the first time at" and substitute "after".
>
> Page 5, lines 27 and 28 - To delete "14 December 1996; or" and substitute "6 February 1993 and before closing day; and".
>
> Page 6, lines 1 and 2 - To delete the lines and substitute the following -
>
> (b) who, at the time of being so elected, was not entitled to any pension or other benefit under the scheme;

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 8 to 16 put and passed.

Clause 17: Section 28 inserted -

Hon PETER FOSS: I move -

> Page 10, line 23 - To delete "are to" and substitute "may".
>
> Page 11, after line 1 - To insert the following new paragraph -
>
> (a) shall not have the effect of changing the scheme from being one under which former members are entitled to be paid a pension that is calculated as set out in section 14;
>
> Page 11, after line 5 - To insert the following new subparagraph -
>
> (ii) had accrued before the determination and to which a member who has contributed to the scheme for not less than 7 years but less than 12 years may become entitled under section 14(1)(b); or
>
> Page 11, after line 7 - To insert the following new paragraph -
>
> (b) shall not have the effect of changing the circumstances under which a member may qualify for a pension under section 14(1)(b);

Hon J.A. SCOTT: The Greens (WA) will support the amendments even though they were tabled only a short time ago.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 18 to 24 put and passed.

Title put and passed.

Bill reported, with amendments.

Recommittal

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

That the Bill be recommitted for the purpose of reconsidering clause 20.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 20: Section 6 amended -

Hon PETER FOSS: I should have urged the Chamber to oppose this clause, but unfortunately I omitted to do so. I urge the Committee to oppose this clause.

Hon NORM KELLY: I seek an explanation from the Attorney General for his urging for the deletion of this clause.

Hon N.D. GRIFFITHS: At the invitation from the Attorney General, I point out that this clause was subject to presidential ruling to the effect that if this clause remained in the Bill, it could not proceed as it deals with a different area of policy; namely, to allow the Salaries and Allowances Tribunal to deal with allowances with respect to select committees.

Hon PETER FOSS: I gave an undertaking to have this clause deleted.

Clause put and negatived.

Further Report

Bill again reported, with a further amendment, and the report adopted.

Third Reading

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

STAMP AMENDMENT BILL 1999

Returned

Bill returned from the Assembly without amendment.

Sitting suspended from 6.00 to 7.30 pm

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 1999

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon J.A. COWDELL: As I said in my speech during the second reading debate - although, of course, I will not repeat that speech - the Australian Labor Party was prepared to vote for the second reading of this Bill with the intent of seeking to amend it or to have it referred to the Standing Committee on Ecologically Sustainable Development for that committee to consider the amendments prior to the committee stage. I am pleased that the Bill was referred to the ESD committee and that the committee has now reported. The dimensions of various alternatives that appear on the Supplementary Notice Paper have been explored fully by the ESD committee, and I compliment it on the work it did in such a short time. Indeed, I found its report to be very useful.

The ESD committee came down with two unanimously recommended amendments. I trust that the Committee will take up those amendments in due course. More particularly, the ESD committee provided perspectives and a useful review of arguments on a number of clauses. There were some clear messages in the seventh report, particularly concerning clause 27, on page 14 of the report. The committee noted that -

> An argument is that the Minister for Forest Products has a large degree of control over decisions about proposed management plans because that Minister's decisions must be given effect to under proposed section 60(2c) by the Minister (administering the CALM Act).

Indeed, the situation was defined without getting into the argument of veto power or whatever, and there was a clear analysis of the sorts of powers that were proposed to be exercised one way or the other. I found that the committee usefully

did that with clause 10 and the Environmental Protection Authority comparison, and with clause 23 and the requirement to act jointly.

There was obviously an emphasis in the committee's report, as it reviewed the whole range of amendments, on clearly identifying whether there was a sufficient degree of separation of the functions of the Minister for Forest Products and the Forest Products Commission from the conservation functions and functions of that commission, and whether the clauses gave full effect to the stated intention of the minister in his second reading speech regarding the degree of separation of functions that the Government hoped to achieve.

I said before that the Opposition would seek to amend the Bill. If members peruse the Supplementary Notice Paper, they will find a number of amendments standing in my name. I also indicated that we would support certain amendments that I felt sure at that time would appear on the Supplementary Notice Paper, which they have.

I will give an overview of the amendments. The amendments proposed by the Opposition deal with the big picture items. Certainly, they deal with what we believe should be the case; that is, there should be a set of objects of the Act. There is a proposed new clause 3 to give effect to our view in that regard. Our view is that there should be a set of principles upon which the department should act. There is an amendment in my name to insert a new section 33B to give effect to that view. As part of the principles upon which the department should act, there was clearly a need to define the principles of ecologically sustainable development. Those will be defined in the Bill and then in the Act as a result of an initiative of the ALP.

The Opposition is further committed to a significant change in respect of the independence of the Conservation Commission and its chairman - that is an amendment to proposed section 24. The Opposition is also committed to the view that there should be no veto power for the Minister for Forest Products over forest management plans. If members do not like the term "veto power", they might use the term "undue influence" or "greater influence than is warranted". Nevertheless, the principle is the same. The range of amendments on the Supplementary Notice Paper indicate that the Opposition is committed to certain significant amendments that it believes will provide the necessary direction for the new department and the new commission created under the Bill. These are defined in those principal areas.

With respect to the forest management plans and the role of other ministers, on the Supplementary Notice Paper there are at least two alternative regimes, and three if members count the regime which prevails in the unamended Bill. The Opposition will define those more closely when we reach those clauses. Hon Norm Kelly has defined a useful amendment to clause 27. Were that not carried, we would look to the regime contemplated in another place and embodied in the proposed amendments of Hon Christine Sharp. There are alternative regimes, with a curtailment of other ministerial powers. The Committee will consider which of those is more effective or whether it stays with the regime defined in the current Bill.

Certainly, the Labor Party generally supports the Attorney General's amendments. We are not always fully aware of the meaning of those amendments but I hope, once that meaning is revealed, we can fully embrace them, rather than almost wholeheartedly. A range of the proposed amendments may be overly prescriptive, and we will not support amendments in that category.

The crunch amendments pertain to clause 27, which clause requires the agreement of the Minister for Forest Products to forest management plans. This power has been perceived as effectively a veto power. The Government may indeed take comfort from the support of Hon Mark Nevill for the maintenance of clause 27. If the Government receives the comfort it is looking for - the support on the floor of the Chamber - and maintains clause 27 as it is, that will be the end of this Bill; that is, unless the Government has further support from Hon Mark Nevill in carrying the Bill in a completely unamended form. If we founder with regard to some alteration of clause 27, it is the view of the Australian Labor Party that the Bill should not proceed and it will vote against the Bill at the third reading. Presumably, that would have a flow-on effect on the Forest Products Bill, although some independent items may stand in their own right. I am sure the minister will define that. That is an overview of the situation effectively, and our view of the more important clauses, the big picture items, the general range of amendments, and the key clause so that the Committee might consider the situation when we reach that clause. I look forward to considering the matters clause by clause.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Before I give the call to Hon Christine Sharp, I point out that the debate on the short title is not an opportunity for a mini second reading debate. I hasten to add that Hon John Cowdell did not offend in that regard; he canvassed the principal clauses which are the subject of the Supplementary Notice Paper. I draw the attention of members, who might be encouraged by the length of Hon John Cowdell's introductory remarks, to the need to address matters which are focused on the clauses of the Bill.

Hon CHRISTINE SHARP: Thank you, Mr Deputy Chairman, for your advice. It is not my intention to speak at any length on the short title of this Bill, but I will give a simple overview of where the heart of the matter lies in the very extensive range of amendments before the Committee. It lies very much in completion of the separation of the functions of the Department of Conservation and Land Management, as set out in the second reading speech a few weeks ago. The division of the Department of Conservation and Land Management has given rise to considerable confusion. I hope the seventh report of the Standing Committee on Ecologically Sustainable Development in its chapter on this matter has provided helpful advice to clarify some of the issues about the separation, and the critical aspects of that separation. I will deal with those matters in debate on specific clauses, such as clause 23 which contains a requirement for both organisations to act jointly, and also clause 27.

I feel the crux of the matter of separation is to provide independent regulation. The regulatory function should not be compromised by any requirement which may introduce a commercial conflict of interest. That is the heart of the matter. That is the theme throughout this series of amendments, not only those in my name but also those in the names of other members. Another thread weaves its way through them, and it is very much in harmony with independent regulation. That relates to the functioning of the Conservation Commission which is proposed to be established under this Bill. In conjunction with the commission being an independent regulator, the community has a clear expectation and hope that it will be a strong watchdog on behalf of the natural environment of this State. Indeed, we must bear in mind when dealing with these amendments that the Conservation Commission will not merely be a bureaucratic organisation, nor merely an independent regulator which oversees state forest alone; nevertheless, it will have responsibility for almost 2 million hectares of state forest vested in the commission. A total of approximately 20 million hectares of land in Western Australia will be vested with the commission. Therefore, with the responsibility for this area of land, and a further responsibility to oversee the conservation policies throughout the rest of Western Australia - it is a remarkable responsibility - it is critical that the provisions of the Bill provide for a strong watchdog, not some compromised and silent bureaucratic process. The amendments seek to strengthen the Conservation Commission to make it the independent watchdog it should be, and to remove any compromise of its independence by commercial considerations.

To complete this analysis of the separation of the Department of Conservation and Land Management, members will note that the Standing Committee on Ecologically Sustainable Development was unanimously of a mind that complete separation is not necessary at an operational level. It is accepted that personnel working on the ground who are actively engaged in management can have synergies in acting jointly. Therefore, the separation to be pursued does not focus on the operational level. Indeed, members will note that the second of the only two recommendations of the ESD committee was an endorsement of a memorandum of understanding, and a request that it be tabled in Parliament. We see the MOU as an important document of significant public interest which can provide the synergies when separation is not essential to that independence. Nevertheless, if we are unsuccessful in completing the critical aspects of the separation - that is, if at the conclusion of the committee stage the provisions of the Bill remain substantially as they are at the beginning of the process - the separation provided for in the Bills will be false at some critical points. Therefore, although I have anticipated splitting the Department of Conservation and Land Management for a long time, I will find myself in a regrettable position in that circumstance; that is, on behalf of the Greens (WA), I will need to reject the Bill at a later stage.

Hon GREG SMITH: I have said from the outset that the Department of Conservation and Land Management is being split purely for perceptions. In reality, nothing is wrong with the way CALM functions. The amendments on the Supplementary Notice Paper will remove the ability for people in the timber industry to manage the timber industry, and will pass that management to the conservation movement. It will be weighted eventually more pro conservation of forests and trees than pro industry.

The Bill's original form, along with a number of amendments proposed by the Attorney General, achieves the balance in the forests of Western Australia. The power of veto talked about is not a power of veto for any individual. The Minister for Conservation will have as much authority as will the Minister for Forest Products. The argument that one has more authority than the other is hard to sustain. I support the Bill in its present form. I would be loath to amend the Bill in the way that the Greens (WA) would like to see it amended. After all the arguments heard from the Greens and the conservation movement suggesting that we must split CALM, we find that the ALP and Greens state that they will vote against the split if we do not split CALM as they wish. If we all vote against the Bill and do not split CALM, we would not achieve a bad result. If we split CALM and have a functional timber industry so people can invest a lot of money in areas such as value adding, and achieve the maximum use of our production forests, it is essential that the split be in the model presented. This will provide security and surety for people in the industry investing capital into infrastructure, for the jobs which flow from that investment and for the preservation of our forests.

The amendment which disturbs me most is the first on the Supplementary Notice Paper which describes ecologically sustainable development. It becomes a subjective argument if the term is not used in a prescriptive manner. The amendment states that people can claim anything might happen, but that one can dismiss the argument if people cannot produce scientific evidence to support that view. It is not possible for any organisation to comply with those requirements. I support the Bill in its present form. If it is amended dramatically by the Australian Democrats or Greens (WA), I will have a lot of trouble supporting it.

Hon MARK NEVILL: I must accept the will of the House which decided to second read this Bill and another measure and that the Department of Conservation and Land Management be split. I do not agree with that decision. Those who wanted the split of CALM have got that result as forestry activity has been hived off.

I have always held the view that the more extreme opponents of the forestry industry will never be satisfied no matter how much they are appeased or however many concessions they are given. I sometimes think that some people do not want this issue to evaporate because it will be needed at the next election. Not all people would have that motive, but probably some people outside this Chamber would. I will oppose all the amendments on the Supplementary Notice Paper because the agenda behind all of them is to further weaken the forestry industry in this State. The agenda of some people is to destroy the forestry industry. As I say, it is not necessarily the agenda of members here, but it is an agenda some will perhaps be forced to follow.

There is always room to improve silvicultural practices and to improve the use we make of the products of the forest. I am sure that a lot of anecdotal evidence about logs lying around the forests unused is true. The challenge is to make sure that that does not happen and that it is pointed out and addressed so that we keep improving the value-adding of that timber.

It has got to the stage that the dogs will keep barking, but the caravan must move on. I am completely opposed to the splitting of CALM, but I have had to cop that. I have looked at these amendments and I believe most of them attack the forestry industry. I am one of those rather woolly-minded, demented people who think there is a lot of good in the forestry industry, that it is a sustainable industry and one we should foster. Our actions in recent times have cost 1 500 jobs in that industry. Jobs are precious. A job is worth a lot in this community where we always have unacceptably high rates of unemployment. I will oppose all the amendments except some of those to be moved by the Attorney General. I also will move a couple of amendments.

Hon PETER FOSS: My position and that of the Government is similar to that expressed by Hon Mark Nevill. The nonsense about a veto power is just that. I am always surprised that some people, when it suits them, continually go around saying that everything should be done by consultation, agreement and consensus. However, whenever it looks like they have a chance to ride roughshod over everybody else, they always want them to be ridden in that way.

It would be complete nonsense to have a management plan for forests made without any reference to the people who will cut that forest. Unless one can agree with those two interests, it is proper that the matter should go to Cabinet. Governments are elected to make the decisions; and if their decisions are not popular with the people, the Governments take the consequences of those decisions. To leave the decision to one interest only is bizarre. The Government has tried to separate the two interests so that there is no conflict of interest. The amendments proposed do not deal with the conflict of interest. They suggest that the opposition parties do not want to listen to the Government. They want to make decisions without consulting and giving a right to be heard to the people who are most vitally effected by those decisions. It always leaves me astounded that Greens members, of all people who talk about consensus and consulting everybody, have the biggest jackboots when they think they have the opportunity to ride roughshod over people. These amendments try to give jackboots to the Greens.

I mentioned in the second reading speech that when I was a member of the Australia and New Zealand Council of Agriculture and Forestry that it was frightening to see the views of those groups who had no balance in them whatsoever and did not have a forestry interest represented to see what its attitude to forestry was. They would have wiped forestry off the map. I am alarmed at the suggestion that there should not be a balance between the two when both are entitled to be heard. When they cannot resolve a matter it should go to a proper umpire; that is, to Cabinet, which has the capacity, the duty and the role to make those decisions. The Government will take the same view as Hon Mark Nevill. I will move amendments, and I will oppose all other amendments except those moved by Hon Mark Nevill.

Hon NORM KELLY: The comments so far indicate that the issue of section 60 of the Conservation and Land Management Amendment Act will be critical in the debate on this Bill. Whether it be a power of veto or not, the Attorney General is wrong in saying that the amendments on the Supplementary Notice Paper set out to remove consultation over the formulation of forest management plans. A reading of the Bill and of the amendments proposed show that it is a requirement to have consultation. If the Attorney General believes that the Minister for Forest Products should have primacy over these management plans, so be it. However, as the Government has outlined previously, the purpose of this Bill is to remove those conflicts of interest from the legislation. That is the reason the Government has argued it is putting this legislation through Parliament; that is, to remove that conflict of interest between the conservation and commercial operations of the Department of Conservation and Land Management. The amendments on the Supplementary Notice Paper are not meant to remove consultation, or, as Hon Mark Nevill stated, to look after the interests of the extreme opponents of the timber industry; they are there to put in place an administrative base that will allow us to continue to have a viable timber industry. The Australian Democrats believe, as other parties have postulated at different times - some of them committed and some obviously not so committed - that we need a transition from a timber industry based on native forest products to one more firmly based on plantation timber resources.

Hon Bob Thomas: What about regrowth? Is the member saying there should be no regrowth in the forests?

Hon NORM KELLY: I am saying that there should be a transition from the present reliance on native forests so that we do not have the continued logging of our native forests to the same extent we have now. That has been largely acknowledged by most parties. If the Government is to say that there is no conflict of interest in the existing operations of CALM, but that there is only a perception of conflict of interest - something which has also been put forward by other members of the Government - it would be a mockery to pass this legislation.

The Bill contains a good, strong basis for the management of our conservation estate, particularly of our forest reserves over future years. Nevertheless, the Australian Democrats believe it needs to be improved. The amendments the Australian Democrats will move will ensure that this legislation can pass with some minor modifications which will strengthen the Bill and provide a better mix for all concerned.

It is not about removing industry. Hon Mark Nevill referred to the extreme opponents of the timber industry. I met some of those opponents who adhere to their extreme views at the expense of conservation values in the timber industry. I do not believe their views represent the wider interests of the timber industry which, for the most part, supports the development of a sustainable timber industry, whether that be in native forests or in plantations. However, despite improvements made through the Regional Forest Agreement in recent decisions, as we sit in this place now our forests are still being logged at an unsustainable rate, and will be for the remainder of the current forest management plan. Members should bear that in mind when going through this legislation.

The report of the Standing Committee on Ecologically Sustainable Development was tabled last week. As a member of that committee, as was made perfectly clear in the report, I remind members that the committee was not in a position to

examine the Conservation and Land Management Amendment Bill and the Forest Products Bill clause by clause to determine possible flaws or areas of conjecture. The committee zeroed in on a few of the more obvious problem areas and tried to work on them as much as possible. It was clear in the debate on the motion to refer this Bill to a committee that it would be difficult to reach unanimous agreement in the committee, which is the reason that we eventually made only two recommendations. However, I refer members to the report as a great deal of good work has gone into it. Some members promised this House in the referral motion that the report would not prolong the debate but would assist it. This debate will probably be lengthy; however, the ESD report lays out many of the for and against arguments in the contentious areas. I believe the report will assist in the overall debate which may be lengthy but it will be no longer than needs be. The Australian Democrats supported the second reading of the Bill and we will support various aspects of the Bill. However, we will be strident in seeking amendments to the Bill so that we can support it at a later stage.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 3 amended -

Hon NORM KELLY: I move -

Page 3, after line 14 - To insert the following new subclause -

(8) After the definition of "Director of Nature Conservation" the following definition is inserted -

"principles of ecologically sustainable forest management" means the principles that -

(a) the decision-making process should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;

(b) if there are threats of serious or irreversible environmental damage, the lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

(c) the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

(d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making; and

(e) improved valuation, pricing and incentive mechanisms should be promoted.

This amendment will insert a new subclause into clause 4, seeking to achieve to transfer the existing definition of the principles of ecologically sustainable forest management, which currently appears on page 10 of the Bill under proposed new section 19(2). It is far more appropriate to have such a critical and important definition, that we were glad to see was passed in the other place, in the principal definitions section of the Bill. For those reasons, and for reasons that relate to other proposed amendments on the Supplementary Notice Paper about the principles of ecologically sustainable forest management, we believe it is appropriate that this definition be contained in the definitions section and not in clause 19 about the functions of the proposed Conservation Commission. That definition should apply, hopefully by the end of this committee stage, not only to the Conservation Commission but also to the proposed Department of Conservation and Land Management. I urge members to support this amendment.

Hon J.A. COWDELL: The Australian Labor Party supports this amendment to clause 4 on the basis of the argument advanced that the definition should be in the principal definitions section of the Bill. I noted the comments of Hon Greg Smith on the futility of such a definition. I note that his Government accepted this "futile" definition in another place. All this amendment does is move the definition from section 10 to the definitions area of the Bill. It is not a case of inventing or bringing in a definition of the principles of ecologically sustainable forest management. That definition is already there. This amendment shifts it from one place in the Bill to another. That is why, as I said, it is not a hugely significant change but it is a worthwhile change. For that reason, the Opposition will support the amendment.

Hon CHRISTINE SHARP: Clearly, ecologically sustainable forest management is fundamental to good forest management in this State. As far as I am aware, that proposition is universally acknowledged, with the exception of Hon Greg Smith, unless my colleague Hon Mark Nevill is about to prove me wrong. I cannot imagine therefore any argument against the proposition that the definition should come up front at the beginning of the Bill and stand there as a fundamental principle for all the provisions of the proposed Act. I am therefore very pleased to support Hon Norm Kelly's amendment.

Hon MARK NEVILL: Through the Deputy Chairman I ask the member moving this amendment for his view of the difference between the principles of sustainable forest management and the principles of ecologically sustainable forest management. I cannot see a sharp distinction.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): I draw to the attention of the Attorney General that the Chair tries to be very fair and to call the person who first attracts the Chair's eye. If the Attorney General wanted the call, he should have got to his feet quicker.

Hon PETER FOSS: I was there but I will wave and then I will attract your eye.

This is a curious amendment because, as was pointed out, it was adopted by the Government in another place at the suggestion of the Labor Party and was put into the clause in which it was used. This amendment puts it at the front of "interpretation". The usual reason for doing that is that the same definition will be used a number of times during a Bill, not, as suggested by Hon Christine Sharp, to indicate that it has a special character in principle; it just happens to be a definition. As I said, an interesting thing about it is that it was put into the clause in which it was used at the request of the Opposition.

The principles of ecologically sustainable forest management were inserted into proposed new section 19(2). Hon Norm Kelly plans to move a new clause 25 to amend section 55 of the Conservation and Land Management Act which contains the term "ecologically sustainable basis". As the terminology is different, the definition contained in clause 4 would have no application. Another amendment proposed by Hon Norm Kelly is for the deletion of proposed new section 19(2), which defines the principles of ecologically sustainable forest management for the purposes of the Conservation Commission's advisory function in proposed new section 19(1)(h). An amendment proposed by Hon John Cowdell includes the insertion of new section 33B and again defines the principles of ecologically sustainable forest management. If the definition were included at the beginning of the Bill, it would be removed from the one clause in which the term is relevant and would have no special status. The result would be that different wordings occur throughout the Bill. One would assume that because the term was included with the definitions, it would have uniform meaning and application. Shifting the clause to the front of the Bill would cause utter and complete confusion as people would try to work out where else the terminology is used in the Bill. They would find similar terminology, but nothing exactly the same. The Government opposes the amendment.

Hon NORM KELLY: Hon Mark Nevill asked about the purpose of the word "ecologically" within the term "principles of ecologically sustainable forest management". Although sustainable forest management could sustain a forest industry over generations, it might be at the expense of the ecological biodiversity of those forests. Logging can be carried out on a sustainable level so that there is good regrowth; however, it is often at the expense of other species of fauna or flora. Ecologically sustainable management ensures not only the sustainability of forestry practices but also the biodiversity of the forests. Paragraph (d) of the amendment states -

> the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;

The clause is needed so that a vibrant forest in its old, natural state or a regrowth forest with a full complement of biological diversity is not replaced with a native forest devoid of the other species of flora and fauna that are integral to proper forest management.

Hon J.A. COWDELL: The Attorney General, acute and observant as ever, got it in one when he noted that not only is the term defined in proposed new section 19(2) - which was an amendment accepted in another place - but also it appears in a proposed amendment standing in my name to insert new section 33B(2). It would be foolish for the definition to be repeated throughout the Bill. Therefore, the Labor Party supports one definition at the beginning.

Amendment put and a division taken with the following result -

Ayes (13)

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

Noes (14)

Hon M.J. Criddle	Hon Ray Halligan	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon B.K. Donaldson
Hon Max Evans	Hon Murray Montgomery	Hon Greg Smith	*(Teller)*
Hon Peter Foss	Hon Mark Nevill	Hon W.N. Stretch	

Pairs

Hon Tom Stephens	Hon N.F. Moore
Hon E.R.J. Dermer	Hon Muriel Patterson
Hon Ljiljanna Ravlich	Hon B.M. Scott

Amendment thus negatived.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Section 17 amended -

Hon J.A. COWDELL: I move -

> Page 7, line 5 - To delete "with the concurrence of" and substitute "after consultation with".

This amendment was examined by the Standing Committee on Ecologically Sustainable Development and concerns the cancellation or change of the boundaries of timber reserves. The committee pointed out in its report that the minister administering the Conservation and Land Management Act must refer proposals to cancel or alter boundaries of land to the body in which that land is vested.

However, the minister is not bound by the vesting body's decision. The case is different for timber reserves: While the proposals for cancellations or alterations of the boundaries of timber reserves are to be referred to the Conservation Commission as the vesting body, the minister must have the concurrence of the Minister for Forest Products before timber reserves can be altered or cancelled. This clause, if amended as I suggested, recognises that the Minister for Forest Products should be consulted if the timber reserve is to be cancelled, amended or altered. Labor does not believe that the Minister for the Environment needs to obtain the concurrence of the Minister for Forest Products. On that basis, I commend the amendment to the House.

Hon PETER FOSS: I think this plainly shows the intent by all the people proposing the deletions of concurrence that they wish to deprive the forestry industry from being saved. There is a well-known process called consult and ignore. The two Houses of this Parliament have the capacity, because of their legal rights, to arrive at some form of concurrence. I think this House would give very short shrift if we were consulted and ignored. There are conflicting interests and one does not resolve those conflicting interests by putting one person in jail or depriving the person of his legal rights or removing his citizenship rights. One has to arrive at a solution whereby both parties have equal rights. One cannot abolish a conflict of interest - one makes sure that there is not just one person who makes the decision. To take the decision from the Minister for Forest Products and say that the minister has no rights at all does not resolve the conflict; it ignores the conflict. It ignores the fact that there are legitimate interests in the forestry industry which must be taken into account and which cannot be ignored.

I am astounded at the proposition that a conflict is resolved by telling someone that he had to remain mute - that he is to be neutered; that is what is being proposed. I think this is the first example of how members opposite cannot see that to take a way a person's rights does not resolve conflict - all it does is suppress the rights of that person to have their interests heard. That does not resolve conflict of interest. That rides roughshod over that individual's rights. The sophistry and nonsense that has been talked about resolving conflicts of interest by depriving someone of his rights is unacceptable. The Government will vote against this.

Hon MARK NEVILL: I oppose the amendment because it gives the Minister for the Environment pre-eminence over the Minister for Forestry Products instead of having equality between the ministers when deciding whether something should happen. There are some very large timber reserves in my electorate: Mount Elvira station is a timber reserve as is Jaudi station. Under this proposal, clause 17(2) of the Act allows the minister to -

(a) cancel or amend the purpose of any land to which this section applies; or

(b) alter any boundary of any such land . . .

The Minister for the Environment can unilaterally do that. Some may think that is a good thing but I am strongly of the view that there should be multiple land use in a lot of these areas. There can be conservation as well as other use of the land, whether it be harvesting timber, sandalwood or mineral exploration. Having a balance of economic interests and conservation in those sorts of reserves is a constructive way to move forward. If all the weight lies with the Minister for Conservation, one can completely change the balance. I unashamedly support multiple land use in a lot of these areas. This amendment would remove that.

Hon NORM KELLY: The Attorney General talked about this proposed amendment taking away rights - it does nothing at all because there are no rights in the first place. The Government is seeking to install rights; namely, power for the Minister for Forest Products to deny the Minister for the Environment the ability to make such decisions. In this case, the Australian Labor Party wants to ensure that there is consultation rather than confrontation. I think the Australian Labor Party should be applauded. One must bear in mind that if there is concurrence as it currently exists in the reading of this amendment, the concurrence does not guarantee anything; it simply allows the process to go to the next step, which is a recommendation to the Government. Replacing the concurrence with a requirement to consult the Minister for Forest Products will ensure that the process will still require a recommendation to the Governor. My understanding is that that would be through the cabinet process. Irrespective of that, it is just one more step in the chain prior to an order been published in the *Gazette*.

I think it is laudable that the Australian Labor Party wants to put in the requirement for consultation, because without that a Minister for the Environment may be inclined not to proceed at all rather than face confrontation with, and possible denial by, the Minister for Forest Products. For those reasons, the Australian Democrats will support this amendment.

Amendment put and a division taken with the following result -

Ayes (13)

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

Noes (14)

Hon M.J. Criddle	Hon Ray Halligan	Hon M.D. Nixon	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Max Evans	Hon Murray Montgomery	Hon Greg Smith	Hon B.K. Donaldson *(Teller)*
Hon Peter Foss	Hon Mark Nevill		

Pairs

Hon Tom Stephens	Hon N.F. Moore
Hon E.R.J. Dermer	Hon Muriel Patterson
Hon Ljiljanna Ravlich	Hon B.M. Scott

Amendment thus negatived.

Clause put and passed.

Clause 10: Part III Divisions 1, 2 and 3 replaced by Division 1 -

Hon PETER FOSS: I move -

Page 9, line 20 - To insert before the word "principles" the words "application of the".

This amendment is a grammatical rather than a substantive change. It deals with the methods of the application of the principles of ecologically sustainable forest management.

Hon NORM KELLY: I appreciate the intent of the Attorney General's amendment. However, I wish to propose an amendment to his amendment. This involves a matter of emphasis. Paragraph (h) is very wordy. Rather than referring to the "application" of the ESFM principles, the legislation should refer to the "implementation" of the ESFM. I simply want a stronger statement of the functions of the Conservation Commission. I move -

To amend the amendment by deleting the word "application" and substituting the word "implementation".

Hon PETER FOSS: I am reluctant to agree to this. We are amending this clause in this Chamber because of concerns expressed by parliamentary counsel about an amendment moved in the other place. Making another amendment without the capacity to go through the clause to establish the implications concerns me. I would hate to fix a fix and get back to the previous situation. I understand what the member is saying, but I am reluctant to make the amendment on the move.

Hon MARK NEVILL: I do not think there is any harm in the amendment moved by Hon Norm Kelly. The "application" of the principles is the same as the "implementation" of the principles. This is semantics. The amendment moved by the Attorney General achieves the same purpose and I will support that amendment.

Hon CHRISTINE SHARP: It is a good idea to insert "implementation" rather than "application". Although it is a matter of semantics, the word "implementation" has a slightly more active requirement than the word "application". That would achieve my desire to see the ESFM implemented vigorously. Therefore, I am pleased to support the substitution.

Hon J.A. COWDELL: The Labor Party is willing to support the Attorney General's amendment on the basis of his explanation of grammatical soundness, if it is verified by you, Mr Chairman.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Verily it is so.

Hon NORM KELLY: This goes a little beyond semantics, otherwise I would not have moved the amendment. "Implementation" is a more active word. I appreciate that the Attorney General may be reluctant to look at this without being able to read in the possible implications for other aspects of the Bill. I remind members of my adjournment speech last night, in which I referred to the fact that I requested a meeting with the Minister for the Environment on 30 May to discuss the amendments. I followed that with another letter on 30 June repeating that request. Unfortunately, it was not until seven o'clock this evening that I had 10 minutes to discuss amendments with the minister. I am not saying that is a reason to support the amendment, but it is an explanation not only of the Democrats' desire to discuss our amendments but also to discuss other amendments on the Supplementary Notice Paper. This is a better version, and I encourage members to support it.

Amendment on the amendment put and a division taken with the following result -

Ayes (5)

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

Noes (22)

Hon Kim Chance	Hon Peter Foss	Hon Murray Montgomery	Hon W.N. Stretch
Hon J.A. Cowdell	Hon G.T. Giffard	Hon Mark Nevill	Hon Bob Thomas
Hon M.J. Criddle	Hon N.D. Griffiths	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Cheryl Davenport	Hon Ray Halligan	Hon Simon O'Brien	Hon Ken Travers
Hon Dexter Davies	Hon Tom Helm	Hon Greg Smith	Hon B.K. Donaldson *(Teller)*
Hon Max Evans	Hon Barry House		

Amendment on the amendment thus negatived.

Hon NORM KELLY: In the light of the defeat of my amendment I fully support the Attorney's amendment.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 9, lines 21 and 22 - To delete the words "to be applied".

Amendment put and passed.

Hon CHRISTINE SHARP: I move -

Page 10, after line 6 - To insert the following paragraphs -

(m) to provide advice on conservation matters to members of the public;

(n) to publish reports on conservation matters.

This amendment is the first of a series in the theme to which I referred during debate on the short title of developing the Conservation Commission to be that of a strong, independent watchdog on behalf of the conservation estate. To put this into context; the conservation responsibilities of this proposed commission will affect the preservation of biodiversity in not only the 20 million hectares of land vested in the commission, but also in the 250 million hectares of land which is basically the whole land mass of Western Australia, for which the Conservation Commission is charged with developing policies and providing advice to the minister. Clearly that is a huge task.

The Greens (WA) find the fulfilment of that task the source of this amendment, which is to require the Conservation Commission to issue publications. The amendment mirrors a similar function under section 16 of the Environmental Protection Act, except that I have substituted the word "conservation" for the word "environment" as it appears in section 16 of the Environmental Protection Act. In other words, the Conservation Commission will be required to provide advice on conservation matters to members of the public and to publish reports on conservation matters.

I see this as a potentially important function for the proposed commission. It will enable the commission to provide status reports to the public on the preservation of all manner of species that constitute our biodiversity. It will keep the public aware of the protection of our flora and fauna across the land mass of Western Australia. The public would like the commission to be active in having some kind of public interface rather than being a more bureaucratic institution of which the public has very little awareness because there is very little public interface between the commission and the community. It is important to have that public interface.

I am aware of powers under proposed section 19(1)(k) to provide advice on request from members of the general public. However, I see that as a rather passive requirement. It requires that a request must be made by an individual member of the public before the Conservation Commission may comment. That may not necessarily be public comment; it could be a matter of correspondence. I also acknowledge that a general power under proposed section 20(1) will enable the commission to "do all things necessary". Again, that is not a specific requirement for the provision of advice and comment to the community, which I believe will help fulfill the role I hope the proposed Conservation Commission will provide; that is, of watchdog. We want the Conservation Commission to be a proactive organisation and we want the public to hear from the Conservation Commission. Therefore, I commend this amendment to members.

We all acknowledge the role of the Environmental Protection Authority over the past two decades as a similar independent authority with the ability to publish. I am sure people would like to see a similar proactive commission operating here, although it would not have the specific part 4 powers of the Environmental Protection Act that require the authority to regularly provide public advice on specific development proposals in its assessment on behalf of government.

Section 16 is a much more general power. However, the authority uses it from time to time. For example, it used it with great effect and drew a high level of public interest in its statement in early December last year on the clearing of remnant vegetation for agricultural purposes in the wheatbelt. The Conservation Commission should be a powerful organisation and the public should know that if it is not hearing from the Conservation Commission, it can take comfort because there is nothing of significance that needs to be reported, rather than simply have a bureaucracy which is not exercising the active function of safeguarding our environment.

Hon MARK NEVILL: Hon Christine Sharp seems to be arguing this amendment in two parts. She wants to give the Conservation Commission some public relevance. It seems strange that it does not have some already. She lauds the EPA's publications, which I think are appallingly presented, almost unreadable and extremely boring, yet she does not mention the wonderful magazine *Landscope*, which has been published by CALM for many years and is very readable. It may not be politically correct, but it is very educational. It just shows the member's view of the world that she can argue that the EPA puts out reports that the public reads when this body cannot. I do not see anything in this Bill that will prevent the Conservation Commission from putting out publications. The member spoke quite eloquently against paragraph (m) of her amendment, because that is largely contained in subclause (1)(k), which provides that the Conservation Commission may provide advice, upon request.

If we were to put this amendment into this Bill, then we should also put this amendment into the agriculture Bills to provide that Agriculture Western Australia must give advice to the public about how to grow vegetables and prune fruit trees, and also about how to deal with pests, which it used to do but now unfortunately does not do because it is not one of its core

functions. If we were to put this amendment into this Bill, we should do that consistently across the whole breadth of Acts that affect the public.

The member referred also to the preservation of species. I like to refer to it as the conservation of species. I distinguish between what I call preservationists and conservationists. Preservationists want to turn our whole world into a museum, where there cannot be any change. Conservationists want to manage change and the different impacts of change in the environment. That may have been just the word that the member chose to use, but I do not believe it adds much to the Bill. I believe that much of the material in this Bill is probably unnecessary, and that we could probably halve the size of the amendment Bills that come into this Chamber. We cannot cover every situation that arises, and we should not go on forever trying to cover every base. Nothing in the Bill will prevent the commission from publishing reports on conservation matters. That does not need to be stated.

Hon NORM KELLY: Clause 19(1)(c) states that one of the functions of the Conservation Commission is to develop policies for the preservation of the natural environment of the State and the provision of facilities for the enjoyment of that environment by the community. The amendment proposed by Hon Christine Sharp is a natural extension of that provision, because if the Conservation Commission is to develop policies, it will be beneficial if the commission has the power to publish with regard to those policies. I, like Hon Mark Nevill, wonder why the Government has chosen the term "preservation" of the natural environment rather than the term "conservation" of the natural environment.

Page 17 of the report of the Standing Committee on Ecologically Sustainable Development outlines a number of arguments in support of this type of amendment; and those arguments have been well referred to by Hon Christine Sharp. It is interesting that page 18 of the report outlines some of the counter arguments against the provision of a prescribed function of publication. One of those arguments is that with a net budget allocation of $600 000 for all functions, including auditing, publication will significantly reduce the amount of funds that will be available for other services. We have an issue with the funding of the commission, and it would be very unfortunate if that limited funding for the commission became a reason or an excuse for the commission not to publish materials. Therefore, rather than that being an argument against this amendment, it is an argument for this amendment, because if it is a function of the commission to publish reports on conservation matters, it will be necessary to adequately fund the commission to enable it to fulfil that function. I assume that suitably qualified people will be appointed to the commission and they will not abuse or misuse this publishing function but will use it to better inform the Western Australian community about such things as are contained in clause 19(1)(c).

Hon J.A. COWDELL: The Opposition supports the addition of these two discrete functions to the domain of the Conservation Commission. While the Conservation Commission certainly has the power under clause 19(1)(k) to provide advice upon request to any body or person, there is no specific power enabling it to publish reports on any matter that it sees fit. The Opposition believes that the auditing and reporting powers of the Conservation Commission need to be strengthened, and as such we support the amendment.

Hon PETER FOSS: I am bewildered by this amendment. First, the Environmental Protection Authority and these bodies have nothing in common. The EPA is a watchdog, and the Department of Environmental Protection is the body which executes the matters with which the EPA deals. I know that for a period the EPA was doing both, and if ever there was an internal conflict and an inability to do things properly, that was the time. Bodies such as the Water and Rivers Commission, the marine parks authority and the Conservation Commission have responsibility for conserving and managing the environment. The Environmental Protection Authority and the Department of Environmental Protection do not and should not manage anything. There was a problem when the DEP carried out waste management for a small period. There was a conflict within the organisation, because instead of being the watchdog, it was the doer. I had some difficulty with that situation. The DEP differs significantly from those departments which have a role in managing that aspect of the environment. As the name currently suggests, it is the Department of Conservation and Land Management, in the same way that the Water and Rivers Commission also deals with management.

What concerns me is that this amendment shows a significant failure to understand the difference between the role of the commission, which is a policy-making and decision-making body that is very similar to a board of directors, and the executive body, which is CALM. If we give the role of producing these publications to the Conservation Commission, what on earth will CALM do? Why should we bother having a department whose responsibility is to execute an Act if we then give processes of execution to the policy-making and decision-making body?

Hon Norm Kelly: It is not instead of; it is complementary to.

Hon PETER FOSS: What a lot of garbage! The member is virtually saying that two bodies will be doing the same thing. We will allow one body to have the job of executing the will of the minister and the Conservation Commission, and, just for good measure, we will allow the Conservation Commission to do it also. We will give it a function to provide answers to the public. I can just see officers of the Conservation Commission on the telephone every day saying, "If you have a query about conservation, of course we will answer that query." It is almost like saying that it is a telephone answering service.

I take Hon Mark Nevill's point. I was Minister for the Environment for two years and I could never get the DEP to write a document which anyone could read. I used to send back documents again and again. They were so dense. The DEP even got a special writer to draft the documents and still I could not read them. Anaesthetics have nothing on DEP documents. They are so dense and are incapable of being read. I could not understand those documents, and I do not think the public would understand them either. While I was Minister for Water Resources, the department issued a lot of water management plans, which were brilliantly written and easy to understand. The public read them and understood every bit of them. The

same thing happened with *Landscope* and the other publications that are put out by CALM. They are brilliant pieces of communication. Nothing which has come out of the DEP or the EPA has been even faintly understandable, even by people who knew what it was all about.

Hon Mark Nevill: It has no concept of presentation.

Hon PETER FOSS: No, none whatsoever. If it included the odd picture or diagram, it might break up the text and let people know what it is all about. If we give jobs like that to people whose job is policy development and that sort of executive role, that is the result we will get. Executive bodies like CALM are there to do these things, and they do it well. This amendment shows a garbled comprehension of the role of the commission and the role of CALM. If we follow the suggestion of Hon Norm Kelly that they both can do it, we will end up with another department. We will have the Department of Conservation and Land Management and we will have another department to do all the same things again for the Conservation Commission. What a wonderful idea! That sounds like really good management and good government to me! Two departments will do the same thing, because it is a good idea to have both departments charged with the same responsibility! This is business management nonsense. I am astounded by the woolly-minded thinking of some members. We are trying to resolve conflicts in administration and some members are busily putting them back in again by confusing the role of the commission with the role of the department. All we will set up is another grand old stand-off between the bureaucrats who work for the commission and who want to prepare publications and the bureaucrats who work for CALM whose job it is to prepare publications.

Hon CHRISTINE SHARP: In fact, it is the Attorney General who is rather confused, because he is concerned that we are providing for officers of the Conservation Commission to answer the telephone all day. In fact, the Government's Bill requires that they have that function, and it can be found under proposed section 19(1)(k), which states that the commission is to provide advice on request, just as the Attorney General is alluding to and is concerned about. That is in the Government's Bill.

Hon Peter Foss: Read the end.

Hon CHRISTINE SHARP: The Attorney General went on to confuse us further when he was making a distinction between the roles of the EPA and the proposed Conservation Commission and slipped into calling the Conservation Commission CALM.

Hon Peter Foss: CALM is the executive body.

Hon CHRISTINE SHARP: That is precisely the distinction I wish to make. We want there to be a similarity in some aspects between the Environmental Protection Authority and the commission, but not CALM, which is clearly the manager on the ground. That is the critical distinction.

I remind the Attorney General that there is a very clear requirement under proposed section 19(1)(c) for the commission to develop policies. Therefore, the publications of the Conservation Commission, which are mooted under this proposed amendment, are about matters of policy. That is not the role of glossy magazines like *Landscope*.

Hon Peter Foss: It can publish that.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): I suggest to the Attorney General that if he keeps interjecting, we will have a long and divisive night and that we will minimise the division if we keep the interjections to a minimum.

Hon CHRISTINE SHARP: I am simply saying that we are not asking for a function that would in some way replace or be in competition with the current publication of *Landscope*. On the contrary, we are talking about a very different publication. Just as Hon Mark Nevill obviously enjoys *Landscope*, obviously other members of the public might be interested in matters of conservation policy. In the same way as they find it interesting and important to be aware of EPA advice by reading its bulletins, the public would also be most enthusiastic about actively being made aware of the Conservation Commission's policies, which it is required to develop under proposed section 19(1)(c), for the preservation of the natural environment of this State.

Hon NORM KELLY: I am starting to understand what the Attorney General was hinting at, even though he says that the commission should not provide advice to the public. Proposed section 19(1)(k) says that that is one of the functions of the commission, and the Attorney General did not seem to have a problem with that when we went past that proposed section.

Hon Peter Foss: If it is the same thing, why are you adding it again?

Hon NORM KELLY: Because there are a couple of important differences between Hon Christine Sharp's amendment and proposed section 19(1)(k) in the Bill. First, proposed section 19(1)(k) states that one function of the commission will be to provide advice upon request. It is necessary not for the commission to determine what advice it may want to publish, but for it to receive requests to give out that information in the first place. However, more important is the end of proposed subsection (1)(k). The Attorney General interjected and told members to read the end of it, and we should. It states -

> . . . if the provision of the advice is in the public interest -

That is fair enough -

> - and it is practicable for the Conservation Commission to provide it;

When it comes to any substantial publishing of important policy matters for the benefit of Western Australians, with the limited budget of the Conservation Commission it may not be practicable for the commission to provide that advice to the public. It will be hamstrung by a lack of funds to provide those publications. From my reading of the Bill, the commission is limited in its ability to provide such publications. It is not a case of the Department of Conservation and Land Management and the Conservation Commission doing the same thing. If the Attorney General reads other clauses of the Bill, he will see that on page 16, proposed section 23 deals with the entitlement of the executive director to attend meetings of the Conservation Commission. I expect that the executive director of CALM will be fully apprised of what the Conservation Commission is doing. Although I do not totally agree with the way the executive director is given that entitlement to attend, which I will come to later, it is clear that the executive director and the Conservation Commission need to form a close working relationship. By doing so, they will be able to complement the work of the commission and the department. That is an area in which there can be proper integration and synergies between the department and the commission - not a conflict or a duplication. They should complement each other's work and their roles in advising the public.

Amendment put and a division taken with the following result -

Ayes (13)

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

Noes (14)

Hon M.J. Criddle	Hon Ray Halligan	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon B.K. Donaldson *(Teller)*
Hon Max Evans	Hon Murray Montgomery	Hon Greg Smith	
Hon Peter Foss	Hon Mark Nevill	Hon W.N. Stretch	

Amendment thus negatived.

Hon PETER FOSS: I move -

Page 10, line 7 - To delete "In" and substitute "For the purposes of".

Page 10, lines 8 and 9 - To delete the lines and substitute "the principles of ecologically sustainable forest management are -".

Page 10, line 10 - To insert before the word "the" the word "that".

Page 10, line 14 - To insert before the word "if" the word "that".

Page 10, line 19 - To insert before the words "the present" the word "that".

Page 10, line 23 - To insert before the word "the" the word "that".

Page 10, line 26 - To insert before the word "improved" the word "that".

Amendments put and passed.

Hon NORM KELLY: I move -

Page 12, line 18 - To delete the figure "14" and substitute the figure "3".

This appears in proposed new section 19(10), which deals with the situation when the minister decides to act otherwise than in accordance with a recommendation provided by the Conservation Commission. The Australian Democrats believe that it is proper, as it states in the Bill, that the minister is to cause a copy of the advice and the decision to be laid before each House of Parliament so that we can see why the minister has decided to act otherwise than in accordance with the recommendation. However, we are concerned that the current 14 sitting days requirement within which the advice and the decision is to be laid before each House is too lengthy. We have not received any arguments against this amendment from the Government. This is a straightforward amendment which should receive the support of all members in the Chamber. There is no reason that the minister would not be able to conform with such a requirement. Our concern is that under the current wording of the Bill, if such a decision were made for example, last Friday, that decision would not necessarily have to be tabled in Parliament until 13 September, based on the current planned sitting days. That is a lengthy period between the making of the decision and the requirement to table the advice and decision. By changing the period to three sitting days, it means that that hypothetical decision of 23 June would be required to be tabled by 29 June; that is, tomorrow. It is straightforward. The minister will make the decision. He will be well aware that he is acting against the advice given to him by the Conservation Commission. Therefore, legally it is very straightforward to then provide a tabled copy of that advice within those three sitting days.

Hon MARK NEVILL: I oppose this amendment. A period of 14 sitting days in which to table documents or advice is a fairly standard procedure in this Parliament. Two years ago an Energy Coordination Bill allowed for disallowance 15 days after a document was tabled, and that period was subsequently amended to 14 days. Members in this place must keep their

minds on many issues, and it is important to maintain a consistent figure of 14 sitting days in these matters. The argument that Hon Norm Kelly prosecuted implies that if advice were given to the minister of the day by the Conservation Commission, the same factor would apply. There are always problems during recess periods, but I do not think those time constraints can be placed on ministers. If the ministers are not open and transparent, they will probably find some way to get around this. It is important that the time periods be consistent for disallowance, because then members do not need to remember which legislation has different provisions.

Hon Norm Kelly: It is not disallowance.

Hon MARK NEVILL: This is similar to disallowance motions and tabling advice. It is the same sort of time span.

Hon J.A. COWDELL: The Opposition does not share the concerns of Hon Norm Kelly in this regard, and will not support the proposed amendment.

Hon PETER FOSS: The two previous speakers have taken the words out of my mouth.

Hon NORM KELLY: This is very simply an accountability provision, in that when the minister is deciding not to follow the advice provided by the Conservation Commissioner, it is likely there will be a fair degree of contention about the decision. It is appropriate that the public be informed of the basis of that decision as expeditiously as possible without placing an imposition on the minister. That is why the Australian Democrats believe three sitting days is an appropriate period. I agree with Hon Mark Nevill that various time constraints apply, various legislation refers to periods between three and 14 days, and some Acts refer to sitting days and others do not. The Government has already supported an amendment to include a period of either one or three sitting days for a similar provision in a local government amendment Bill that passed through this place a year or two ago. It is important to consider the advice to be tabled under this provision; it applies when there is contention between the minister and the Conservation Commission, and in such cases it is imperative that the public be informed as soon as is practicably possible.

In debate on the short title, Hon Mark Nevill said he would vote against all the amendments because they are a direct attack on the timber industry. I do not see how this can be regarded as such, and I urge members to support the amendment.

Hon CHRISTINE SHARP: I would agree with Hon Mark Nevill if this amendment referred to a matter that was disallowable in the Parliament. In that case the standard time frame should apply to alert members and give them adequate time, and to provide consistency. This is a different matter. It is a question of tabling advice so that it becomes publicly available. I agree with Hon Norm Kelly that if this advice has arisen in the circumstances set out in proposed subsection (10)(a), we can assume that in many cases there will be intense public interest in the matter. Therefore, it is right and proper that the public be informed as soon as possible. We all know that on occasions 14 sitting days can stretch over a long period, and that is not appropriate in this provision. I will support the amendment.

Amendment put and a division taken with the following result -

Ayes (5)

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

Noes (22)

Hon Kim Chance	Hon Peter Foss	Hon Murray Montgomery	Hon Bob Thomas
Hon J.A. Cowdell	Hon G.T. Giffard	Hon Mark Nevill	Hon Derrick Tomlinson
Hon M.J. Criddle	Hon N.D. Griffiths	Hon M.D. Nixon	Hon Ken Travers
Hon Cheryl Davenport	Hon Ray Halligan	Hon Simon O'Brien	Hon B.K. Donaldson
Hon Dexter Davies	Hon Tom Helm	Hon Greg Smith	*(Teller)*
Hon Max Evans	Hon Barry House	Hon W.N. Stretch	

Amendment thus negatived.

Hon PETER FOSS: I move -

Page 14, line 13 - To delete the word "shall" and substitute the words "is to".

Page 15, line 24 - To delete the word "or".

Page 15, lines 28 and 29 - To delete the words "current production contract, or has a current".

Page 15, lines 29 and 30 - To delete the words "company or business which has a current".

Page 15, line 31 - To delete the words ", with the Forest Products Commission" and substitute "or in a company or business that is a party to a production contract".

Hon NORM KELLY: The Australian Democrats will most likely support these amendments, but I seek a few words of clarification from the Attorney General as to their intent. They appear to be a rewording of the intent already contained in the Bill. On what basis or opinion, legal or otherwise, are these amendments moved?

Hon PETER FOSS: The 10/10 amendment, as listed on the Supplementary Notice Paper, is a grammatical change to make it consistent with the other provisions in clause 10. Similarly, amendments 10/11 to 10/14 effect grammatical changes to

provisions relating to personal interest and production contract. I will move 15/10, which relates to "production contract", which is more than a grammatical change, but which ties in with the other changes.

Amendments put and passed.

Hon PETER FOSS: I move -

Page 16, after line 3 - To insert the following new subclause -

(3) In subsection (1)(c) -

"production contract" has the same meaning as it has in the *Forest Products Act 1999*.

This insertion of an additional subclause provides a definition of a "production contract" for the purposes of new section 22(1)(c)

Amendment put and passed.

Hon NORM KELLY: I move -

Page 16, lines 28 to 32 - To delete the subclause and substitute the following new subclauses -

(5) The exercise of an entitlement under subsection (4) is subject to any determination of the Conservation Commission that restricts attendance at a meeting to members of the Commission and Commission ancillary personnel.

(6) A determination made under subsection (5) may be made to apply to part or all of a meeting or to a designated future meeting or to one in progress.

(7) The grounds on which the Conservation Commission makes a determination under subsection (5) must be retained in its official record of the meeting at which it was made.

This refers to proposed new section 23 of the Conservation and Land Management Act headed "Entitlement of Executive Director and Directors to attend meeting of Conservation Commission". This amendment seeks to delete proposed subsection (5) and insert new proposed subsections (5), (6) and (7). Much concern has been expressed about the entitlement in the current wording of the Bill for the executive director to attend meetings of the Conservation Commission. I acknowledge that my concern stems from a historical concern about the degree of influence - some people would say undue influence - of the former Executive Director of CALM.

Hon Mark Nevill: Rubbish!

Hon NORM KELLY: This is from where the concern stems. It is not rubbish at all. Some may disagree about the degree of influence, but the concern is real. Page 19 of the Standing Committee on Ecologically Sustainable Development report, at paragraph 4.15, states -

> The argument to exclude the Executive Director stems from the consideration that the Conservation Commission should have the power and flexibility to meet freely. This is in keeping with the principle of separation of internal regulatory function as described in Chapter 3 and the Conservation Commission being able to retain its own identity.

If this amendment is successful, rather than giving the Executive Director of the Department of Conservation a statutory entitlement to attend the meetings of commission, the emphasis would be switched; that is, the commission would be entitled to invite the executive director to meetings. As a degree of accountability, proposed subclause (7) states that the commission, when making such a determination to exclude the executive director, must retain in the official record of the meeting the grounds on which the decision was made. That accountability mechanism is retained so it can record why the commission used its discretion not to invite the executive director to meetings. In all probability, as we would like to see, the executive director or other relevant directors would be invited by the Conservation Commission as a matter of course. They would not be invited only when the commission determined it was considering matters - these are mentioned in the Government's Bill - from which the executive director or directors should be excluded. It is primarily a way of changing the emphasis of this proposed section away from the executive director of another body having the entitlement, and transferring the entitlement to invite to the commission. I urge members to support the amendment.

Hon CHRISTINE SHARP: I wholeheartedly support this amendment. If Hon Norm Kelly had not moved his amendment, I would have moved in a similar manner. Proposed section 23, as it stands, is an affront to the independence of the Conservation Commission. The commission should be able to hold its meetings without necessarily on occasions making the executive director aware of its intention to meet, or being required under proposed subsection (5) to formally exclude the director and provide an explanation for that exclusion. That is an unacceptable requirement for the Conservation Commission, which should be able to meet as and when it wishes. Certainly, normal procedure would include the Executor Director of the Department of Conservation or the directors' representatives at meetings. That is not questioned. We fully support that the staff of the department should be involved in the deliberations of the commission when the commission considers that to be appropriate. I am sure the commission would think it appropriate most of the time - but not all of the time. That is the critical matter. It would be very sad if the Conservation Commission had to explain to the executive director every time it wanted to hold a meeting.

Hon PETER FOSS: I find the arguments put forward by the Greens and Democrats bizarre - if not bizarre, Byzantine. The concept of the organisation excluding the executive director could be put down to some sort of "Syd-phobia", as suggested; that is, some people are frightened of Dr Syd Shea. Members should look at the CALM Act. As Minister for the Environment, I brought in amendments to establish the Marine Parks and Reserves Authority. Instead of having members of CALM on the authority, as was originally the case, the first step was to have them not as deliberative members of the authority, but with a right to attend. Section 26D outlines the situation regarding the marine authority: Reasonable notice of meetings must be given; the executive director is entitled to attend, but shall not vote; the chief executive of another agency is to receive notice under subsection (4), and the executive or his representatives can take part, but not vote, in the proceedings. It reads -

> The Marine Authority may decide to exclude the persons referred to in subsection (5) (but not some of them only) from a meeting while it is considering a matter that relates to the functions or actions of any agency in relation to management plans for lands and waters invested in the Marine Authority.

If those persons are to be talked about, they must leave. The idea of conducting the business and not letting them know what is being done shows the conspiracy theory attitude and the rather bizarre way in which Greens (WA) members think the processes of government should be carried out.

Hon Mark Nevill: It is Stalinist.

Hon PETER FOSS: It is Stalinist. The Greens seem to set up a situation where people have to talk about each other behind their backs. This is a public authority. Maybe the Greens think it will be full of their greenie mates, whose method it is to conduct business in that way. I sincerely hope they will be professional people and bureaucrats who know how to carry out their responsibilities. The concept that they should be excluded except in cases where they and their performance is being discussed is a peculiar attitude towards how public government should be conducted. I understand that the Environmental Protection Authority and the Department of Environmental Protection have the same provision; the DEP director is entitled to be there because that is necessary. Some of these amendments do not follow the rest of the legislation. We are trying to achieve some consistency in our processes. The Government has done a good thing by taking the professional officers off the board. Generally speaking it is a good thing. There are problems with having a professional bureaucrat as a voting member of the board. The only time the chief executive officers need to leave is if their performance is discussed. To get on with the job without the chief executive officer being there is extraordinary.

Hon J.A. COWDELL: The Opposition does not believe the amendment adds anything to the effective operation of the Conservation Commission, nor adds markedly to its independence. The amendment which relates to the power of the Conservation Commission has been mentioned. As to excluding the executive director and others from its meetings, the Opposition believes there is sufficient power under proposed section 23(5) for the Conservation Commission to exclude the executive director of the department, the director of forests, the director of national parks and the director of nature conservation. The executive director of the Department of Conservation should have an active interest in the operations of the Conservation Commission as it will work closely with the department and to a considerable degree will be reliant upon the resources of the department. The executive director and the directors of the other departments are not entitled to vote, as has been mentioned, on any matter before the Conservation Commission and can be excluded from any meeting of the commission. For this reason the Opposition believes the current regime in the Bill is adequate.

Hon G.T. GIFFARD: I, likewise, think it is desirable that the executive director as a matter of course should attend meetings of the commission. The idea of reversing the onus is flawed. I happily accept the view that it is desirable for the executive director to attend meetings as a matter of course. I am not sure whether the proposed amendment would add any great clarity to that. Given that there is sufficient provision in proposed section 23(5) for the Conservation Commission, if it deems it necessary, to make those exclusionary decisions, that is more than adequate. I will not support the amendment.

Hon CHRISTINE SHARP: In listening to the debate on this deletion, I feel that a lot of members in this place are not good psychologists and do not understand the way in which human nature operates in the real world beyond the strict legal provisions of Acts. The technical provisions of proposed section 23 cover everything in the sense that it is either A or B - either they are entitled to attend or they are excluded. We need to bear in mind that the Conservation Commission is commissioned with auditing the performance of the executive director. Certain complexities and awkward situations could arise that are better dealt with without a provision for a formal exclusion; some matters, because they are not matters of such import, might better be dealt with in more subtle ways. That is one good reason why the Conservation Commission may wish to meet among itself without necessarily having to have the executive director there. Also, getting the Conservation Commission to function successfully again involves a psychological aspect. It is important that it have a sense of being a team working together. The function of being auditor and regulator would not always exactly mix with the job of the executive director. Therefore, members of the commission should be able to get together without using formal provisions to provide a reason why the executive director be excluded.

Hon MARK NEVILL: I agree with the arguments put forward by Hon John Cowdell and Hon Graham Giffard. They have clearly expressed why this amendment is superfluous. I am convinced that if the executive director is excluded from meetings of the Conservation Commission, the awkward situations which may arise will arise more often. If he is included in discussions, a lot of problems will not arise because they will be dealt with as part of the debate of that commission. I do not see the amendment adding anything to what is already there. I will oppose it.

Hon NORM KELLY: There seems to be a good deal of consensus in this place that the executive director should, as a matter of course, attend meetings of the Conservation Commission. The argument is about how that is to be achieved. As

some members have said, this amendment is not about excluding the executive director; it is about changing the emphasis of how the executive director comes to attend Conservation Commission meetings. There may be a degree of "Syd-phobia" about it. We must bear in mind that this Bill is all about past conflicts, not only conflicts between conservation and commercial interests but also conflicts between the senior hierarchy of CALM and others outside CALM.

It is disappointing that the Government does not have confidence in the new proposed Conservation Commission to be able to make correct decisions about inviting the executive director and other directors to its meetings. If the right people are appointed to the Conservation Commission, the executive director should be invited to the meetings of the commission as a matter of course. However, support for my proposed amendment would go a long way to healing some of the wounds that have been caused because of the past actions of CALM's previous executive director. I realise the amendment is very much about a shift in emphasis; however, it is a shift in emphasis which is critical to getting support from the wider community for this legislation.

Amendment put and a division taken with the following result -

Ayes (5)

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

Noes (22)

Hon Kim Chance	Hon Peter Foss	Hon Murray Montgomery	Hon Bob Thomas
Hon J.A. Cowdell	Hon G.T. Giffard	Hon Mark Nevill	Hon Derrick Tomlinson
Hon M.J. Criddle	Hon N.D. Griffiths	Hon M.D. Nixon	Hon Ken Travers
Hon Cheryl Davenport	Hon Ray Halligan	Hon Simon O'Brien	Hon B.K. Donaldson
Hon Dexter Davies	Hon Tom Helm	Hon Greg Smith	*(Teller)*
Hon Max Evans	Hon Barry House	Hon W.N. Stretch	

Amendment thus negatived.

Hon J.A. COWDELL: I move -

Page 17, lines 5 to 13 - To delete the lines and substitute the following -

24. Independence of Commission and Chairman

Subject to this Act, neither -

(a) the Commission; nor

(b) the Chairman,

shall be subject to the direction of the Minister.

The report of the Standing Committee on Ecologically Sustainable Development into this Bill stated -

> 4.19 The subject matter of proposed section 24 is the power of the Minister (to whom the administration of the CALM Act is committed) to issue directions to the Conservation Commission.
>
> 4.20 The proposed section prescribes that even though the Minister has the option of giving directions to the Conservation Commission, when the Minister exercises this option, the Conservation Commission must give effect to those directions. The Committee then considered the implications of such mandatory language.

The committee report then canvasses the argument and states that the key nature of the argument is -

> . . . that when the Minister issues directions, this compromises the independence and work of the Conservation Commission.

The Opposition believes that the Conservation Commission should be independent and should be seen to be independent. It does not believe the additional ministerial power contained in the Bill is required.

Hon PETER FOSS: I oppose the amendment. It follows the format set out in section 26C of the Conservation and Land Management Act, which relates to the Marine Authority. More importantly, it resumes the constitutional position we should uphold. This State seems to have a lot of independent and unaccountable bodies, and more are set up each day. The important aspect of ministerial government is that a minister is responsible to the Parliament for all the organisations in his portfolio. One of the best statements on the issue came from the Burt Commission on Accountability, during which it was said that unless the minister has the power to direct, he cannot be held responsible. The Environmental Protection Authority is an independent body, and that is enough for the environmental area. We do not need a conglomeration of independent agencies. The remark was made earlier that there seem to be far more words in Bills and Act than we need. I have been fighting a not entirely losing battle to leave unnecessary things out of Bills. However, I would like Bills to contain the resumption of the concept of the Constitution, which is that Acts of Parliament are administered by ministers. If a minister does not administer an Act and does not have the power to direct agencies, there is no reason for him. Non-responsible bodies now administer Acts.

The more we take away from people duly elected by the people and responsible to the Parliament, the more we destroy our democracy. Some members seem to have a touching faith that if we make people independent they somehow get a God-like quality that enables them to make better decisions because they do not have to account to anybody. I do not know anybody who makes better decisions by virtue of the fact that they do not have to account to anybody. People seem to make better decisions when they are accountable. I am glad to say that we did that with the marine authority and I think that we must also do it with the Conservation Commission. Let us get back to the constitutional position where people elect representatives; the representatives who have the majority become the Government; the Government is responsible to the Parliament and we have a Westminster system of government in which people are properly accountable.

Hon MARK NEVILL: The intention of this amendment is laudable in theory in that I have a view that, except for officers of Parliament such as the Auditor General and the Ombudsman, every government department and agency should be subject to ministerial direction as long as the direction is made public. The existing clause requires the minister to make the direction public. It does not compromise the commission unless a direction is given that is not made public. These bodies can run off the rails and in those situations Governments, as a matter of public policy, need to bring them back into line. The fact that this recommendation is in the very flawed report of the Standing Committee on Ecologically Sustainable Development does not surprise me. I think it is bad public policy to be setting up agencies that are a law unto themselves. At the end of the day there must be ministerial control over the agencies, or parliamentary control as in the case of the Ombudsman, the Auditor General, the judiciary and those sorts of bodies which rightly do not come under ministerial control as such. I oppose the amendment even though I can understand the intention, but it is flawed.

Hon G.T. GIFFARD: I support the propositions that have been put forward by Hon John Cowdell in support of the proposed amendment and the independence of the Conservation Commission in carrying out its work. The purpose of the amendment is not to make the Conservation Commission completely unaccountable and independent. The commission will have certain functions and it will be accountable under the structures and parameters that are provided for in the legislation, which will not allow for it to go off on a frolic of its own. It will perform functions that are prescribed for it. One of the debates that has gone on about this legislation and one of the strongest messages that the Labor Opposition has given the Government on this legislation concerns the concepts embodied in this legislation, which are "acting jointly" and "giving effect to other bodies". In the development of management plans, the Conservation Commission must give effect to the submissions of the Forest Products Commission. That body is not unaccountable, nor can it go off on a frolic of its own. It must give effect to the submissions of another body before it can proceed with recommending management plans to the minister.

When I look at the shape of this legislation and the other legislation we will be dealing with, I ask why, in addition to the framework that the Government wants to put in place, does it see a need for the minister to be able to direct the commission. Given the shape of the legislation, it should be independent of ministerial direction. It will not be completely independent; it will be accountable. The provision for the minister to direct the commission is unnecessary.

Hon CHRISTINE SHARP: I support this amendment because, as I have mentioned several times, I support the independence of the proposed commission. I accept that two schools of thought are promoted on the matter of accountability and administrative structures. A very good argument can be put that fully accountable ministers provide for a more powerful role for Parliament and, hence, for democracy. However, with the arguments that he has put in favour of that school of political thought, the Attorney General has stretched the point to absurdity by suggesting that the minister would have virtually no role if this amendment were passed.

I have had the misfortune of listening to the Attorney for a long time today on many matters. One of his debating techniques is to take arguments to absurd extremes to ridicule propositions, as he is currently doing. He would have us believe that we were advocating heroin for grandmothers this afternoon. In a similar vein, he wishes to ridicule members and to say that we are trying to undermine democracy with this deletion and substitution. As is his wont, he is totally overstating the case.

I ask the Attorney General for some clarification because I am not sure about the performance of the marine authority. The Attorney General has now referred on a couple of occasions this evening to the model of the marine authority that he obviously far prefers to other operating models. I am of the impression that since the establishment of the marine authority, no new marine parks or marine reserves have been established. Am I correct? Will the Attorney comment on whether the authority has been very effective in its role of preserving the natural environment, in this case the marine environment?

Hon PETER FOSS: I am quite bewildered. One moment I am told I am talking too much and then I am invited to speak. Obviously, Hon Christine Sharp has not heard of reductio ad absurdum, which is a well known method of showing how absurd an argument is. It is a matter of taking the argument to an extreme to show that if the logic were followed the result would be absurd. Hon Christine Sharp continually comes up with absurd arguments; and she does not like people to point that out to her. Her difficulty is that she puts forward a proposition, but she cannot see any inconsistency in it.

I think the Marine Parks and Reserves Authority is a very good authority. I have not heard any complaints against it whatsoever. Hon Christine Sharp seems to think that the authority's performan should be measured by the number of marine parks it declares. Hon Jim Scott assessed the Government on the basis of the area of national parks, although he was a bit dishonest in his assessment. Obviously that is the only basis on which Hon Christine Sharp works. However, I realise she is being ironic and possibly even sarcastic. She does not genuinely want me to comment on whether the marine parks authority is doing a good job. I would like to hear from her when she thinks it is not.

Hon Christine Sharp: How many runs does it have on the board?

Hon Mark Nevill interjected.

Hon PETER FOSS: That is a very good point. The one criticism we can make of the marine parks authority is that Dr Syd Shea was not a member of it. If he had been a member, we may have had more "runs on the board". However, it is doing a very good job and I would like to hear any criticisms, other than Hon Christine Sharp's supposition that it is not doing anything. However, I do not think it will be relevant to this debate. If Hon Christine Sharp wants to know why, she should not listen to this debate, but leave the Chamber and read a copy of the report on the Burt Commission on Accountability. She may then understand there is only one school of thought on accountability; that is, we can do without accountability if we do not want it, or we can have it if we do want it. However, to the extent we want people's independence, accountability is a necessary evil.

Hon CHRISTINE SHARP: I did not notice that the Attorney General responded to my exact question which is: Since the establishment of the marine parks authority, how many new marine parks or marine reserves have been gazetted in this State?

Hon Peter Foss: I responded in the way I intended. Your question is irrelevant. If you want to know what I said you can read it in *Hansard*.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Order! The question we are debating is to delete the lines. They relate to the independence of the commission. This dispute about the effectiveness or otherwise of marine parks is outside the terms of reference. I suggest we bring ourselves back to the debate.

Hon CHRISTINE SHARP: I was under the impression that it was the Attorney General's role to answer members' questions on behalf of the Government.

The DEPUTY CHAIRMAN: It is the Attorney General's role to answer questions. However, as a venerable former member of this place said, members can ask questions but they cannot direct how questions will be answered.

Hon NORM KELLY: The Australian Democrats will support Hon John Cowdell's amendment. It is clear that it is not appropriate to allow the minister to direct the operations of the commission, although the Democrats believe there is a need for some degree of ministerial responsibility. I urge the Government to exercise that responsibility in a very appropriate manner when selecting the commissioners.

Amendment put and a division taken with the following result -

Ayes (13)

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

Noes (14)

Hon M.J. Criddle	Hon Ray Halligan	Hon Mark Nevill	Hon W.N. Stretch
Hon Dexter Davies		Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Max Evans	Hon Barry House	Hon Simon O'Brien	Hon B.K. Donaldson *(Teller)*
Hon Peter Foss	Hon Murray Montgomery	Hon Greg Smith	

Amendment thus negatived.

Hon NORM KELLY: I seek leave to alter the amendment to page 20, lines 16 and 17, by deleting the numeral "6" and substituting the numeral "12".

Leave granted.

Hon NORM KELLY: I move -

> Page 20, lines 16 and 17 - To delete the words “as soon as is practicable after” and substitute the words "within 12 months of".

This amendment will put in place some time line with regard to the reporting mechanism to the Parliament on the review of the Conservation Commission. We applaud the Government for putting in place a provision for a review to be conducted and for a report to be tabled in Parliament. As we have done with other Bills before this place, and with the support of the Government, we have sought to put in place mechanisms to ensure that such reports are received by the Parliament within a specified time line to avoid possible politicisation of those reports in being deferred beyond a reasonable time. This is the first amendment in that regard. I do not wish to move the next amendment which directly relates to this, because I understand another amendment will be moved. Therefore, this will do away with the words "as soon as is practicable after", because we believe 12 months is more than ample time for the review and the report to be developed and repaired. We are simply putting in what we believe is quite an adequate time line.

The CHAIRMAN: Is it the intention of Hon Norm Kelly to move amendment 38/10 but not amendment 39/10?

Hon Norm Kelly: That is correct.

Hon J.A. COWDELL: The Opposition will support the deletion of the words "as soon as is practicable after" and the insertion of "within 12 months of". If it had been six months, it may have been an unreasonable period. I think 12 months, in anyone's opinion, should be a period in which it is practicable to conduct a review. For the reason that it imposes a definite time line, the Opposition will support the 12 months provision.

Hon MARK NEVILL: This is what I would call a red-tape amendment. The period of 12 months after the expiry of the five years from the commencement of the amendment Act is superfluous. I thought that the member was moving for six months. These days most Acts of Parliament include a standard review clause. To all intents this is a fairly standard review clause. Six months would have been too narrow, because if it were an important body, as this one may be, and if there were a change of government, a review might not be instituted. It might be better to leave it to the incoming Government to do. Six months would be very short and 12 months is probably adequate. That flexibility is there with "as soon as is practicable after". I do not see that the amendment is doing anything purposeful. As I say, it is superfluous.

Hon PETER FOSS: I am not greatly enamoured of review clauses. They are that part of legislation which we put in Acts which do not require a statutory basis. It is becoming all too common now. We are putting into Acts machinery provisions which are quite unnecessary. Given that we have one here, I am happy with the standard wording. The problem is that we seem to be tying up some of those review clauses, which are hard to justify in the first place, with more and more red tape. I am grateful to Hon Mark Nevill for the expression "red-tape amendment". That is a very good description of what it is. It is unnecessary further red tape. With the type of thing we are talking about, it is sufficient to say "as soon as is practicable".

Hon NORM KELLY: I appreciate that at this hour we did not get the full version of the Attorney General's standard speech on review clauses. We are trying to bring about a level of consistency throughout the various statutes. This is an amendment of the review clause which has been accepted by the Government on a number of occasions, and we are trying to maintain that consistency. To understand the ways that "as soon as is practicable" can be manipulated, one need look only at the review of the Liquor Licensing Act, which occurred in the mid-1990s, and the number of years it took to get the report of that review before Parliament. Because of instances such as that, it is important that we adopt the modern method of stipulating time limits for these reviews.

Amendment put and a division taken with the following result -

Ayes (13)

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

Noes (14)

Hon M.J. Criddle	Hon Ray Halligan	Hon M.D. Nixon	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Max Evans	Hon Murray Montgomery	Hon Greg Smith	Hon B.K. Donaldson *(Teller)*
Hon Peter Foss	Hon Mark Nevill		

Amendment thus negatived.

Hon J.A. COWDELL: I move -

> Page 20, lines 26 to 27 - To delete the words ", as soon as is practicable after its preparation,".
>
> Page 20, line 27 - To insert after the word "report" the words "and the review".
>
> Page 20, line 28 - To insert after the word "Parliament" the words "within six months after the completion of the review".

These amendments were submitted a day or so ago, certainly prior to the publication of the current Supplementary Notice Paper, otherwise I would not be imposing them on the Committee as a sudden whim at this late stage. The amendments were prepared some days ago.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): The member's explanation is noted and we are grateful for it.

Hon J.A. COWDELL: There was a motion on the Supplementary Notice Paper referring to a limitation of "12 months after the expiration of the 5 year period referred to in subsection (1)". It had certain limitations. The amendment before members proposes, with respect to proposed new section 26AC(2), to delete the words "as soon as is practicable after its preparation". In that sense it is similar to the previous amendment considered, but it proposes instead to insert a definite time and include the words "and the review". The amended new section would read -

> The Minister is to prepare a report based on the review under subsection (1) and is to cause the report and the review to be laid before each House of Parliament within six months after the completion of the review.

The commendation for these amendments is twofold. Once again, it provides a definite time regime for the report of the review, but it also proposes that the review be made public as well. On so many occasions a review takes place and a ministerial report is released. The review is suppressed, and we get a report which may bear very little relationship to the

actual review. This proposes that alongside the minister's report there will be a copy of the review. It is very reasonable for Parliament to have access to a copy of the review, as well as to the minister's interpretation of same. Therefore, I commend the amendments. Although they are listed as three individual amendments, I suggest they be considered as one proposed amendment because they are a composite whole.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): We have a conundrum here. The Committee has just considered an amendment moved by Hon Norm Kelly at page 20, lines 16 and 17, to delete the words "as soon as practicable after". He was then to substitute other words, but the member's amendment was defeated. Hon John Cowdell's amendment seeks to delete the same words with the addition of "after its preparation" in the insertion.

Hon J.A. COWDELL: I do not see how it can be taken to be deleting the same words. Hon Norm Kelly proposed deleting the words at lines 16 and 17, and I propose a deletion of words - similar words, granted - in a different subparagraph at line 26. If the Deputy Chairman applied this ruling, those words cannot be amended at any time they are repeated in later clauses because they were considered in a previous clause.

The DEPUTY CHAIRMAN: I accept the member's explanation.

Hon CHRISTINE SHARP: I apologise to Hon John Cowdell for not having previously read his supplementary amendments. Having received a copy, I now understand how they will be inserted. They are very reasonable and I am pleased to support them.

Hon NORM KELLY: The Australian Democrats support Hon John Cowdell's amendments. The reason I did not move amendment 39/10 standing in my name on the Supplementary Notice Paper is that Hon John Cowdell's proposal is a better and more understandable form of words. The clause currently allows for a degree of open endedness regarding the review. The Democrats fully support these three different amendments which Hon John Cowdell proposes as a good means of ensuring that records are tabled within an appropriate time frame. An important improvement would be the addition of "and the review" as it is important to see not only the report, but also the review itself.

Hon PETER FOSS: I need not repeat my argument. I oppose the amendments, which can appropriately be described as red-tape amendments.

Hon MARK NEVILL: I am not convinced that this amendment is necessary, but it places a time constraint on the review as it must be done as soon as is practicable. It states that the report must be laid before each House of Parliament within six months of that review being completed. Any minister who cannot respond to a review in six months is probably not very focused or perhaps trying to avoid a hard decision. All too often these days the avoidance of making hard decisions becomes a political art form. I am inclined to support this amendment. It is disappointing to have to put these constraints on people because they are likely not to act reasonably expeditiously. However, the amendment is worthy of support and I will support it.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 11 to 14 put and passed.

Clause 15: Section 33 amended -

Hon NORM KELLY: I move -

Page 24, after line 6 - To insert the following new subclause -

(4) After section 33(8) the following subsection is inserted -

"

(9) A copy of a memorandum of understanding made under subsection (1)(bb) must be tabled in each House of Parliament not later than 3 sitting days of each House from the day on which that memorandum of understanding was executed.

".

I refer members to page 10 of the report of the Standing Committee on Ecologically Sustainable Development which refers to the purpose of a memorandum of understanding. The explanatory memorandum to the Conservation and Land Management Amendment Bill states that the memorandum of understanding will address such issues as access to state forests and timber reserves by timber harvesting contractors of the Forest Products Commission. The committee recognises that there may be matters in the MOU that require more precise legislative prescription or regulations and for that reason an MOU may be an inadequate device for prescribing these matters as it lacks transparency. The committee's solution is to table the MOU in Parliament. The report goes on to state on page 15 that the committee finds that a memorandum of understanding, although a useful device for agencies to codify internal arrangements, lacks transparency and is not subject to parliamentary scrutiny.

Recommendation one of only two recommendations in this ESD report is that the proposed memorandum of understanding be tabled in Parliament. I point out to members that, as is stated in the ESD report, the recommendations were made only when the committee was in unanimous agreement. The committee included, among others, Hon Greg Smith. The amendment standing in my name was not moved by the committee because the tight time frame in which we had to work

meant we were unable to organise the drafting of amendments. However, I had previously initiated drafting instructions for the amendment as I had identified the issue in March this year.

I believe this amendment will have the support of the Government as I have not heard otherwise to my request for information. The amendment will not make anything disallowable; it is simply a transparency amendment to ensure that the memorandum of understanding is tabled and becomes a public document.

I refer members to proposed new section 33(1)(bb), which states that one of the functions of the Department of Conservation is -

> to enter into a memorandum of understanding with the Forest Products Commission relating to the performance of the Department's and that Commission's respective functions and to any other prescribed matter;

In light of the conflicts between the conservation and commercial activities of the Department of Conservation, it is important that such a memorandum of understanding is open to public scrutiny. I urge all members to support the amendment.

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

House adjourned at 10.56 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

MINISTERS OF THE CROWN, STAFF, VEHICLES, MOBILE PHONES, PAGERS AND CREDIT CARDS

1090. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Police:

With respect to the Minister for Police's office -

(1) Will the Minister indicate for each staff person working in the Minister's office as at 1 December 1999 the following details -

(a) name;
(b) level; and
(c) type of employment contract?

(2) How many vehicles are attached to the office, what are the names of the staff to which they are allocated and under what scheme are they allocated to the staff member?

(3) How many mobile phones are available at the Minister's office and to which staff are they allocated?

(4) How many pagers are available and to which staff are they allocated?

(5) How many government credit cards have been authorised for use in the Minister's office and to which officers have they been allocated?

Hon PETER FOSS replied:

The following answer was correct at 1 December 1999.

(1)

(a)	(b)	(c)
Mr K Humfrey	A/Level 8	Permanent Public Servant
Mr B McGlew	Level 7	Term of Government Contract
Ms K Stoney	Level 6	Term of Government Contract
Ms C Yii	A/Level 4	Permanent Public Servant
Ms J. Kennedy	A/Level 4	Permanent Public Servant
Ms V Liakos	A/Level 4	Permanent Public Servant
Mr M. Woodhams	Level 4	Term of Minister Contract
Mrs J. Bowman	A/Level 2	Permanent Public Servant
Ms A Donnelly	A/Level 2	Permanent Public Servant
Mrs T Lawry	Level 2	Term of Minister Contract

(2)-(5)

	Vehicles	Scheme	Mobile Phones	Pager	Credit Cards
Mr K Humfrey	Yes	EVS	Yes	Yes	Yes (x1)
Mr B McGlew	Yes	EVS	Yes	No	No
Ms K Stoney	Yes	EVS	Yes	Yes	Yes (x1)
Ms C Yii	No	N/A	No	No	Yes (x2)
Ms J. Kennedy	No	N/A	No	No	Yes (x2)
Ms V Liakos	No	N/A	No	No	No
Mr M Woodhams	No	N/A	Yes	No	No
Mrs J Bowman	No	N/A	No	No	Yes (x1)
Ms A Donnelly	No	N/A	No	No	Yes (x1)
Mrs T Lawry	No	N/A	No	No	Yes (x1)
*Office Vehicle	Yes	N/A		No	

*Not allocated to any particular staff member.

MINISTERS OF THE CROWN, STAFF, VEHICLES, MOBILE PHONES, PAGERS AND CREDIT CARDS

1091. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Emergency Services:

With respect to the Minister for Emergency Services' office -

(1) Will the Minister indicate for each staff person working in the Minister's office as at 1 December 1999 the following details -

(a) name;
(b) level; and
(c) type of employment contract?

(2) How many vehicles are attached to the office, what are the names of the staff to which they are allocated and under what scheme are they allocated to the staff member?

(3) How many mobile phones are available at the Minister's office and to which staff are they allocated?

(4) How many pagers are available and to which staff are they allocated?

(5) How many government credit cards have been authorised for use in the Minister's office and to which officers have they been allocated?

Hon PETER FOSS replied:

Please refer to answer to question on notice 1090.

DERBY-WEST KIMBERLEY, POWER SUPPLIES

1541. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

I refer to the Minister for Energy's criticism of the Shire of Derby West Kimberley's request for the ACCC to investigate the State Government's plan to provide power to the west Kimberley and ask -

(1) Is the Minister aware that the ACCC is conducting an inquiry as a result of this request and that, consequently, it doesn't regard the raising of the issue as a stunt?

(2) Is the Minister now prepared to withdraw his earlier assertion that the approach was nothing more than a political stunt?

Hon N.F. MOORE replied:

(1) The Minister is aware that the ACCC has responded to a complaint from the Shire that the proposal to award a contract to the Energy Equity/Woodside Energy consortium to supply electricity on a long-term basis to Western Power was anti-competitive.

(2) No. The ACCC has now concluded its inquiry and has formed the opinion that the purchase and supply arrangements set out in the proposed contract were not anti-competitive.

ALINTAGAS SALE, SAFETY STANDARDS

1699. Hon MARK NEVILL to the Leader of the House representing the Minister for Energy:

(1) Is it Government policy that the sale of AlintaGas will not lead to a reduction in safety standards enforced in relation to gas installations and gas supply throughout this State?

(2) Is the Minister for Energy aware that sub-section 13(1) of the *Gas Standards Act 1972* (WA) currently requires all gas suppliers (being undertakers or pipeline licensees) not to supply gas to consumer's gas installations unless that installation meets the requirements prescribed by regulation?

(3) Can the Minister confirm that the Government intends to repeal sub-section 13(1) of the *Gas Standards Act 1972* (WA)?

(4) Is the Minister aware of the Office of Energy consultation document dated March 15 2000 which purports to herald the repeal of sub-section 13(1) of the *Gas Standards Act 1972* (WA) because of increasing competition?

(5) Can the Minister confirm that the Government has previously sought to have sub-section 13(1) of the *Gas Standards Act 1972* (WA) repealed as part of the sale of AlintaGas?

(6) Is the Minister aware that section 120 of the *Gas Corporation (Business Disposal) Bill 1999* (WA) originally provided for the repeal of sub-section 13(1) of the *Gas Standards Act 1972* (WA)?

(7) Can the Minister explain why the Government abandoned its attempt to repeal sub-section 13(1) of the *Gas Standards Act 1972* (WA) by section 120 of the *Gas Corporation (Business Disposal) Bill 1999* (WA)?

(8) Can the Minister explain the absence of gas consumers, industrial worker groups or members of the public from those submitting comment on the proposed changes to the *Gas Standards Act 1972* (WA) or gas supply regulations?

(9) Can the Minister confirm that the Government now seeks to replace the absolute statutory obligation at sub-section 13(1) of the *Gas Standards Act 1972* (WA) with a series of inspection plans and policies submitted by gas suppliers to the Office of Energy for his approval?

(10) Can the Minister confirm that the final form of inspection plans and policies are negotiated with individual gas suppliers?

(11) Can the Minister confirm that he accepts regulation by negotiation as a means of ensuring the maintenance of safety standards?

(12) Can the Minister confirm that gas suppliers will have no duty or obligation in these negotiated inspection plans and policies to take positive action to ensure that gas installations are safe?

(13) Can the Minister confirm that the safety obligations of gas suppliers differ according to their individual inspection plans and policies?

(14) Can the Minister confirm that in the event of a major accident following the repeal of sub-section 13(1) of the *Gas Standards Act 1972* (WA) gas suppliers will have breached no statutory obligation as long as they have performed the obligations under their inspection plan and policies even though such accident was caused by their supply of gas to a consumer's gas installation which did not meet the prescribed requirements?

(15) Is the Minister aware that consumers, industrial workers and members of the public may have no recourse against gas suppliers in the event of a major accident if sub-section 13(1) of the *Gas Standards Act 1972* (WA) is repealed?

(16) Can the Minister confirm that it is not Government policy that consumers, industrial workers and members of the public have to resort to costly litigation to identify the legal obligations of gas suppliers?

(17) Can the Minister confirm that current inspection plans and policies of gas suppliers remain secret documents to which the public have no access?

(18) Can the Minister confirm that a gas suppliers' failure to comply with an inspection plan or policy is not an offence under the *Gas Standards Act 1972* (WA)?

(19) Can the Minister confirm that if sub-section 13(1) of the *Gas Standards Act 1972* (WA) is repealed consumers will be unable to identify the regulatory obligations of gas suppliers?

(20) Can the Minister explain how the repeal of sub-section 13(1) of the *Gas Standards Act 1972* (WA) will not erode gas safety?

(21) Did the Minister advise Parliament on September 16 1999 that changes to the regulatory regime are not because of privatisation, but because of changes in technology in the gas industry?

(22) If so, what are these changes in safety technology and why is the Office of Energy now advising that the Minister wishes to put in place changes to the safety aspects of the gas supply industry prior to the completion of the sale of AlintaGas?

(23) Can the Minister explain whether the repeal of sub-section 13(1) of the *Gas Standards Act 1972* (WA) will make AlintaGas a more attractive commercial asset?

Hon N.F. MOORE replied:

(1) Yes, the regulations covering gasfitting and consumer installations were amended in 1999. Development of regulations to cover gas supply is almost complete and consultation is proceeding on further amendments to gas safety legislation.

(2) No, but the Minister for Energy is aware of the provisions contained in Sub-section 13(1) of the *Gas Standards Act 1972* with regard to the commencement of gas supply. However, Section 13(2) &(3) provide for a gas supplier to gain exemption from inspecting all gas installations for the purposes of Section 13(1). A number of gas suppliers have applied for and gained this exemption after obtaining approval to an inspection plan and policy statement.

(3) Yes, it is proposed to replicate the requirements of Section 13 in Section 15 of the *Gas Standards Act 1972* (WA) by providing a number of regulation making powers that will:

- Require undertakers and pipeline licensees to establish and maintain effective systems of inspection for consumers' gas installations so as to give effect to prescribed requirements;
- Provide for approval and the auditing of gas undertakers' and pipeline licensees' inspection practices by the Director of Energy Safety;
- Prohibit the supply of gas to a consumer's gas installation if the installation does not meet prescribed requirements or prescribed procedures have not been complied with.

The replacement of Section 13 of the *Gas Standards Act 1972* will occur concurrently with the promulgation of the regulations.

(4) The Minister for Energy is aware of the consultation document and can confirm that the proposal to replicate Section 13 of the *Gas Standards Act 1972* is not related to competition. The provisions contained in Section 13 are considered simplistic and outdated in that they fail to provide industry with appropriate mechanisms to satisfy the objective, other than by detailed inspection and testing of each individual consumer's installation. Not only is this inefficient but the onus appears to be on the gas undertaker, pipeline licensee rather than the licensed gasfitter, for ensuring the installation complies with safety requirements. The gas undertaker, pipeline licensee should only be seen as an auditor of the work of industry to ensure they can rely on the gas fitters certification of safety. The current inspection framework requires the gas undertaker, pipeline licensee before supplying gas to a consumer's installation after its construction, to:

- Have received in the prescribed form the necessary certificates from the gasfitter; and
- Have carried out an inspection and tests of each such installation in detail to ascertain and ensure compliance with all prescribed technical and safety requirements.

It is proposed to modify these requirements by allowing a gas undertaker, pipeline licensee the alternative to develop and obtain approval for an Inspection Plan and Policy Statement based on sample inspection.

(5) The Minister for Energy can confirm that Section 120 of the *Gas Corporation (Business Disposal) Bill 1999* (WA) originally provided for the repeal of Sub-section 13(1) of the *Gas Standards Act 1972* (WA).

(6) Yes.

(7) The provision was withdrawn from the Bill, by Government in the Legislative Assembly, to enable further consultation to take place on the proposed amendment.

(8) The consultation document issued by the Office of Energy in January 2000 supported by advertisements in the daily newspaper invited the public to provide comment on the proposed *Gas Standards (Gas Supply) Regulations 2000.* As replies were only received from industry stakeholders the Minister for Energy can only assume that other sectors of industry and the public are satisfied with the content of the proposed regulations. Comments are still being received in response to a consultation document released in March of this year proposing changes to *Gas Standards Act 1972* (WA) and it is hoped that this will include submissions from all sectors.

(9) Yes - because it is unrealistic to expect the gas supplier to check every nut and bolt or similar of every consumer's gas installation. The intent is to maintain standards of safety in gasfitting by audits of gas fitters' work in accordance with Inspection Plans approved by the Director of Energy Safety of the Office of Energy. Guidelines are issued by the Director to ensure that such Plans are properly developed.

(10) The exemption is issued following advice from the Director of Energy Safety who issues guidelines to assist gas suppliers in developing an inspection plan. The Inspection Plans must have the approval of the Director, who makes an independent assessment to ensure they will provide an effective system of inspection for the purpose of gas consumer safety.

(11) No, development of regulations related to the safety of the gas industry includes extensive consultation with interested and affected parties. Once the regulations come into force industry is required to comply with the obligations, requirements and outcomes contained in the regulations. If guidelines are issued to assist industry in complying with the regulations, the Director of Energy Safety is at liberty to liaise with industry to ensure the required safety outcomes and to give industry flexibility on how it achieves the outcomes. Ongoing consultation with stakeholders is also considered necessary to ensure the regulations continue to reflect the required outcomes of a rapidly changing industry.

(12) No, the inspection plans and policies require the gas supplier to take positive action to ensure that gas installations are safe by carrying out sample inspections of domestic gas installations to an agreed sampling rate and the more complex industrial and commercial Type B installations are subject to 100% inspection.

(13) No, all the gas suppliers are subject to the same safety obligations. However, the methodology to achieve the safety obligations used in the inspection plan can vary for each gas supplier.

(14) The regulations will define the new inspection obligations of gas suppliers. They will not require gas suppliers to take responsibility for the faulty work of licensed gas fitters engaged by consumers.

(15) These matters are subject to common law and the presence or absence of Section 13 of the *Gas Standards Act 1972* will have little or no bearing on the matter.

(16) Yes.

(17) Yes, Section 24 of the *Energy Coordination Act 1994* prevents this type of information being disclosed to the public without the written consent of the person to whom the information relates. These provisions are seen as being inappropriate for a technical and safety regulator and the consultation document issued by the Office of Energy on March 15, 2000 recommends changes to this section to allow certain types of information to be disclosed to the public.

(18) Failure by a gas supplier to comply with its approved Inspection Plan is an offence under the Act, since compliance is a condition of the 'Notice of Exemption' issued under the Act.

(19) No, such obligations will be covered by the legislative arrangements.

(20) The intention is not to erode gas safety and the requirements of Sub-section 13(1) of the *Gas Standards Act 1972* will be retained through the making of regulations under provisions provided in the *Gas Standards Act 1972*.

(21) Yes.

(22) The regulatory approach to safety is changing from being prescriptive to outcome based. This change places greater obligation on the gas supplier to identify the safety risks associated with their business and to propose to

the regulator the process they will use to eliminate and/or manage the risk. The approach now being used by industry to satisfy the outcomes is the development and implementation of a safety case. Changes are needed to legislation to allow the regulator to be able to provide proper oversight on the activities of gas suppliers in such a changed environment.

(23) The change to the *Gas Standards Act 1972* is related to the safety of consumers' installations and as such will have no impact on the sale value of AlintaGas.

IRON AND STEEL (MID WEST) AGREEMENT ACT, RATING VALUE OF LAND

1782. Hon GIZ WATSON to the Leader of the House representing the Minister for Resources Development:

In respect of the *Iron and Steel (Mid West) State Agreement Act* -

(1) Will the Minister for Resources Development let me know whether the rating value for the Chapman Valley Shire for the land set aside for the industrial park is to be based on unimproved rural valuation, or unimproved industrial valuation?

(2) How will the outcome of the current dispute on unimproved industrial value of the land between Kingstream Steel and the Government affect the rates which the shire can charge under the terms of the *Agreement Act*?

Hon N.F. MOORE replied:

(1) The Oakajee lands are currently rated on unimproved rural valuation. The land for the Oakajee Industrial Estate is currently the subject of a town planning scheme amendment. Buffer land within that scheme is intended to have its residential development rights removed, but continue to be used for rural purposes. Therefore rates on buffer land leased for these purposes may be expected to remain based on unimproved rural values. Rating on the Kingstream Steel land in the industrial zone will depend on the outcome of the scheme amendment, but Clause 27 of the Iron and Steel (Mid West) Agreement requires that it be calculated on the unimproved value.

(2) The Valuer General will review the valuation on the Oakajee Industrial Estate for rating purposes following completion of the town planning scheme amendment process that is currently under way.

BRICKWORKS, EMISSIONS

1856. Hon J.A. SCOTT to the Attorney General representing the Minister for the Environment:

With reference to the current review of brickwork licences conducted by the Department of Environmental Protection (DEP) -

(1) What evidence does the DEP have that particulate emissions from Metro Brick, Midland Brick and Bristile Guardians are meeting their particulate emission limit of 0.15 grams/cubicmetre and will the Minister for the Environment please table that evidence?

(2) Do the emissions from Metro Brick, Midland Brick and Bristile Guardians meet the NEPM standards for ambient air quality in the Midland region?

(3) Does the DEP have results of a Design Ground Level Concentration limit study?

(4) If yes, will the Minister table the results?

(5) What investigations are being conducted into emissions of hydrochloric acid from brick and tile manufacturers in Western Australia, who is responsible for this investigation and how is it being funded?

(6) Has the DEP approached or commissioned Tower Brick to conduct investigations into hydrochloric acid emissions from brick and tile manufacturers in Western Australia?

Hon PETER FOSS replied:

(1) The Department of Environmental Protection (DEP) has sought stack test results from the Swan Valley Brickworks. The DEP has already advised local government and community representatives that the data will be provided to them once it is available. This data will also be provided to the member.

(2) The NEPM values are for ambient air and cannot be directly compared to stack emissions from the brickworks. The ambient level will reflect the amount of emission from all point (eg. chimney) and diffuse (eg traffic or land clearing) sources. The results for dust at the DEP regional monitoring station at Caversham meet the NEPM goal for dust.

(3) Sinclair Knight Merz, for the DEP, prepared a "Swan Valley Brick and Tile Plants Air Dispersion Modelling" report in July 1998. This report was included by the DEP in its public report (Review of ambient and cumulative studies of fluoride in the Swan Valley) to the Environmental Protection Authority (EPA) released in August 1998.

(4) Yes. [See paper No 1113.]

(5) As part of the DEP review of Brickworks in the Swan Valley, data is being collected on stack emissions of hydrogen chloride. This will allow modelling to determine likely ground level concentrations and an assessment

against any Health Department of WA values. This work is being conducted with the cooperation of the brickworks in the Swan Valley as part of the DEP review.

(6) No. The environmental impact assessment of the Tower Brick proposal considered hydrogen chloride and commitments were made by Tower Brick on this matter. Following the assessment of existing brickwork hydrogen chloride emissions, the DEP would, if necessary, take up the need for further work with Tower Brick.

GAS-CARRYING TRUCKS, NUMBER

1864. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

I refer to the Minister for Energy's answer to question without notice 875, in particular the number of gas-carrying trucks required in 2010 and 2015 and ask -

(1) Is the load growth of power in the region a factor taken into consideration by the proponents of the proposed gas-fired power stations?

(2) If not, why not?

(3) How was the figure of three trucks per week for 2005 arrived at?

(4) If it is a factor, why is the information concerning the number of trucks required per week for 2010 and 2015 not available?

Hon N.F. MOORE replied:

(1) Yes.

(2) Not applicable.

(3)-(4) The three trucks per week previously advised is an average figure for gas supply to the five relevant towns in the West Kimberley. However, the number of LNG tankers to each town will vary according to seasonal and local requirements of the power stations and the tanker configuration. It is also a significant cost component of the bidder's offer and the Minister for Energy has been advised that it is commercially sensitive and not appropriate for the Government to disclose that information.

UNDERGROUND POWER, NORTH WEST TOWNS

1866. Hon GIZ WATSON to the Leader of the House representing the Minister for Energy:

In respect of recent cyclone activity in towns in the North West of this State and power cuts because of line damage -

(1) Has the Minister for Energy any plans to install underground power to towns in the area?

(2) If yes, at what stage are the plans?

Hon N.F. MOORE replied:

(1) Under the State Underground Power Programme, all local authorities in Western Australia are periodically invited to apply for funding for underground power projects in either residential areas or town "gateways" and main streets. The two schemes within the Programme are referred to as Major Residential Projects and Localised Enhancement Projects respectively. Local authorities in the North West have demonstrated little interest in participating in the Programme to date. Since the ongoing Programme was initiated in 1998, there have not been any submissions for Major Residential Projects received from local authorities situated in the North West of the State. Under Round Two, only two applications for Localised Enhancement Projects north of the 26th parallel were received. The Shire of Roebourne submitted an application for the township of Point Samson which was not successful as it did not satisfy the selection criteria to the same degree as those projects which were selected for implementation. However, the Shire of Shark Bay (in the Gascoyne region) was successful in obtaining funding for a Localised Enhancement Project along the foreshore in Denham. Any submissions received from local authorities in the North West in the future will be assessed on their merits and against the selection criteria along with all other submissions from other areas of the State.

(2) A Localised Enhancement Project will be undertaken in Denham in around twelve months time as a part of Round Two of the Programme.

KEMERTON INDUSTRIAL PARK, EXPANSION

1870. Hon BOB THOMAS to the Leader of the House representing the Minister for Resources Development:

In relation to the Minister for Resources Development's recent announcement to significantly expand the Kemerton Industrial Park -

(1) Were the announced boundaries of the expanded industrial core and buffer zone advertised for pubic consultation and comment?

(2) Were these boundaries, discussed with, and agreed to, by the Harvey Shire Council?

(3) If yes, to (1) and (2), when did the consultation and discussion take place?

(4) If no to (1) and (2), why not?

Hon N.F. MOORE replied:

(1) The recently announced boundaries for the Kemerton expansion were the outcome of an extensive strategic planning and community consultation process carried out over four years, including a three month formal comment period during 1998. The community will have a further opportunity to comment on the strategic planning during the advertising of the Greater Bunbury Region Scheme.

(2) The Shire of Harvey was consulted on the Kemerton expansion during the strategic planning and community consultation processes mentioned above.

(3) Refer to (1) above.

(4) Not applicable.

KEMERTON INDUSTRIAL PARK, EXPANSION

1871. Hon BOB THOMAS to the Leader of the House representing the Minister for Resources Development:

In relation to the Minister for Resources Development's recent announcement to significantly expand the Kemerton Industrial Park -

(1) Will the Minister for Resources Development indicate on a table map where the solid waste from Kemerton industries will be disposed?

(2) Has the environmental protection authority given approval for this site to be used for the disposal of waste?

Hon N.F. MOORE replied:

(1) No site has yet been established for disposal of solid waste from Kemerton.

(2) Not applicable.

ELECTRICITY SUPPLIES, BROOME

1953. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

In reference to proposals for a replacement power station to supply electricity for Broome -

(1) Under what conditions would the Government move to allow for a power station to be constructed on the Buckley's road site?

(2) What would be the cost impact upon energy consumers in Broome upon overall energy tariff from a site further north?

(3) Is the State Government considering any proposals to further dismantle the uniform tariff for power in country areas in such a way as would allow for the passing on to households of any additional costs associated with a power generation site north of Broome?

(4) How many large energy users have gained access to cheaper power tariffs in Kununurra from direct purchase of power from Ord Hydro?

Hon N.F. MOORE replied:

(1) The Buckley road site is one of a number of options being considered by the preferred bidder for the supply of power to Western Power in the West Kimberley. Each site option contains a number of technical and cost implications and a final decision will be made after a thorough consultative process with the Shire.

(2) The exact cost implications are yet to be determined, however, a site further north would increase the price being offered to Western Power.

(3) No, the Government has given a commitment that residential and small business customers in regional areas will continue to be supplied at the uniform tariff.

(4) As far as the Minister for Energy is aware, there have not been any large energy users to date that have negotiated a contract price with Ord Hydro in Kununurra that is cheaper than the tariff. However, the Minister for Energy is aware of at least one large customer that has been able to negotiate a more attractive contract with Western Power in the Kununurra region since the lowering of the open access threshold levels in regional systems.

SALINITY MANAGEMENT STRATEGIES, FUNDING

1960. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

(1) What salinity management strategies have been included within -

(a) Alinta Gas; and
(b) Western Power's,

operations since 1993?

(2) What funds have been allocated specifically on those strategies?

(3) What specific local or statewide salinity program has -

(a) Alinta Gas; and
(b) Western Power,

implemented or participated in since 1993?

Hon N.F. MOORE replied:

AlintaGas
(1)-(3) None.

Western Power
(1) Western Power has a Corporation-wide Environmental Management System in place that is designed to address the Corporation's impacts on the environment and manage them in an environmentally diligent manner. Strategies have been implemented to reduce the impact of our operations on the salinity of the surrounding soil, surface and groundwater. The two most significant outcomes of this strategy are:

(a) Containment of salt on-site. This is done at Muja Power Station by concentrating the salt and storing it on-site in an impervious dam. This plant, the Muja Wastewater Treatment Plant, was completed in 1997.

(b) Transport the salt off-site to a more environmentally acceptable receptor for salt. This is done at Collie Power Station by piping saline wastewater to the ocean. This pipeline, the Collie Power Station Saline Water Pipeline, was completed in 1998.

(2) Following are the capital and operating costs of the above strategies:

The capital cost of Muja Wastewater Treatment Plant plus all associated ancillaries was $24.4 million. Annual operating cost covering all direct and indirect costs is approximately $2.5 million.

The Collie Power Station Saline Water Pipeline cost $29 million to build and costs $50,000 -$60,000 per annum to operate.

(3) Local or statewide salinity programs.

(a) Since the 1980s, Western Power has revegetated over 700 hectares of cleared land in the Collie River Catchment to offset land cleared to accommodate infrastructure associated with Muja Power Station and Collie Power Station. This is a requirement under the Country Areas Water Supply Act (1976).

(b) Hotham-Williams Greening Challenge. In 1995 Western Power initiated a major revegetation project – the Greening Challenge – a project to combat salinity and land degradation by involving city and country volunteers planting native tree and shrub seedlings within the Hotham-Williams Catchment, south east of Perth. Over 1.4 million seedlings were planted between 1996 and 1999. A further 2.6 million seedlings will be planted by over 1500 city and community volunteers in 2000 and 2001.

(c) Kalgoorlie Community Tree Planting Day. Western Power was a joint venturer with four other organisations that planted 5,000 plants in an area of salt affected land south of Boulder in 1999. The work will continue in 2000.

(d) From 1997 to 1999 Western Power planted 21,000 trees into a degraded wetland adjacent to the Collie Power Station. This is expected to reduce salinity and improve bio-diversity in the wetland, which is a tributary of the Collie River. A further 7,000 seedlings will be planted in 2000.

MINING, MT CHARLOTTE HAULAGE ROAD

1966. Hon TOM HELM to the Attorney General representing the Minister for the Environment:

I refer to a letter dated April 6 2000 signed by Cheryl Edwardes MLA, Minister for the Environment reference 23358 and 23661 titled "Kalgoorlie Consolidated Gold Mines (KCGM) - Haul Road".

(1) Can the Minister for the Environment please thoroughly check and advise whether staff in her office and records officers of the Department of Environmental Protection have received both letters from the Chairperson of the Williamstown Residents Committee dated November 25 1999 and December 21 1999 and the videos that were enclosed?

(2) If not, why not?

(3) Can the Minster state what figure in terms of numbers of haul truck traffic per hour was the "previous level"?

(4) If not, why not?

(5) Can the Minister state what are the "alternative methods of transporting backfill material" being investigated with the "aim of reducing noise levels further"?

(6) If not, why not?

Hon PETER FOSS replied:

(1) Both letters and the three videos which accompanied them were forwarded to the Appeals Convenor's office to be considered with the appeal from the Chairperson of the Williamstown Residents Committee. As indicated in the Minister's reply to the letter of 25 November 1999, the response to this appeal which was signed on 10 January 2000 takes into consideration the advice of the Appeals Convenor based on all of the material which was sent to him.

(2) Not applicable.

(3) When haul truck noise readings were taken by an officer of the DEP on 1 December 1999, there were 32 pass-bys per hour. Local residents have indicated that there had been more than 32 pass-bys per hour in the days before these measurements were made. In the context of the letter, the "previous level" is in the vicinity of 32 pass-bys per hour.

(4) Not applicable.

(5) The alternative methods of transporting backfill material being investigated included use of alternative haul routes and vehicles or using the existing overland conveyor.

(6) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, RELOCATION OF OFFICES FROM CARNARVON

2001. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Citizenship and Multicultural Interests:

(1) Have any Agencies under the Minister for Citizenship and Multicultural Interests' control relocated their offices from Carnarvon to other major town centres since 1993?

(2) If yes, which agency has relocated?

(3) To which town has the agency relocated?

(4) What was the cost of the relocation?

(5) What was the basis for the decision to relocate?

Hon M.J. CRIDDLE replied:

(1) No.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, RELOCATION OF OFFICES FROM CARNARVON

2025. Hon TOM STEPHENS to the Parliamentary Secretary representing the Minister for Education:

(1) Have any Agencies under the Minister for Education's control relocated their offices from Carnarvon to other major town centres since 1993?

(2) If yes, which agency has relocated?

(3) To which town has the agency relocated?

(4) What was the cost of the relocation?

(5) What was the basis for the decision to relocate?

Hon BARRY HOUSE replied:

Education Department of Western Australia
(1) No.
(2)-(5) Not applicable.

Department of Education Services
(1) No.
(2)-(5) Not applicable.

Country High School Hostels Authority
(1) No.
(2)-(5) Not applicable.

Curriculum Council
(1) No.
(2)-(5) Not applicable.

ONSLOW POWER STATION, REVIEW

2026. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

I refer to the newsletter provided to Onslow Residents by Western Power in February 2000 regarding the Onslow Power Station and ask -

(1) Which consultants are carrying out the review of the new power system at Onslow?

(2) Has the review of the new power system commenced?

(3) When is the review scheduled to be completed?

(4) If already completed, will the Minister for Energy table the report?

(5) If not, why not?

(6) What actions is the Minister taking to ensure there is a constant, reliable power system for the town of Onslow?

Hon N.F. MOORE replied:

(1) Connell Wagner Pty Ltd.

(2) Yes.

(3) End of June 2000.

(4) The Terms of Reference for the Review were developed in consultation with the Shire of Ashburton, the local Chamber of Commerce, Onslow Electric Power Pty Ltd and Onslow Salt Pty Ltd. The review process includes providing these and other stakeholders with a copy of the review report when it is finalised and approved. The Minister for Energy will make a copy of the report available to any member interested in the matter.

(5) Not applicable.

(6) The actions being taken by Western Power through the Review and through the management of the power purchase contracts with Onslow Salt Pty Ltd, Onslow Electric Power Pty Ltd and the gas supplier will achieve a reliable supply for the town of Onslow.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEASES FOR PHOTOCOPIERS AND FACSIMILE MACHINES

2048. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Energy:

For each agency under the Minister for Energy's control -

(1) Does the agency have contracts to lease photocopiers or facsimile machines under any of the following volume based agreements -

(a) Ricoh - Blue-chip;
(b) Konica - Fivestar;
(c) Toshiba - Platinum; or
(d) Abacus - Copyclub?

(2) If yes, how many photocopiers or facsimile machines does the agency have?

(3) With which organization does it have a contract?

(4) When did the agency enter into this contract?

(5) What has been the total cost of each contract to date?

(6) When is the contract due to expire?

Hon N.F. MOORE replied:

Office of Energy
(1) No.
(2-6) Not applicable.

Western Power
(1) Western Power does not lease photocopiers from any of these companies and does not utilise volume based agreements. Instead, divisional areas within Western Power Corporation purchase equipment to meet their own requirements.
(2-6) Not applicable.

AlintaGas
(1) AlintaGas has not entered into any such contracts.
(2)-(6) Not applicable.

GAS-CARRYING TRUCKS, NUMBER

2134. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

I refer to the Minister for Energy's answer to question without notice 875, in particular the number of gas carrying trucks required in 2010 and 2015 and ask -

(1) Is the load growth of power in the region a factor taken into consideration by the proponents of the proposed gas-fired power stations?

(2) If not, why not?

(3) How was the figure of three trucks per week for 2005 arrived at?

(4) If it is a factor, why is the information concerning the number of trucks required per week for 2010 and 2015 not available?

Hon N.F. MOORE replied:

(1)-(4) Please refer to the answer to Question on Notice 1864.

WEST KIMBERLEY IRRIGATION PROJECT, EXTENSION OF MEMORANDUM OF UNDERSTANDING

2148. Hon GIZ WATSON to the Leader of the House representing the Minister for Resources Development:

With regards to the Memorandum of Understanding (MOU) between Western Agricultural Industries (WAI) and the State Government in relation to West Kimberley Irrigation Project and the community consultation on this project.

(1) Has a proposal for an extension of the MOU been submitted by WAI?

(2) If yes, when?

(3) Has further information been requested from WAI by the Government?

(4) Has a meeting or meetings occurred between the Government and WAI to discuss any proposed extension of the MOU?

(5) If yes to (4), when and who attended this or these meeting/meetings?

(6) If yes to (4), were the concerns of Environs Kimberley raised at any one of these meetings?

(7) If yes to (4), will the Minister for Resources Development table the minutes of this or these meeting/meetings?

Hon N.F. MOORE replied:

(1) Yes.

(2) 26th April, 2000.

(3)-(4) Yes.

(5) On 10th April 2000, Government representatives from the Department of Resources Development, Department of Land Administration, Ministry of the Premier and Cabinet, Water and Rivers Commission, Department of Environmental Protection and Agriculture Western Australia met with WAI Board members.

(6) The meeting with WAI addressed the range of matters covered in the MOU and the Government's consideration of these in relation to the request for an extension of the MOU. Many of these issues are common to issues raised by Environs Kimberley.

(7) No.

FERAL PIG POISONING

2187. Hon MARK NEVILL to the Attorney General representing the Minister for the Environment:

(1) In what area is feral pig poisoning being carried out?

(2) In what areas has feral pig poisoning ceased to be carried out?

(3) In what areas of publicly held land are feral pigs a problem?

(4) What programs are in place to tackle these feral pig populations?

Hon PETER FOSS replied:

(1) Management of feral pigs is covered under the *Agriculture and Related Resources Protection Act 1976* (ARRP Act). This Act is administered by Agriculture Western Australia under the direction of Hon Monty House MLA, Minister for Primary Industry. Feral pig control, including poisoning may be undertaken under arrangements in place through Agriculture Western Australia in any location where feral pigs occur and pose a risk to agricultural production.

(2) Pig control is largely undertaken on a 'local need' basis. I am not aware of any specific areas under the management of the Department of Conservation and Land Management (CALM) where feral pig control, including poisoning has ceased for any reason other than that the control was no longer locally warranted.

(3) Feral pigs are distributed broadly across the landscape in Western Australia. From time to time they are a significant problem over much of the larger parcels of publicly owned lands within the south-west stretching from Kalbarri to Esperance.

(4) Prime responsibility for control of feral pigs under the ARRP Act rests with landholders. CALM has a number of control programs in place for its lands and also assists neighbouring landholders with control efforts where there is determined to be clear advantage in doing so. CALM's programs are planned and conducted at the local office level and have involved shooting, trapping and some poisoning in conjunction with other landholders and agencies. CALM also has obtained the assistance of volunteer shooters in relation to some pig control activities in forested areas.

GOVERNMENT DEPARTMENTS AND AGENCIES, PRIVATISED AND CLOSED

2227. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Works:

Since the election of the present State Government in 1993 -

(1) Which Government departments, agencies and/or enterprises under the Minister for Works' portfolio have been -

(a) privatised; and

(b) closed?

(2) Which services under the Minister's portfolio, formerly performed by Government employees have been contracted out to the private sector?

Hon M.J. CRIDDLE replied:

(1) (a) Supply West
State Print

(b) Construction Operations (Building Management Authority)

(2) Metropolitan Building Maintenance
Building Conditions Assessments
Prisons Maintenance
Property Services
Architectural Practice
Consulting Practice
Information Technology
Bureau Services
Fleet West
State Supply Disposal Centre
Mailwest

"GET UP AND GO" GUIDE, COST

2267. Hon CHERYL DAVENPORT to the Minister for Transport representing the Minister for Seniors:

I refer to the "Get Up and Go" guide released in December 1999 as part of the outcomes of the Healthy Ageing Task Force and ask -

(1) What was the total cost of the launch and publication of this guide?

(2) Did the Western Australian Government contribute to the cost of this guide?

(3) If yes, how much?

(4) How much, if any, was contributed by the Commonwealth Government?

Hon M.J. CRIDDLE replied:

(1) The national launch of the guide was conducted in Queensland by the Minister for Family, Youth and Community Care, Anna Bligh, at a cost of $8,290 on 4 December 1999. Cost of producing the document was $295,000 which has been offset by Commonwealth funding, advertising in the guide and subsequent sales.

(2) No.

(3) Not applicable.

(4) The Commonwealth provided $50,000 each to the Northern Territory and Queensland Governments (total $100,000) to coordinate and produce the guide as part of the Healthy Ageing Task Force outcomes.

GOVERNMENT DEPARTMENTS AND AGENCIES, PROGRAMS FUNDED

2314. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Women's Interests:

What funds have been allocated from any department or agency within the Minister for Women's Interests' portfolios, and for what programs, to each of -

(a) Chamber of Commerce and Industry;

(b) Pastoralists and Graziers Association;

(c) WA Farmers Federation;

(d) Unions WA;

(e) Chamber of Minerals and Energy; and

(f) Association of Minerals and Exploration Companies,

for 1999/2000?

Hon M.J. CRIDDLE replied:

(a)-(f) No program funding has been allocated to the above for 1999-2000.

GOVERNMENT DEPARTMENTS AND AGENCIES, PROGRAMS FUNDED

2315. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Works:

What funds have been allocated from any department or agency within the Minister for Works' portfolios, and for what programs, to each of -

(a) Chamber of Commerce and Industry;

(b) Pastoralists and Graziers Association;

(c) WA Farmers Federation;

(d) Unions WA;

(e) Chamber of Minerals and Energy; and

(f) Association of Minerals and Exploration Companies,

for 1999/2000?

Hon M.J. CRIDDLE replied:

Department of Contract and Management Services

(a)-(f) None.

GOVERNMENT DEPARTMENTS AND AGENCIES, PROGRAMS FUNDED

2358. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Women's Interests:

What funds have been allocated from any department or agency within the Minister for Aboriginal Affairs' portfolios, and for what programs, to each of -

(a) Chamber of Commerce and Industry;

(b) Pastoralists and Graziers Association;

(c) WA Farmers Federation;

(d) Unions WA;

(e) Chamber of Minerals and Energy; and

(f) Association of Minerals and Exploration Companies,

for the period February 1993 to June 1999?

Hon M.J. CRIDDLE replied:

(a)-(f) No program funding was allocated to the above for the period February 1993 to June 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, PROGRAMS FUNDED

2359. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Works:

What funds have been allocated from any department or agency within the Minister for Works' portfolios, and for what programs, to each of -

(a) Chamber of Commerce and Industry;

(b) Pastoralists and Graziers Association;

(c) WA Farmers Federation;

(d) Unions WA;

(e) Chamber of Minerals and Energy; and

(f) Association of Minerals and Exploration Companies,

for the period February 1993 to June 1999?

Hon M.J. CRIDDLE replied:

Department of Contract and Management Services

(a)-(f) None.

QUESTIONS WITHOUT NOTICE

GRANTS TO CHARITIES, INCREASE

1322. Hon N.D. GRIFFITHS to the Leader of the House representing the Premier:

I refer to yesterday's announcement by the Premier of a 10 per cent increase in grants to charities.

(1) Does this relate to the cost of the imposition of the goods and services tax on charities?

(2) What type of other organisations will be required to pay GST on grants received from local, State and Federal Governments?

(3) Will the State Government compensate all organisations which must pay GST on state government grants; and, if so, how much will this cost the state budget and has that been provided for?

Hon M.J. CRIDDLE replied:

I ask the member to place the question on notice.

ON-ROAD DIESEL USERS, DISCOUNT

1323. Hon N.D. GRIFFITHS to the Attorney General representing the Treasurer:

(1) Can the minister confirm that under the existing fuel taxation arrangements in Western Australia, all users of on-road diesel receive a discount of 7.45¢ a litre?

(2) If not, what is the extent of the discount and to whom does it extend?

(3) Can the minister explain which users of on-road diesel will be eligible for any discount under the new tax system?

(4) Can the minister confirm that some diesel users will be worse off as a result?

Hon PETER FOSS replied:

I ask the member to place the question on notice.

SENIOR HEALTH OFFICERS, CONTRACTS

1324. Hon KIM CHANCE to the Attorney General representing the Minister for Health:

Some notice of this question has been given. I refer to the two senior positions in the health system; that is, the Commissioner of Health and the Chairman of the Metropolitan Health Service Board.

(1) Has the Commissioner's contract expired; and, if so, when did it expire?

(2) Has the position been filled; and, if so, when, by whom and for what duration?

(3) If it has not been filled, why not?

(4) When does Mr Ian McCall's term as Chairman of the Metropolitan Health Service Board expire?

(5) Has this position been filled; and, if so, by whom and, if not, who will act as the chairman until the position is determined?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No. The current term expires on 16 July 2000.

(2) The current commissioner has been offered another five-year contract and the details of that contract are being finalised.

(3) Not applicable.

(4) 30 June 2000.

(5) These matters have not yet been determined.

PORT KENNEDY DEVELOPMENT

1325. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

(1) Is the Minister for Planning aware that the Port Kennedy developers have lost their appeal against the decision to allow proceedings under section 459 of the Corporations Law and are likely to be wound up on 12 July at the next court hearing?

(2) What steps have been taken by the Government to ensure the promised public facilities will be built and managed?

(3) How will this be funded?

(4) Under the terms of the Port Kennedy resort agreement, can the Port Kennedy development be taken over by the overseas financiers, or can or will the Government put in place a new agreement?

(5) Is the minister prepared to allow the complete ownership of the Port Kennedy development to go overseas?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Minister for Planning is not aware of any action to wind up the developer, Port Kennedy Resorts Pty Ltd.

(2)-(5) Port Kennedy Resorts Pty Ltd is responsible under the Port Kennedy Development Agreement Act 1992 to implement the development. The Minister for Planning has previously advised the House that he is reviewing progress on the development and will take any actions which may become necessary in accordance with the Act.

RIVERSIDE DRIVE, VEHICLE USE

1326. Hon NORM KELLY to the Minister for Transport:

(1) For the section of Riverside Drive near Barrack Street, what is or was the actual or estimated number of vehicles using this road on weekdays and weekend days -

(a) prior to the opening of the Graham Farmer tunnel; and

(b) currently?

(2) What is the estimated level of vehicle use for this road after the closures of freeway exits and entrances planned for later this year?

(3) On what date are these closures due to take effect?

Hon M.J. CRIDDLE replied:

(1) (a) In 1993-94 the annual average weekday traffic on Riverside Drive between Barrack Street and Governors Avenue was 62 490 vehicles per day.

(b) In May 2000, weekday traffic figures for the same location were 42 629 vehicles per day, as counted over two collection days not seasonally adjusted. Traffic volumes are typically collected only on weekend days at permanent count sites, such as the Causeway, and at locations which are known to carry large volumes of recreational traffic. Weekend traffic on the Causeway is about one-third less than the average weekday. No specific weekend traffic counts have been collected on Riverside Drive.

(2)-(3) No decision will be made on closing the Riverside Drive access ramps to the Mitchell Freeway until the Government is satisfied that traffic patterns around the city have stabilised. Traffic along Riverside Drive has reduced significantly since the opening of the Graham Farmer Freeway. However, further analysis of traffic flows is still required, particularly on the likely impacts associated with the Wellington Street on and off ramps due to open later this year.

"WA PLANTATIONS TODAY"

1327. Hon J.A. COWDELL to the Attorney General representing the Minister for Forest Products:

In relation to the Department of Conservation and Land Management's four-page publication, "WA Plantations Today", will the minister table -

(1) (i) the total number of copies that have been printed;

(ii) in which newspapers it has been distributed;

(iii) the total cost of production; and

(iv) the total cost of distribution?

(2) Are there any additional costs to those set out in part (1)?

(3) If so, will the minister table a list of these additional costs?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) (i) 760 000;

(ii) *Albany Advertiser*, *Bunbury Herald*, *Busselton-Margaret Times*, *The Gnowangerup Star*, *Manjimup-Bridgetown Times*, *The Observer*, *Sound Telegraph*, *The York Chronicle*, *Augusta Margaret River Mail*, *The Avon Valley Advocate*, *Busselton-Dunsborough Mail*, *Central Midlands and Coastal Advocate*, *Collie Mail*, *Donnybrook-Bridgetown Mail*, *The Esperance Express*, *Mandurah Mail*, *Midwest Times*, *Stirling Times*, *Eastern Suburbs Reporter*, *Wanneroo Times*, *Midland-Kalamunda Reporter*, *Comment News*, *Southern Gazette*, *Canning Community*, *Hills Gazette*, all editions of *The Fremantle Herald*, all four *Post* editions, and the *Voice News*.

(iii) $44 616.

(iv) Approximately $44 227.

(2) Other than staff time, no.

(3) Not applicable.

INTEGRATED WOOD PROCESSING PILOT PLANT, NARROGIN

1328. Hon B.K. DONALDSON to the Leader of the House representing the Minister for Resources Development:

Can the minister outline the developments to date on the proposed integrated wood processing pilot plant to be located at Narrogin?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The proposed 1 megawatt integrated wood processing demonstration plant to be located at Narrogin is based on plantation mallee and will co-produce electricity, activated carbon and eucalyptus oil. The demonstration plant will be a milestone in renewable energy development, being Australia's first plantation timber electricity generation plant and the first scheme in Australia to provide farmers with an economic return for planting trees in the dry wheatbelt. Modelling results suggest that it will produce electricity at a price competitive with conventional generation and will provide a commercial return to investors. Financial arrangements, along with contracts and agreements related to the construction of the integrated wood processing demonstration plant, are still being finalised. An announcement regarding the project will be made in due course.

SUN CITY FORD NISSAN AND CHRYSLER JEEP, GERALDTON

1329. Hon LJILJANNA RAVLICH to the minister representing the Minister for Works:

(1) How many vehicle retailers in Geraldton and the surrounding region would have been eligible to tender under the regional buying compact for the vehicles the Government purchased from Sun City Ford Nissan and Chrysler Jeep in Geraldton?

(2) How many of these vehicle retailers submitted tenders?

(3) Can the minister confirm that nearly half of the cars purchased were sent to the metropolitan area?

(4) If yes, for what reason, and why were they not purchased from Perth metropolitan dealerships?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) Not applicable. There is a mandatory common-use contract for the acquisition of vehicles that provides a government price for all vehicles purchased from Australian manufactures and distributors. Vehicles are delivered through their authorised dealership network at the government price. In the case of Mitsubishi, Holden, Ford and Nissan, the price is the same throughout the State. Sun City is the only authorised dealer for Ford and Nissan in Geraldton. Tendering by government agencies on a vehicle-by-vehicle basis is not permitted.

(2) Not applicable.

(3) There is no time frame indicated in the question. A report readily at hand for the period March 1998 through to May 2000 indicates that 69 vehicles were purchased from Sun City Ford Nissan and Chrysler Jeep. Of these vehicles, none is currently operating in the metropolitan area.

(4) Not applicable.

SCHOOL BUS CRASH

1330. Hon G.T. GIFFARD to the Minister for Transport:

I refer to the school bus crash this morning in Maddington in which approximately 16 students were injured, and to the fact that the Government has been promising for over 18 months to trial the use of seat belts on school busses.

When will the minister stop procrastinating and take some action to protect the lives of school children travelling on school buses?

The PRESIDENT: Standing Order No 140 talks about what can and cannot be contained in a question. I will not take great exception to what has been said, but if I do not draw it to members' attention, members will stand up and make three minute speeches on why something did or did not happen, most of which would be debatable material against the Standing Orders; equally, that will cause the minister to stand up and we will end up having debates during question time which will destroy the concept and intent of question time. I suggest members have a look at the matter. As I say, in the end, it is in the hands of members. If members destroy Parliament that will be their wish and desire.

Hon M.J. CRIDDLE replied:

This is a serious issue. There was an accident in which some schoolchildren were involved. I have taken action and have been proactive in this area. I point out that the school bus network and the school bus contractors have been responsible over a long period and we have a good school bus operators network. I was at their conference recently, and the operators demonstrated that they are proud of their record. It is unfortunate that this accident has occurred; I sympathise with those involved. The Government has put in place the opportunity for pilot schemes to be conducted and there will be approximately six pilot schemes throughout the State.

The issue of seatbelts is complicated because it involves insurance and responsibility. There are varying sizes of students with ages ranging from younger to older. The allocation of seats and seatbelts to the people who would fit the seatbelts and the seats is an issue that must be dealt with. Another issue is whether drivers have responsibility for those children at all times. A range of issues need to be explored when looking at the fitting of seatbelts to school buses. It is an important issue that has been around for a while. It must be implemented in an orderly fashion.

COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

1331. Hon GIZ WATSON to the Attorney General representing the Minister for the Environment:

With regard to the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and its regulations which come into force on 16 July 2000, I ask -

(1) Has an assessment been made of the geographical areas in Western Australia to which the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and its regulations will apply?

(2) If yes, will the minister table either a list or map of these areas?

Hon PETER FOSS replied:

(1)-(2) I have an answer although I am reluctant to give it simply because I believe it involves an interpretation of a federal Act, including the constitutional power of that Act. I am reluctant to assume or adopt the answer that I have been given. Hon Giz Watson will have to consult the Act and regulations and any appropriate convention to determine the legal situation. I have an answer, but I am not happy with it and I would not want to speak on behalf of the State of Western Australia about any view the Government may take at some subsequent stage with regard to the legal position.

ST ANDREWS PROJECT, YANCHEP

1332. Hon HELEN HODGSON to the Attorney General representing the Minister for Planning:

(1) Has the WA Planning Commission entered into a strategic cooperation agreement and a memorandum of understanding for the development of the St Andrews project near Yanchep; and, if so, who are the parties to that agreement?

(2) Will the minister table a copy of each of those agreements; and, if not, why not?

(3) Is the Government planning to sell over 200 hectares of land at and near Yanchep by tender? If so, when will the land be sold?

(4) Will money raised by the Government from the sale of the land be reinvested in the Yanchep-Two Rocks district as was done in Joondalup when large parcels of state-owned land were sold?

Hon PETER FOSS replied:

(1) Yes. The Western Australian Planning Commission entered into a memorandum of understanding in 1995, and a strategic cooperation agreement in 1999 for the development of the St Andrews project near Yanchep. The Western Australian Planning Commission, Tokyu Corporation, Yanchep Sun City Pty Ltd and the Western Australian Land Authority are parties to the memorandum of understanding. The State Government, Tokyu Corporation, the City of Wanneroo, Yanchep Sun City Pty Ltd and the Western Australian Planning Commission are parties to the St Andrews strategic cooperation agreement.

(2) The Premier tabled a copy of the strategic cooperation agreement on 2 May 2000 in response to question on notice 618 of 22 September 1999; however, I table a copy as requested. I am unable to table a copy of the memorandum of understanding as it has been the subject of freedom of information applications and access has previously been denied by the Ministry for Planning. This was on the basis that the landowner objected to a lease claiming exemption under clause 4 of the Freedom of Information Act due to the document containing commercial and business information. [See paper No 1112.]

(3) Yes. LandCorp has invited tenders for the purchase of lots 101 and 102 which it purchased from the Tokyu Corporation. LandCorp is currently considering expressions of interest. The outcome of those expressions of interest will determine when the land will be sold.

(4) No. LandCorp purchased the land from Tokyu in accordance with the MOU which has already facilitated upgrading of infrastructure in the area. The sale is now a commercial transaction. The memorandum of understanding and the strategic cooperation agreement both impose obligations on Tokyu-Yanchep Sun City for the upgrading of the area including Two Rocks town centre and the redevelopment of the Two Rocks marina.

PYRTON PRISON SITE

1333. Hon N.D. GRIFFITHS to the Minister for Justice:

I refer to the work being carried out at the Pyrton site in Eden Hill to establish a prison.

(1) Has the Government called tenders for the work that is being done at the prison site at Eden Hill?

(2) If not, why not?

(3) Is it true that a number of different contractors have carried out work on the site and that the work has involved repairs, replacements and improvements?

(4) What is the total cost of work carried out on the site to date?

(5) Does the Government intend to call tenders for any work to be done on the site? If so, what work will be allocated through the tender process?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No.

(2) Stage 1 is being procured through the facility manager as minor works. Stage 2 will be tendered and the Ministry of Justice is waiting for contract documents to be completed for these works.

(3) Yes.

(4) The cost of the refurbishment work to date is $369 000.

(5) Yes. The Ministry of Justice intends to tender the balance of the work through a public tender process, in accordance with government purchasing guidelines.

WESTRAIL, LOCOMOTIVE DRIVERS

1334. Hon TOM HELM to the Minister for Transport:

(1) How many locomotive drivers are engaged by Westrail?

(2) How many of these drivers have received Australian rail safety accreditation as required by the uniform rail safety legislation?

(3) Why are so few Western Australian drivers accredited when the accreditation has been completed in every other State and in every private rail operation in Western Australia?

(4) Is Westrail holding back accreditation because it is attempting to keep all its drivers until after the sale of the railway is completed?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) As at 28 June 2000, 491 freight locomotive operators and 14 trainee freight locomotive operators were employed by Westrail.

(2) All Westrail freight locomotive operators have been issued with track access permits, which accredit operators to work on the Westrail network at a particular competency level. This forms part of Westrail's rail safety management plan, which has been accredited under the Western Australian Rail Safety Act.

(3)-(4) Not applicable.

HOME AND COMMUNITY CARE, SAFEGUARDS POLICY EVALUATION

1335. Hon CHERYL DAVENPORT to the Attorney General representing the Minister for Health:

I refer to the independent evaluation of the home and community care safeguards policy, which was scheduled to commence in January 2000, and ask -

(1) What are the terms of reference for the evaluation?

(2) When will the evaluation be completed?

(3) Who was chosen to conduct the independent evaluation?

(4) How is the evaluation being conducted?

(5) What steps are in place to ensure that the impact on consumers is also evaluated?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The terms of reference are to assess and report on the impact of the safeguards policy on clients of the home and community care target population; determine the extent to which the policy has contributed to the growth and efficiency of the HACC program; assess the impact of implementing the policy in agencies, including interaction with other programs; describe and evaluate the adequacy, usefulness and extent to which HACC agencies have applied the safeguards policy guidelines, the national fee principles and associated explanatory notes, state fee guidelines, income assessment and fee reduction guidelines and forms and other support materials such as bulletins; describe and evaluate the adequacy and usefulness of training and training materials provided to agencies; and prepare a final report for the minister with recommendations for amendments to the policy, guidelines and associated procedures, the need for training or additional support materials or activities and other matters as agreed.

(2) 31 January 2001.

(3) As yet, no person or agency has been selected to conduct the evaluation. The Health Department is preparing to request for quotations for the supply of a consultancy service.

(4) The review will evaluate all aspects of the safeguards policy, focusing on its impact on clients, service providers and the home and community care program.

(5) The impact on consumers will be evaluated through the terms of reference and a methodology agreed to by the safeguards policy review steering committee.

POLICE POWERS TO DEAL WITH ORGANISED CRIME

1336. Hon MARK NEVILL to the Attorney General:

Does the Government intend to introduce a Bill which confers on police powers to deal with organised crime; and, if yes, what additional powers will be available to law enforcement officers?

Hon PETER FOSS replied:

The appropriate time for the Parliament to be informed about the content of the Bill is when it is introduced into the Parliament. A Bill is being drafted in which such powers will lie principally with the Director of Public Prosecutions.

SOUTH WEST REGIONAL COLLEGE OF TAFE, VEHICLE PURCHASES

1337. Hon BOB THOMAS to the minister representing the Minister for Employment and Training:

With reference to the answer to part (2) of yesterday's question without notice 1315, I ask -

(1) What was the cost of preparing each vehicle for sale and from which program was that cost sourced?

(2) Will the minister table a list of all vehicles purchased by the Margaret River and Manjimup annexes of the South West Regional College of TAFE and, in relation to each vehicle -

(i) the purchase price;

(ii) the date it was sold by the college;

(iii) the sale price;

(iv) the cost of preparing each vehicle for sale; and

(v) the program from which the funds for these costs were sourced

in the years -

(a) 1996;

(b) 1997;

(c) 1998; and

(d) 1999?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) No special measures are taken to prepare vehicles for sale. Therefore, no cost is incurred.

(2) All vehicles purchased by the South West Regional College of TAFE are purchased by the Bunbury campus and distributed to all the annexes in the region, including those at Margaret River and Manjimup.

REID HIGHWAY EXTENSION, CARINE

1338. Hon E.R.J. DERMER to the Minister for Transport:

I refer to the proposed extension of Reid Highway through Carine and ask -

(1) What examination of the safety implications of the proposed intersections with the extension has been conducted?

(2) Will the minister table the reports of the examination? If not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) Safety audits of the design drawings have been undertaken for the whole Reid Highway extension project to ensure compliance with the relevant design standards.

(2) I will arrange for copies of the reports to be made available to the member.

WESTRAIL, ACTION AGAINST AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION

1339. Hon KEN TRAVERS to the Minister for Transport:

(1) Is the minister aware that -

(a) the Full Bench of the Western Australian Industrial Relations Commission recently took the unusual step of awarding costs against Westrail because its action against the Australian Rail, Tram and Bus Industry Union - of which I am a former member - was vexatious and frivolous; and

(b) the Crown Solicitor intervened on behalf of the Minister for Labour Relations against Westrail in this action?

(2) Is the minister also aware that if no enterprise agreement is reached before 2 July 2000 and the award is reinstated, Westrail will not have sufficient drivers to complete its contractual obligations?

(3) Given these facts, does the minister have confidence in the ability of Westrail's management to deal with human resource issues?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) (a) In awarding costs against Westrail in matter No 1728 of 1999, the Full Bench of the Western Australian Industrial Relations Commission did not state that Westrail's actions were vexatious and frivolous. That allegation was made during the course of the proceedings by counsel for the Western Australian branch of the Australian Rail, Tram and Bus Industry Union.

(b) The Crown Solicitor was granted leave to appear on behalf of the Minister for Labour Relations in matter No 1728 of 1999 to put forward her views on the application of the Act. However, the Crown Solicitor did not seek leave to appear against Westrail.

(2) Westrail's ability to meet its contractual obligations does not depend on a new enterprise agreement being in place by 2 July 2000.

(3) Yes.

WESTRAIL FREIGHT SALE

1340. Hon N.D. GRIFFITHS to the Minister for Transport:

With respect to the proposed sale of Westrail freight -

(1) Was the Minister for Resources Development correct in asserting that all the groundwork had not been done to identify what was being sold?

(2) Was he correct in asserting that the rolling stock and track should not be controlled by the one manager?

(3) Is the Minister for Resources Development running interference against the Minister for Transport on this issue?

(4) What has the Minister for Transport done to tell the Minister for Resources Development to butt out of his portfolio?

Hon M.J. CRIDDLE replied:

(1)-(4) I was not around when the minister made those statements. I would like to know where he made them and who reported them to the member.

Hon Ken Travers: It was reported in *The Australian*.

Hon M.J. CRIDDLE: I have not read any such report in *The Australian*. Therefore, I have no comment.

OLD-GROWTH FOREST, LOGGING

1341. Hon NORM KELLY to the Attorney General representing the Minister for Forest Products:

Further to question on notice No 61 of 2000, answered on 14 March -

(1) Will the minister provide the figures for -

(a) the old-growth karri forest; and

(b) the old-growth jarrah forest

logged in the 1999 calendar year?

(2) If not, will the minister explain the reasons for this delay and when this information is expected to be available?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) (a) Approximately 490 hectares;

(b) Approximately 930 hectares.

(2) Not applicable.

PYRTON MINIMUM SECURITY PRISON SITE, EDEN HILL

1342. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Planning:

Some notice of this question has been given. I refer to work underway at the Pyrton site in Eden Hill to establish a minimum security prison, and ask -

(1) Has the Western Australian Planning Commission approved the prison being placed on the site?

(2) Has the minister inquired whether the Planning Commission intends to intervene to stop the development of the prison?

(3) In light of the decision of the City of Bayswater, the Minister for Family and Children's Services and others, will the minister intervene to stop the prison going ahead?

(4) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(3) No.

(4) If there were a breach, enforcement of the metropolitan region scheme is the responsibility of the Western Australian Planning Commission pursuant to the Metropolitan Region Town Planning Scheme Act.
