WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Tuesday, 27 October 1998

Legislative Council

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

WORKERS COMPENSATION

Petition

Hon Jim Scott presented the following petition bearing 418 signatures -

> To the Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> Currently, if any worker has an accident or is injured whilst working, and this accident or injury is due to the employer's negligence, the employer can only be sued if the injured worker has 30% permanent disability to the body or a minimum future pecuniary loss of $106 000. The minimum future pecuniary loss is referred to as the 'Second Gateway.'
>
> At present, Parliament is proposing to shut the 'Second Gateway' to common law. This will mean any worker injured due to the employer's negligence will not be able to sue the employer for negligence, and therefore not receive proper compensation for the injuries unless they have 30% disability to their body. We feel that Western Australian workers should at no point be made to feel or carry the burden of employer negligence.
>
> Your petitioners therefore respectfully request that the Legislative Council will:
>
> . maintain reasonable access for workers to the common law where negligence or partial negligence by the employer is a factor;
>
> . ensure that the compensation to the injured workers is not only related to their wages lost but includes pain, suffering and permanent impairment;
>
> . install a system which ensures employers maintain a safe workplace;
>
> . continue to include psychological and mental health as a compensatory claim under legislation.
>
> The proposal to shut down the 'Second Gate' represents a gross and unfair infringement upon the rights of workers to a safe workplace. We the undersigned residents of Western Australia strongly oppose any move by Parliament to contribute to the deterioration of the conditions of workers in Western Australia by closing the 'Second Gateway.'

[See paper No 314.]

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Report on School Education Bill 1997 - Addendum

Hon Kim Chance presented an addendum to the ninth report of the Standing Committee on Public Administration in relation to the School Education Bill 1997, and on his motion it was resolved -

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

[See paper No 315.]

ALCOA WAGERUP REFINERY

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter -

> To the President of the Legislative Council
>
> I give notice that today the 27th of October I will move under Standing Order 72 that the House on its rising be adjourned until 9 am on December 25th 1998 in order to discuss the serious health problems associated with omissions -

- emissions -

> - from Alcoa's Wagerup Refinery and the Government's response to that health problem.
>
> Jim Scott MLC
> Member for the South Metropolitan Region

The member will require the support of four members in order to move the motion.

[At least four members rose in their places.]

Point of Order

Hon N.F. MOORE: I thought the motion talked about omissions.

The PRESIDENT: Order! I will correct that. It is emissions. The motion, as I have just corrected it, is that -

Hon DERRICK TOMLINSON: I do not have a copy of the letter. My understanding of the requirements is that the substance of the motion be presented one hour before the House sits. I listened carefully to your pause, Mr President, when reading the letter. I have now been handed a copy of the proposed motion, which states that the problem is associated with "omissions" from Alcoa's Wagerup refinery. Now we have an amendment from the floor to change the word "omissions" to the word "emissions". They are two quite different things: An omission is something left out; an emission is something put out. To amend the initial letter changes the whole intent of the motion.

The PRESIDENT: Order! In the past I have received letters much earlier than this, indicating that a member wanted to raise a matter by way of an urgency motion. At times I have had to ask members to correct them when I have found that words have been left out. Obviously I did not pick this up; then again, there is a question about whether I should have picked it up. I accept that there is a distinction between the word "omissions" and the word "emissions"; however, Hon Jim Scott has indicated that he intended that the word should be emissions. In my view, it is nothing more than a typographical error, and I rule that the word should be emissions. That is the word we will now consider to be in the motion.

Debate Resumed

HON J.A. SCOTT (South Metropolitan) [3.39 pm]: I move -

> That the House at its rising adjourn until 9.00 am on 25 December.

I apologise for the typographical error that has upset the member on the other side such that he is unable to follow the sense to get the real meaning of it.

Several members interjected.

The PRESIDENT: Order! It is early in the week. I hope this is not an indication of how the week will go. If members feel they do not want to listen to this debate, they can move outside; however, I am interested in listening to Hon Jim Scott.

Hon J.A. SCOTT: This is a serious motion. It is not a matter which should be joked about by members. We are talking about 60 workers, some of whom have become seriously ill to varying degrees, and a large portion of the community surrounding the Wagerup refinery. The refineries at Kwinana and Pinjarra may also be experiencing similar problems. The high level of illness has been acknowledged by Alcoa, but it has not acknowledged that the illness is related to the operations of its plant. In this instance, I am talking about a recently installed plant called the liquor burning plant which saves chemicals from the refinery process. The interesting thing about the high level of illness occurring in this area is that the illnesses that are suffered by the workers are also suffered by the people in the surrounding community. The illnesses are not something which is particular to the workers only. The people in the community who live close to the refinery are the people who suffer the most. The people who live downwind from the refinery at any time and receive emissions from the refinery are those most badly affected. I shall read from a document given to me by the Wagerup Community Health Awareness Group detailing the types of illnesses that have been experienced -

> The symptoms reported by residents and workers include the following:-
>
> > Respiratory tract irritation, coughing, sinus pain, blockage and thick mucus, tight chest, shortness of breath, chest pains.
> >
> > Skin rashes mainly on face and chest - burning sensations, itching and feeling of tight skin.
> >
> > Burning sensations in throat, mouth and oesophagus, metallic taste in mouth, dry mouth and persistent thirst.
> >
> > Headaches and nausea, dizziness,
> >
> > Burning, running, swollen eyes, difficulty in focusing
> >
> > Sleep disturbances, night sweats.
> >
> > Extreme fatigue and lethargy, feeling of vagueness, loss of short term memory
> >
> > Unexplained pains in joints, bones and muscles including muscle spasms, stiffness, cramps, shaking and crawling sensations.

Unexplained diarrhoea, stomach upsets, frequent urination

Persistent ear infections, swollen glands, thrush,

Apparent inability to control body temperature, increased intolerance to heat and cold.

Many residents reported that their symptoms are transitory and seem to occur when the wind is blowing from the direction of the Refinery.

Some with more persistent symptoms stated that these seem to disappear if they spend a significant time away from this area.

Many stated that they have noticed that they are developing a increasing sensitivity to many "chemical substances" and that the intensity of their reactions seems to be increasing.

Two people who worked at the plant have been diagnosed as suffering from multiple chemical sensitivity. One of those people is Mr Dominic Pinzone. Associate Professor Chris Winder is a consultant in chemical safety and he writes in a letter to Mr Chris Phillips who is a barrister and solicitor -

Dear Mr Phillips,

I write further to your letter of 23 March 1998, containing over fifty reports and correspondence regarding the health status of Mr Dominic Pinzone, and regarding aspects of the Alcoa Liquor Burning Plant at Wagerup. In answer to some of the questions you raise in your letter about Mr Pinzone's condition:

1 I support the diagnosis by medical advisers to Mr Pinzone that he has Multiple Chemical Sensitivity. While this is still a controversial condition which polarises the medical community, it is sufficiently well established in the scientific and medical literature to be acceptable as a medical entity. Further, in NSW at least, it is recognised as a compensable injury.

2 This condition was induced by exposure to contaminants in the workplace environment and by working conditions while employed as a fitter machinist working for Alcoa at the Wagerup facility.

3 There are three distinct phases of MCS: (i) initial symptoms to low level exposure to chemicals which recede with avoidance of exposure; (ii) reversible sensitivity; and (iii) permanent multiple chemical sensitivity. Mr Pinzone's symptoms of multiple chemical sensitivity has progressed at least to the second stage, and with the evidence of "spreading" (to other chemicals) may have progressed to the final stage (permanent MCS).

4 Mr Pinzone must not work in <u>any</u> job where there is a risk of exposure to chemicals. Further, I am concerned that Mr Pinzone's has access to a property, which is located adjacent to the facility where he worked, is not sufficiently far enough distance from the plant itself, and that exposure to emissions from the plant may still cause symptoms of chemical sensitivity. Mr Pinzone should give serious consideration to not visiting this property if exposure to emissions is likely.

It further states -

6 A responsible person or persons in charge of an industrial facility has an obligation to ensure that areas of potential risk under their area of responsibility should not pose a risk to workers, the public, or the consumer of products from the facility.

7 This obligation extends to the design and commissioning (a well as operation) of such areas, and often, it is necessary to consider the advice of technical experts about design and performance (providing that qualifications and expertise of suppliers of such advice is considered suitable).

I ask members to take notice of this next sentence -

One possible problem here is a development of a conflict of interest where for whatever reason, the advice given is not necessarily of an objective nature (for example, the technical adviser may work for, or be contracted to, the owner or operator of the facility, or in the case of a union or community interest, may be unduly influenced by extraneous factors).

8 Where an industrial facility is commissioned and advice is forthcoming from any source about risks (to health, property or the environment) from operation of the plant, the owner or operator of the facility must take all reasonable steps to ensure that the risks are controlled to acceptable levels.

He further states at point 9 -

where emerging risks are of a level that if they are significant, they must corrected without delay so the risk is controlled;

> other risks, which are not immediately considered significant, and more in the nature of a nuisance (but not a risk to health or the environment) should also be addressed, although not necessarily with the same level of control as significant risks (such as a worker training program or public information campaign).

10 In Mr Pinzone's case, it is apparent that the operator of the liquor burning plant (Mr Pinzone's employer) did little to deal with what seems to be increasing worker and public concern about plant emissions, and in at least the case of Mr Pinzone, emergence of clinical disease. As such, in my opinion, the operator of the facility breaches statutory obligations under Western Australian occupational health, safety and welfare legislation.

Another significant point made by Associate Professor Chris Winder in the "Final Report AT223B, Multiple Chemical Sensitivity of Mr Dominic Pinzone" is -

> The company's approach to dealing with the issue was reactive, by denying that a problem exists, but to try and fix the (non)problem anyway. The company has continued to insist that the emissions are basically of a nuisance nature. However, this insistence makes it impossible for the company to address this issue realistically.

This is a very important point. Alcoa says that it is simply an odour that it must get rid of - it is far more than an odour - and it is asking people to return to work in that area. The document further states -

> Further, the advice the company receives to assert this position is flawed. For example:
>
> > insistence that individual contaminants are within their relevant exposure standards ignores the fact that exposure standards are not "no effect levels";
> >
> > insistence that individual contaminants ignores the possible interactions that individual contaminants can have with each other (and Alcoa admit to there being 200 different chemicals in their emissions);
> >
> > a suggestion that Alcoa should address community concerns by making the community change its mind indicates that Alcoa consider that what they are doing was right and unchallengeable.

It has asked Mr Pinzone to go into that dangerous environment, and all the other workers in that plant have exactly the same problem. I have focused on the liquor plant because that is when a significant increase was noticed by the community. Problems were already showing up in oxalate plants, not just at Wagerup but also in Kwinana. A letter from Mr William Van der Pal addressed to Ron Stone, the Safety Manager of Alcoa Wagerup states -

> I am aware that Oxalate has posed a problem to Pinjarra for a number of years and at Kwinana the workers have done an informal survey and found that of 72 workers that they know have worked within Oxalate over the last 5 years 68 have had serious illnesses. Some of the descriptions I have received of the illnesses are -
>
> 1. Heart attack.
> 2. Chemical poisoning.
> 3. Stroke.
> 4. Kidney Failure.

It is interesting that one of the workers at Wagerup has also had kidney failure and has had his kidneys removed. We are talking about very serious diseases and symptoms as a result of these chemicals. The fact that Alcoa said it would work on shutting down the odours is a very dangerous situation. If it gets rid of odours from substances that are toxic, but not the toxicity, nobody will know they are breathing in those toxins until symptoms occur. That is the worst possible thing to do in the circumstances. It is interesting that when the liquor plant was shut down to make modifications because of the wide range of complaints received - this liquor plant was moved from Kwinana because of complaints in the first place - the only people who became ill were those who had worked in that plant.

It must also be taken into consideration that Wagerup has approval to expand the plant to double its current size, and consideration is also being given to installing liquor burners at Worsley. The minister said last week that the company must go through the approval process, but it already has approval for the Wagerup expansion. The minister also said that WorkSafe will cover these matters; however, it does not cover Alcoa because it is classified as part of the mining industry. That answer from the minister was incorrect. The Government's response has been very weak. It said it would sit in on the Alcoa investigation of this issue. However, this is not an Alcoa issue; it is a community issue of vast significance. A wide range of people have been made ill, some permanently and very seriously. It is beholden on the Government to take real action. It should immediately commence a health study to be undertaken by the Health Department, it should shut down the liquor burner until the study is completed, and it should review the conditions of approval for aluminium plants, and the regulations and standards on chemical exposure. When Mr Pinzone went to the doctor at the plant, the doctor would not

help Mr Pinzone or refer him because he might be called to give evidence in court at a later date. It is appalling, unethical behaviour.

HON MARK NEVILL (Mining and Pastoral) [3.54 pm]: I visited the Wagerup refinery approximately 12 months ago when Alcoa had installed the liquor burning unit, and I was briefed on the subject. There was some interest in the problems that had arisen with residents and the workers. The material being burnt is the humus and organic material concentrated in the bauxite after it is mined. The emissions from burning that material are not much different from the emissions when burning wood and other organic compounds, such as coal and gas. A suite of organic compounds is produced. Coal-fired power stations produce benzo pyrene, which is a known carcinogenic compound, which goes up the flue. If people want to stop emissions in WA, they must shut down coal-fired and gas-fired power stations, ban all wood fires, and take every car off the road that does not have a modern catalytic converter that completely burns the fuel. Alcoa has responded to the community concerns. I do not see a problem with the allegation that Alcoa does not acknowledge there is a problem. At the end of the day, people must rely on empirical evidence.

I am currently reading a book by Carl Sagan, an American cosmologist who is very prominent in the United States, entitled *The Demon-Haunted World: Science as a Candle in the Dark*. The author goes through a series of human perceptions, and what is imagination and what is reality. The problem in situations such as this is in deciding what is real and what is not real. That is not easy to define but, at the end of the day, people must rely on empirical information. They must look at what is probable, and not what is possible, in terms of damage to people's health. Science has its imperfections, and sometimes science makes mistakes and corrects avenues it has previously gone down. Pseudo-sciences are very popular these days and when all the embellishments are stripped away, there is no evidence that people are taken by aliens in spacecraft and myriad other things, yet people believe those things to be true. To a certain extent we may be dealing with that in this instance. That liquor burning plant has removed 90 per cent of the emissions going into the atmosphere.

Hon J.A. Scott: That is not empirical.

Hon MARK NEVILL: Alcoa must be asked to substantiate that, but I have been given that information. When I knew this debate would be held, I asked Alcoa to send me any information it had on environmental monitoring of its emissions. The information lists acetone, benzene, biphenyl, ethyl benzene, naphthalene, pyridine, styrene, toluene, plus quite a few other compounds. The document has the emissions for 1997 and 1998, the WorkSafe standards, the ambient air quality standards and some of the monitoring results. According to this information, all the emissions are way below the normal standards and in some cases are 10 000 times lower. I seek leave to table this document.

Leave granted. [See paper No 316.]

Hon MARK NEVILL: There is nothing new about the Bayer process at Alcoa. It has been well tested.

Hon J.A. Scott: It has never been used before.

Hon MARK NEVILL: The Bayer process has.

Hon J.A. Scott interjected.

Hon MARK NEVILL: Hon Jim Scott said a minute ago that one person had died of kidney disease.

Hon J.A. Scott: His kidneys were removed.

Hon MARK NEVILL: It is another matter to associate that with the emissions. I suffer from some of the symptoms Hon Jim Scott described, many of which are common among a broad section of the population. The association between the two must be demonstrated. The University of Western Australia and Monash University in Victoria are continuously undertaking health studies in that area. There is no empirical evidence to show -

Hon J.A. Scott: Who has?

Hon MARK NEVILL: Alcoa of Australia has commissioned studies which have been ongoing for a number of years. Alcoa closed the plant for six months to undertake further work on it and spent many millions of dollars.

Hon Max Evans: It spent $5m.

Hon MARK NEVILL: I thought it was $13m. My memory is not so good 12 or 18 months down the track; nonetheless, it spent a great deal of money on reducing those emissions. To suggest Alcoa has not taken the problem seriously is unfair.

Hon J.A. Scott: I said the State Government had not taken the problem seriously by leaving it to Alcoa.

Hon MARK NEVILL: Alcoa has much more expertise and money to spend on the problem. I am sure it has been working with the State Government to keep those emissions at a suitably low level. I have not heard of the 60 workers who suffered a disability. Were they known about before the plant was built?

Many people are sensitive to a variety of chemicals; they do not have to be mining industry emissions. If my daughter touches a tomato bush her skin comes out in a rash. Many people find grevilleas cause them serious rashes. My wife's nose has been clogged up since the rye-grass started blooming. It is very dangerous of the member to link symptoms to the liquor burning plant unless he can produce a clear empirical relationship. If the studies by Monash and UWA show that link, well and good. However, we cannot shut things down because people believe they are suffering an adverse health effect as a result of something they perceive to be damaging.

Hon Jim Scott said that Alcoa had not been putting in sufficient effort to research the matter. It seems to me that it has taken all reasonable steps to reduce or control the risks.

Hon J.A. Scott interjected.

Hon MARK NEVILL: If it did it should not have done that; it deserves censure for that. Of all the mining and manufacturing companies in Western Australia, probably the company that is the most health and safety-conscious is Alcoa. It has bent over backwards to do the right thing. It has certainly done that with the liquor burning plant, although some people are not satisfied.

We must consider to what extent many of those problems associated with the liquor burning plant are real and to what extent they are psychological. We have heard of the placebo effect. The opposite applies with other issues; for example, as soon as someone complains about symptoms many other people find they have the same symptoms.

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.06 pm]: When I was asked to talk about this matter I was unsure whether the subject related to health, the environment, WorkSafe, the Department of Minerals and Energy or resources. I have since worked out that it concerns liquor, because we are discussing the liquor burning facility at Wagerup and I am the minister responsible for liquor.

Hon Jim Scott raised this matter a while ago. The issue has been around for a while; the Health Department received representations from the Department of Environmental Protection in 1995 when problems emerged. Those problems seemed to have dissipated until John Bradshaw, the member for Murray-Wellington, asked a question of the Minister for Health on 15 September regarding a group of residents living near Alcoa. The reply to him was that the problem was difficult to understand and Alcoa was prepared to pay for people to have a medical checkup. The Health Department says that it is preferable that matters such as this be investigated in the first instance by medical practitioners whose reports could then be assessed by the department. As Hon Mark Nevill said, people complain about reactions to conditions at different times of the year which may or may not be a result of smoke emissions.

Hon Jim Scott asked a question on 21 October that referred to the workers' problems and implied that WorkSafe WA had a responsibility to monitor occupational health. He is right. However, in this case the Department of Minerals and Energy is the appropriate department to deal with this issue because the site at Wagerup is considered to be a mine site rather than an industrial site.

DOME has been closely associated with this matter for some time because concerns have been raised by the residents south of the refinery about the impact of the liquor burning facility at Alcoa. The source of the odours is volatile organic compounds, within exit gases, as Hon Mark Nevill explained to us. Alcoa has undertaken quantitative monitoring of VOCs impacting on nearby residents. Results were three to four orders of magnitude less than exposure standards for atmospheric contaminants at the workplace - which, as Hon Mark Nevill indicated, does not constitute a health risk. After the initial commissioning in 1997, the liquor burning facility was shut down while various technologies for reduction in VOC levels were investigated. The liquor burning plant recommenced in May 1998 with improved pollution control technology. In other words, it was closed down for a full six months to overcome the problem.

The south west regional office of the Department of Environmental Protection is the primary point of contact for Alcoa and the public in the region. The concerned residents have formed the Wagerup Community Health Awareness Group. The DEP has not received any official complaints about odour issues in 1998. I asked Hon Jim Scott earlier by way of interjection whether the problems emerged before or after the closing down of the plant. He said he did not know. It makes a difference if the problems emerged before November 1997 and post May 1998. The DEP has received a number of letters from the WCHAG and from one of its members regarding odour and dust issues. The DEP has investigated the issues raised in those letters with Alcoa and others and appropriate action has been taken to address those concerns. Further, in correspondence sent to Alcoa and copied to the DEP, one person has made numerous complaints. These complaints were made in July and early August, but the liquor burning facility was not being used on four of the six days mentioned in the complaint. That makes one wonder what caused the complaints.

In response to concerns expressed by the WCHAG, Alcoa has agreed to undertake and fund a health survey around the Wagerup facility. The aim of the study is to determine whether any community health problems are associated with activities on the refinery site. Alcoa has invited the WCHAG to be involved in the study. The group has welcomed the study and requested third party involvement. Alcoa agreed to the request by including in the study the DEP and other government

agencies, especially those with health expertise. Although the refinery holds a licence under the Environmental Protection Act, the DEP is primarily involved in issues associated with the control of emissions from the site. The health effect study is primarily one which can and should be dealt with by the Health Department, although its outcome may have implications for control measures required by the DEP.

I am glad Hon Jim Scott raised this matter. He asked a question last week and Hon Mark Nevill helped to clarify it. I am not criticising his raising questions about the electorate. I am trying to bring the facts into the arena of Parliament. Alcoa has made a big effort to control these problems. I was told that the cost was about $5m, but Hon Mark Nevill thought it was higher. Alcoa has done a lot to help. The Department of Resources Development was asked for comments. Independent analysis of the refinery has shown that all emissions are well within accepted national and international air quality standards and guidelines - in some cases, hundreds and thousands of times lower. I was going to table certain emission documents, but Hon Mark Nevill has tabled the same documents.

Alcoa has worked with independent experts and workforce representatives to ensure the validity and integrity of the sampling and analytical procedures and has put in place a comprehensive monitoring program. Alcoa has been a very responsible corporate citizen. We have seen its reafforestation program over the years and it has improved that program since the early days. I am certain that it would not deliberately neglect its work force or its neighbours. It is doing all it can. Hon Mark Nevill and I look forward to the report from the study group that has been set up with representatives from the Department of Environmental Protection and other government agencies to look at the problem. Alcoa wants to rectify the problem as much as the member does. It also wants to investigate whether the problems which people have are related to the refinery site. As Hon Mark Nevill said, they can occur for many other reasons at different times of the year. I thank the member for raising the question and I hope he now understands the true position.

HON J.A. SCOTT (South Metropolitan) [4.11 pm]: We have heard from two speakers. Hon Mark Nevill always seems to find a way to disregard the wellbeing of people when that is put against the rights of mining companies.

Hon Ken Travers: That is an outrageous statement!

Hon J.A. SCOTT: That is nonsense. It is a reality. Members should look at *Hansard*. This case is a personal issue. We are talking about people's health. This is a whitewash, because we are allowing a company to carry out the health study. This is a community health study. It may carry out a study on its workers, but the townsite and the people who have farming properties nearby are also affected. This is not the company's area. It is responsible, but the Government also must be a little responsible. I am not asking for the plant to be shut down because - as Hon Mark Nevill would know if he had checked - the shut down would not affect the plant for at least three months. The effect of that would be additional costs because the company would have to bring in a new product rather than recycle the product it is using. It would not be a huge problem to carry out an epidemiological study through the Health Department - not through Alcoa, which has said that it will get rid of odours. It wants to get rid of the smell. Many poisonous gases can kill a person stone-dead without a single smell going up that person's nose. It does nothing except take away people's ability to know that they have been affected by something drifting in the air. It is very dangerous and stupid. If any expert is advising Alcoa of that, it should get a new expert. Anyone with commonsense can see that is wrong.

Hon Mark Nevill said that we should rely on empirical evidence before we shut down the plant. I did not say, "Shut down the plant." I said, "Shut down the liquor burning section." There are already other oxalate plants and other ways in which that plant can continue to run. Hon Mark Nevill referred to the list of emissions and the fact that they do not exceed standards. He, like Alcoa, has the reduced list because the list that comes from the other side of the argument is much greater. Quite a few things in the emissions have been left off that list. I have asked to be provided with a full list. The report by AusTox states -

> Indeed, the Australian definition of exposure standard is:
>
> > the exposure standard represents airborne concentrations of individual chemical substances which, according to current knowledge, should neither impair the health of, nor cause undue discomfort to, nearly all workers. Additionally, the exposure standards are believed to guard against narcosis or irritation which could precipitate industrial accidents. Exposure standards apply to long term exposure to a substance or agent over an eight hour day for a normal working week, over an entire working life.
>
> The critical words in this definition are "nearly all workers", which are not defined quantitatively or qualitatively. Quite neatly, these words can incorporate the chemically sensitive worker into the scope of the exposure standard, without any real need to address whether the exposure standard is sufficiently adequate or protective . . . . The words "nearly all workers" are therefore sufficiently imprecise to assist the occupational health practitioner to establish what is an acceptable exposure -

The regulations are no good. That is why the company is able to get away with it. Hon Mark Nevill said we need empirical evidence. If a large percentage of the community who have been ill since that plant started were not ill before it started, and

the people who work in the plant are the most ill, that is empirical evidence. The liquor burner should be shut down, not the whole plant, and those studies should be undertaken.

Motion lapsed, pursuant to standing orders.

ADDRESS-IN-REPLY

Motion

Resumed from 22 October.

HON BOB THOMAS (South West) [4.17 pm]: I thank the Governor for his address to this House several months ago. I appreciate the legislative program that the Government has mapped out for this Parliament for this legislative year. I will address a couple of issues which are relevant to my electorate. Firstly, I congratulate the city of Bunbury for winning two of the tourism awards that were announced in Geraldton on Saturday night.

Hon Barry House: The Tourism Industry Association won it, not the city of Bunbury.

Hon BOB THOMAS: However, it works in the Bunbury city community and has enormous support right across that community. I hope that the member opposite does not think that only those people who are associated with the association can take the credit. A lot of people are working very hard to improve Bunbury's tourism potential and Bunbury's tourist appeal.

Hon N.F. Moore: They have done a good job.

Hon BOB THOMAS: They have done an excellent job. Pauline Vukulic and other members of the board are extremely innovative and are very dedicated to improving Bunbury's tourist appeal. I see a lot of potential for Bunbury to develop as a gateway to tourism in the south west. It is important that we continue the work that they have undertaken because it has the potential to increase employment opportunities in Bunbury. The work done by anybody associated with these awards is greatly appreciated and I congratulate them for their awards. I note also that another town which is not within my electorate, Kojonup, was also the beneficiary of one of these awards. That is good because Kojonup is one of those places that does not have any of the panoramic beauty and natural attractions like Albany, Margaret River and Broome. Tourism is much harder to generate in places like Kojonup. The fact that a dedicated bunch of people in Kojonup have made the best of what they have and been successful in receiving one of the awards is just fantastic. One has only to look at the pride that people take in the town of Kojonup to understand why Kojonup was one of the beneficiaries.

While I am congratulating people, I take the opportunity to also congratulate the new committee at the Manjimup Golf Club. This year the new committee took over from Robert Kamman and his committee to run the J.B. Ipsen memorial golf tournament. Small golf clubs like those at Manjimup and Collie, and other small clubs, need to raise funds over and above what they can raise from their green fees and membership fees. The way they do that is to run a tournament on one weekend, usually on a predetermined weekend every year. It is open to all players who have a registered handicap; it receives sponsorship from local businesses and offers very good prizes and attracts a large field. The J.B. Ipsen tournament at the Manjimup club is probably the best of these tournaments I have ever played in. The Collie Riverside Open would come very close to it. However, the sponsors in Manjimup are brilliant. For a small community, the prizes and trophies are phenomenal. As a result of the quality of the tournament, it is always completely subscribed with a maximum field of 270 every year. I place on record my appreciation of the work of young David Rigoll, Chris Brockman, Brad Coutts, and the rest of the committee. They are all very young people in their twenties or thirties and they organise the tournament. I place on record my appreciation for the work they do because the tournament ran extremely smoothly with a full field.

The town of Manjimup benefited as well as the club. Members can imagine that 270 players would bring spouses, children and other people to the town. As a result, the hospitality industry benefits as well as the arts and crafts organisations in the whole of the district. It resulted in a major economic fillip for the town worth tens of thousands of dollars. This is very good for communities like Manjimup and Pemberton. Some of the women even travelled as far as Balingup to attend the arts and crafts facilities there. Therefore, the whole of the south west benefited from this tournament. It is great to see young people involved in clubs developing the skills that they will use to ensure that these organisations are run effectively in years to come. It is also a great time to play on courses like Manjimup Golf Club because much more attention is paid to the course. Much of the rough is cut, therefore it is easier to find the ball if players are a bit wayward like I am. The greens are always manicured and probably at their best - better than at any other time during the year. Anybody associated with either the presentation of the course or the management of the tournament deserves a pat on the back because it was a fantastic event once again this year.

The name of the event honours J.B. Ipsen, who was one of the greater supporters of the golf club in Manjimup. A lot of his younger relatives are playing the game now. However, many other people in Manjimup are playing golf because of the enthusiasm of J.B, who passed away about 20 years ago. He has been commemorated with this event. The value of his efforts for golf in Manjimup would be matched probably only by someone like Doug Edwards, who has given so much to

the game and coached so many young people who have gone on to become extremely good golfers. Another who comes to mind is Adam Davies, who just recently decided to try his luck on the pro circuit this year. I can recall when he started playing golf as a 14 year old coached by Doug Edwards. I could see then that he was extremely talented and I knew that he would go a long way. I also hoped that he would become a professional, and he has taken the big leap. I believe in his ability and I hope that he believes in his ability and becomes a success because he has always had a great temperament and been a great contributor to the game. Golfing in Manjimup is one of the strongest aspects of its community and the new young committee, which has taken responsibility from Peter Aram and Robert Kamman for the J.B. Ipsen tournament, has shown me that golf has a great future in Manjimup.

While I was at the J.B. Ipsen tournament this year, which was conducted over three days - Friday, Saturday and Sunday - I was surprised at the number of people who came to me and wanted to talk about general political issues. People have tended not to do that with me unless they have been traditional Labor supporters who know my occupation. However, this year I was approached by many people who, I would say, are not Labor supporters. I spoke to them about a range of issues which are abroad in the community currently. I can tell members that there is a great degree of cynicism towards the State Government. There is considerable angst about a large number of issues and considerable concern about the way the State Government is handling a number of those contentious current issues. Some of the issues that people raised with me were the amount of money allocated to monuments such as the belltower, the Northbridge tunnel, the Polly Farmer Freeway and a second bridge over the Narrows. People think that the Government's priorities are wrong in that scarce resources are being allocated to these projects when they should be allocated to health, in particular, education and better community safety. People are particularly anxious about the bikie problem. They see a real dichotomy there in that the Government is handling this issue with a double standard and that bikies are being given special treatment. People believe that bikies are being given special treatment and are able to break the law without sanctions being applied, whereas other people who might commit much less serious crimes, such as speeding or some other traffic infringement -

Hon Barry House: They do not do it in the south west with John Watson and his team there.

Hon BOB THOMAS: John Watson has done a good job. However, people think that too much money is being spent on such things as multanovas and trapping law-abiding citizens; that too many police resources are being allocated to what people see as revenue-raising functions of the police and inadequate resources are being allocated to dealing with the lawlessness of bikies. The most alarming aspect of the current bikie feud is that it is essentially about drug territories as they relate to two factions of organised crime in Western Australia, but the general public to whom I have spoken do not share that view. They are only concerned about the double standards. People were extremely concerned that the police allowed the bikies to ride without helmets and that they had a police escort to Karrakatta cemetery. People were not concerned about the organised crime aspect. I hope that public opinion changes, so that people realise that the police are dealing with organised crime. I hope that, as a Parliament, we are able to come up with some more effective sanctions to deal with this problem. If we do not, I believe it will get further out of hand and we will be dealing with a much more serious problem later on.

Several people raised with me the amount of money that this Government allocated to the investigation to identify the Main Roads whistleblower. Many people believe that it is completely inappropriate to have spent $200 000 and possibly $250 000 on this investigation. Some people find it quite bemusing. They believe that the money would be better spent elsewhere. I must agree with them. I cannot see that we have had any benefit at all from this investigation into the whistleblower who released the Matson report to the public in December last year.

I was also surprised at the number of people who wanted to talk about the goods and services tax. One must remember the demographics of the people who participated in the event. The sorts of people who attended were retired business people, professionals and farmers. They tend to be more conservative when dealing with social and economic issues. They did not believe that with a GST people would be better off. I was surprised at the number of people who believed that it would be wrong to introduce a GST in Australia. A number of small business people told me they thought they would be worse off in two ways: First, they believed that spending patterns would change and their turnover would be affected.

Hon Barry House: If so many people believe that, how come the coalition won the federal election?

Hon BOB THOMAS: The coalition won the federal election because it won a majority of seats but it did not win the two-party preferred vote.

Hon Barry House: When you were first elected in 1989, Dowding won by 161 votes and your party obtained only 46.5 per cent of the preferred vote. Did you hand government back then?

Hon BOB THOMAS: No. I am not asking the coalition to hand government back. The member must realise that the last federal election was virtually a referendum on a GST.

Hon Barry House: And Howard won.

Hon BOB THOMAS: The coalition received less than 50 per cent of the two-party preferred vote. If the member looks at the composition of the Senate vote, he will see it is significantly less than 50 per cent.

Hon N.D. Griffiths: The member invents the figures from 1989. I think it was more like 52 to 48 per cent.

Hon BOB THOMAS: I think it was 48.5 per cent.

I shall return to the issue. I have spoken to a number of small business people who believe a GST will affect them in two ways. Firstly, people's spending patterns will change, and that will be to the detriment of small business. When people have less disposable income -

Hon Greg Smith: They will have more disposable income.

Hon BOB THOMAS: They will have less because people will be paying more for food, power and so on. When people have less disposable income they reduce the number of non-essential items they purchase. Most small businesses tend to supply non-essential items. A significant proportion of small businessmen believe they will be worse off. If members do not believe me, they should talk to small business people. I have talked to them. They believe they will be worse off also because of the compliance costs associated with a GST. Many are concerned that they will have to purchase software and, in some cases, hardware in order to comply with the requirements of a GST. People are aware that the average small business in New Zealand spends up to five hours a week complying with all of the requirements of a GST. To a small business, time is money. That message came through clearly at the weekend when I spoke to a number of small business people in Manjimup.

Hon Greg Smith: If there are exemptions, it will be more complicated than the currently proposed GST, which is extremely simple.

Hon BOB THOMAS: The member is talking about what he hopes will be the case rather than what will be the case. New Zealand and the United Kingdom have extremely complex taxation regimes which have increased the size of the black economy. Rather than bringing into the net many more people who must pay tax, those people who were able to avoid paying income tax have found ways to avoid paying consumption tax. The people who previously did not pay income tax have been replaced by people who, through the black economy, are able to avoid indirect tax. After the GST and VAT were introduced in New Zealand and the United Kingdom, the size of the taxable economy did not increase.

In fact, the black economy was estimated to have increased in those countries following the introduction of a GST. People are very innovative and able to barter and trade their services easily, and they found ways of avoiding the GST. The same will happen in Australia if a GST is introduced. I would like to see the legislation blocked in the Senate.

Hon Barry House: You said you would never block Supply. It is a Supply Bill.

Hon BOB THOMAS: It is a Bill to introduce a new tax.

Hon Barry House: It is revenue, is it not?

Hon BOB THOMAS: It is a Bill to introduce a new tax. The people of Australia cast two votes on 3 October: One for the House of Representatives and one for the Senate. The voting patterns indicate that people voted one way for the House of Representatives and another way for the Senate, where the parties which oppose the GST were given a majority. Therefore, the Senate has a mandate to block the GST legislation, which I hope will happen. It is a regressive tax which will impact adversely on those people in our community who are least available to afford an increased tax liability.

Seniors will be one of the groups to be significantly worse off under a GST. I am aware that the Howard Government has proposed a compensation package which it claims will offset the impact of a GST on pensioners. However, that package is inadequate. The Government says it will increase the age pension by 4 per cent, yet by its own calculations the impact of a GST will be an inflation rate of 1.9 per cent. It is claimed that pensioners will be better off as a result of the compensation package. Nevertheless, the compensation package is only as good as the Government's goodwill. Along with its GST, the New Zealand Government introduced a compensation package which provided some financial benefits to pensioners to offset the increase in the cost of food, accommodation, power and so on. New Zealand's GST was introduced in 1987, and the compensation package was abolished in 1990.

I know a retired person who tried to maintain his dignity by renting a small flat in Wellington and living with some independence. However, once the compensation package was removed, he handed back the keys for the flat and moved in with his son as he could no longer afford to live on the pension. He had had a low paying job all his life and a large family, and he never built up any capital. He is one person of whom I am aware who was forced to move in with his son under such a regime.

I had occasion a couple of years ago to enter a couple of New Zealand supermarkets, and I noticed large receptacles by the cash registers. I was told that they were poor boxes and that many people in New Zealand buy another item when shopping to place in the poor box. Those items are later distributed to the people who have been disadvantaged by the deregulation of the New Zealand economy over the last 10 years.

During that time, the key indicators have shown that the New Zealand economy, and its growth rate, has performed more

poorly than Australia's. Some indicators relate to the lack of a resource industry in New Zealand, but that country has underperformed in growth, employment and investment. Anyone who says that a GST is a panacea for economic problems is kidding himself. New Zealand went down the path of total deregulation and is no better off than Australia - if anything, it is worse off. Also, massive social problems have arisen as a result of the deregulation of New Zealand's economy.

I am reminded of when, aged 12 or 13 years, I attended York Senior High School. I recall that Colin Bury was Australian Treasurer in the Gorton Government of the day; it must have been 1969. We had only just got television and we watched everything we could. My mother, being very interested in politics, always watched the broadcast of the budget speech. I remember watching the budget broadcast when the Government increased pensions for supporting parents, but provided nothing on a per-child basis. We were a single parent family of seven children. My mother became distressed because it was extremely hard to live in those days in such circumstances. The welfare assistance was nothing like today's. Usually, if pensions were increased by 50¢, state housing rent increased by the same amount and no net gain was experienced. My mother was angry. Colin Bury was interviewed on *Four Corners*, which, as members may recall, was screened on Saturday nights in those days. In debate about the need for a more appropriate level of welfare assistance, Colin Bury stated that it was unnecessary to increase welfare. He said it was very easy for someone on a pension, or unemployment benefit, to attend the Salvation Army on Sunday evening for the service and receive two pieces of bread and jam and a cup of tea following the service. That was the attitude to welfare of a Minister of the Crown in the Federal Government; it was a cavalier attitude towards people who, often through no fault of their own, depended on welfare to survive.

I found that attitude quite irrelevant. Those people who steadfastly refuse to accept that a GST will hurt low income earners, and particularly pensioners, have buried their head in the sand and are not taking an objective view on this matter. Low income earners do not have an average spending pattern and tend to spend a higher proportion of their income on the basic necessities of life than do high income earners. A recent study said that low income earners spend 24 per cent of their income on the necessities of life compared with more affluent families, who spend just 12 per cent. Therefore, all of the Government's modelling, which apparently showed that the impact of a GST on families would be 1.9 per cent, is just ludicrous. I believe that when this issue is debated in the Federal Parliament, we will find that the Government had information which showed that the impact would be closer to 8 or 9 per cent than to the 1.9 per cent that it has talked about. If that is the case, many people will find they have been conned on this issue and will be extremely upset.

Many people believe that the federal coalition has betrayed their trust in one form or another. Those people include seniors who are upset about the Government's nursing home policy, young families who have had their child care subsidies reduced, and people who work in low paid industries and need the protection of proper health and industrial legislation. Those people will feel even further betrayed when they realise that the federal coalition Government has sat on a report which shows that its modelling about the impact of a GST on low income earners is completely wrong.

Since the federal election, I have spent time talking to people in my electorate about the outcome of that election. One point that has been sheeted home to me is the level of disaffection with both State and Federal Governments, which has resulted in a significant vote for One Nation in the south west of Western Australia. The depth of feeling against the Federal Government on issues such as Telstra and the GST led to One Nation receiving a vote in the seat of Forrest of 13.5 per cent, which was much higher than its average in the State and much higher than was expected by the Liberal Party. The federal member for Forrest, Geoff Prosser, said in an article in May that he thought One Nation would receive only a small percentage of the vote; I think he estimated it would be less than 5 per cent. The Labor candidate, Tony Deane, and I could not believe that figure; in Tony Deane's view it would be 15 per cent, and in my view it would be 20 per cent.

Tony and I have spent a lot of time in the south west dealing with various groups and various issues that are important to people in the south west. People in the south west are particularly concerned about the rundown of government services and the reduction in the quality of those services. The people in the southern part of the electorate in particular are extremely concerned about the loss of jobs as a result of government services being closed or downsized. We knew that there would be a huge backlash against the coalition, and were not surprised on election night when One Nation received 13.5 per cent of the vote in the seat of Forrest. It was interesting that the vote for One Nation was a bit higher in the south west than it was in Bunbury.

Many people are extremely disaffected with the coalition and believe that it has let country people down. I first detected that attitude six or seven years ago when people were criticising the banks for turning their backs on country towns. That same attitude has now pervaded many of the decisions that have been made by State and Federal Governments. If that attitude persists, this House will have a One Nation member from the south west after the next state election, because a quota for the South West Region is 12.5 per cent; and One Nation received more than that in the primary vote at the federal election. This State Government has failed to understand the gravity of the situation. I am particularly concerned that the State Government still intends to push ahead with its proposal to contract out the construction and maintenance functions of Main Roads, with the loss of hundreds of jobs between Albany and Bunbury. People in country areas believe that those decisions are inimical to the best interests of their communities. If the state coalition Government does not come to its senses and stop making these sorts of decisions and pursuing its economic rationalist policies, at the next state election it will lose to a One Nation candidate one of its four upper House members in the South West Region.

The State Government finally got it right when it decided to drop option T3 from the Kemerton access route for rail transport from the Kemerton Industrial Park to the port of Bunbury. There has been a debate in the south west about the best means of transporting produce from the Kemerton Industrial Park. One of the initial options was to build a port at Kemerton. That option was rejected after significant debate. We were then left with a debate about which option we needed for a rail access to the port of Bunbury. Three options were proposed. The first option was T3, which was to take a railway line -

Hon Barry House: It is interesting that you have just rediscovered Bunbury.

Hon BOB THOMAS: That interjection comes from a member who has fled Bunbury and moved to Margaret River, which is a very nice place to have an office - almost as nice as Albany.

Hon Barry House: I heard the Leader of the Opposition on the audio system, and he neglected to mention that Tony Deane's vote dropped by 2 per cent.

Hon BOB THOMAS: I am glad Hon Barry House reminded me of that, because the Liberal Party's primary vote fell by 14 per cent and the Labor Party's by 1.5 per cent.

[Questions without notice taken.]

Hon BOB THOMAS: Most of that effect was the result of the One Nation impact. Australia's election system is not a first-past-the-post but a preferential system. I had not made the point that for the first time since 1993 the Labor Party increased its two-party preferred share of the vote by 7.5 per cent.

Hon Barry House: Thanks to One Nation.

Hon BOB THOMAS: It is thanks very much to the coalition and the ineptitude of the Federal Government and the destructive nature of its policies.

Hon B.K. Donaldson: We won the election.

Hon BOB THOMAS: The coalition won the majority of the seats, but not the majority of the votes.

Several members interjected.

The PRESIDENT: Order!

Hon BOB THOMAS: If the coalition thinks that the One Nation vote was a one-off protest against the coalition, it should think again. Its members should go back to the people who left them in droves and voted for One Nation. Initially, I too thought that it was an aberration and that some of those One Nation preference votes came to us when they would not normally. I do not know what happened elsewhere, but in the seat of Forrest, One Nation supporters were handing out how-to-vote cards with one glossy side and one photocopied side. The glossy side directed preferences to the Labor Party and the photocopied side directed them to the Liberal Party. At every booth I went to One Nation supporters were handing out their how-to-vote cards glossy side up. I thought that was the reason we received such a high proportion of One Nation preference votes. However, I have subsequently spoken to a number of people who voted for One Nation. I see them as conservatives who would normally vote Liberal or National Party. Some of them are my friends. I told them that we had received a fair proportion of One Nation preference votes and that I did not expect it to happen again. They said that I did not realise that they were very angry with the coalition and that they knew what they were doing. My initial assumption that they followed the suggestion on the glossy side of the how-to-vote card was wrong.

Members need only look at the size of the One Nation vote in Augusta and the proportion of One Nation preference votes that came to us, to see that voters knew exactly what they were doing. The demographics of Augusta are that people who live there tend to be much older. They are more interested in seniors' issues. They knew exactly what they were doing when they gave their preferences to us. The Labor Party two-party preferred vote went from something like 27 per cent to 40 per cent. If I were the coalition in this State, I would not say that it was an aberration and the Labor Party benefited from preferences from One Nation that it will not benefit from in the future.

Hon Derrick Tomlinson: You are developing an interesting proposition. Did the preferences from One Nation flow directly to Labor or was it through other parties?

Hon BOB THOMAS: It was through a number of other parties. We had a Christian Democrat candidate and a Citizens Electoral Party candidate.

Hon Barry House: There is a bit of hypocrisy - the Christian Democrats party giving preferences to the Labor Party!

Hon BOB THOMAS: Why on earth would that be?

Several members interjected.

The PRESIDENT: Order!

Hon BOB THOMAS: I was very interested to hear the interjection from Hon Barry House. Mr Jim Cunningham, who stood for the Christian Democrats, is one of the most decent people. I do not think he is at all political. For the member to denigrate the decision that Mr Jim Cunningham made after he had spoken to the two candidates and weighed up their policies, is a disgrace. He took a lot of advice from people and made the decision to direct his preferences to one candidate ahead of the other. The member should not denigrate that.

Hon N.F. Moore: I do not think he denigrated him at all. He was questioning the decision.

Hon BOB THOMAS: Hon Barry House knew exactly what he said. The way he said it was denigrating a good person who makes a fine contribution to the south west.

Hon N.F. Moore: It would be unlike you to spread something like that around.

Hon BOB THOMAS: Spread something like what?

Hon N.F. Moore: That sort of suggestion.

Hon BOB THOMAS: Hon Barry House made the suggestion and denigrated the decision -

Hon Barry House: No I did not.

Hon BOB THOMAS: Read the *Hansard*.

For the first time since 1983 the Labor Party received a swing of just under 7.5 per cent in of the two-party preferred vote.

I now refer to the transport corridor from Kemerton to the port of Bunbury. I said before question time that a fairly contentious issue in 1996 was the prospect of a dedicated port at Kemerton to service the Kemerton industrial park. I think the State Government has dropped that idea - I certainly hope so. The focus this year has been on a transport corridor from Kemerton to the Bunbury port, which has sufficient capacity to handle Kemerton freight. The debate over the last few months has revolved around three options. T1 was the initial option to take the railway line along land being reserved on Marriot Road from Kemerton east to the south west railway line to join north of Brunswick Junction and proceed to the Bunbury port. T2 was an inland route between Old Coast Road and the South Western Highway which would have cut through a significant number of dairy farms. State Cabinet, to its credit, rejected the T2 option almost immediately it was proposed. However, the T3 option was not rejected almost immediately, although it should have been. T3 is a route directly south from Kemerton, parallel to the Old Coast Road into the Bunbury port just south of Eaton. My prime objection was that the route was to pass through dormitory suburbs, which are the natural expansion of Australind and Eaton.

Hon Barry House: Do not misquote the minister: He ruled it out from the beginning.

Hon BOB THOMAS: Hon Barry House is trying to rewrite history. A significant campaign was waged against option T3 by the local community.

Hon Barry House: I can recall when Kemerton 2030 was launched that the option was ruled out. It is not even on the table now.

Hon BOB THOMAS: Hon Barry House is wrong. Obviously he did not attend the meeting at Settlers Hall in Leschenault in July with about 250 concerned residents.

Hon Barry House: I am not denying there was opposition to it - that is why it was ruled out.

Hon BOB THOMAS: It was not ruled out. The representatives from the government department made it clear to the meeting at Leschenault that the option was still under active consideration. The community made it absolutely clear that it would not tolerate it. The Labor candidate, Tony Dean, and I made the issue a central part of our campaign in that area. We totally opposed the T3 option.

Hon Barry House: The decision was already made. As usual, you're six months too late.

Hon BOB THOMAS: It was probably in the middle of September that Hon Barry House's colleague the member for Mitchell was on the front page of the *Bunbury Mail* trying to take credit because the Government had announced that it had discarded the T3 option.

Hon Barry House: So you acknowledge that it was discarded.

Hon BOB THOMAS: It was discarded in the middle of September 1998, not in June when the 2030 report was released at Brunswick. Hon Barry House should read the Press of the time. Mr Dan Barron-Sullivan indicated to the community in September that the Government had discarded the proposal.

Hon Barry House: He should take a good deal of a credit for it.

Hon BOB THOMAS: No. I even wrote to the Minister for Transport in July or August to urge him to reject options T2 and T3. He said that Cabinet was still considering T3. Option T2 had been rejected, so maybe the member is confused.

Hon Barry House: I am not confused.

Hon BOB THOMAS: That is the only possibility. The member was referring to option T2 which went through a number of dairy farms in a corridor between Old Coast Road and the South Western Highway. Once the member looks at his newspaper clippings on the issue, he will accept that he was confused. That is the only realistic reason for his continuing to insist that option T3 was rejected when the report was released. The Government finally made the right decision on this matter. It is counterproductive to have the railway line running through the proposed expansions for those dormitory suburbs of Australind and Eaton to the east of Old Coast Road.

I wanted to raise a number of other issues today but, unfortunately, time prevents it. I will take them up again when another opportunity arises.

The PRESIDENT: Order! The Leader of the House spoke during debate on an amendment to the Address-in-Reply; therefore, he has spoken in the debate. The House can grant leave to enable him to speak again.

Leave granted for the Leader of the House to speak again.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.45 pm]: I thank the House for granting leave. I will be brief. Standing orders should be considered again. As I have said before, standing orders provide that members can, after making a speech to the substantive motion of the Address-in-Reply, speak to any amendment to that motion. However, if one speaks to an amendment before speaking to the substantive motion, that is it - one cannot speak again. Hon Christine Sharp moved an amendment to the Address-in-Reply in unacceptable terms, and I could not accept that amendment and wait my turn in reply to the debate to speak to it. I was prompted to speak on that amendment, and by so doing I forfeited my right to make a speech on the Address-in-Reply motion. The fairness of that standing order must be considered by the Standing Orders Committee, bearing in mind that amendments were moved to the Address-in-Reply on three occasions. That is a little unusual for this House.

Hon Tom Stephens: Are you speaking on the amendment Hon Bob Thomas was going to move?

Hon N.F. MOORE: No, fortunately.

Hon Tom Stephens: Can we go back a step? Maybe we will move another amendment.

Hon N.F. MOORE: I am stunned by the thinking of the Leader of the Opposition.

Hon Tom Stephens: I am trying to show how cooperative we have been.

Hon N.F. MOORE: The Address-in-Reply has been going for so long that I cannot remember when it was moved! If it is not passed soon, we could have three or four more Governors appointed before it reaches Government House! I think the Governor is looking forward with enthusiasm to read what members have said in this place about his address at the opening of Parliament. It has been a drawn-out process. The Opposition has seen it as an opportunity to make a speech on the motion every day. On each day over the past few weeks, one or two members have spoken on the Address-in-Reply debate, which is akin to a one-hour motion being debated every day. They used to be called urgency motions, and we managed to get rid of two of those each week to allow the House to make some progress. The Opposition has changed tactics, which is unfortunate, because the Address-in-Reply should be an occasion for members to make speeches on issues of importance to them but it should be dealt with in the first couple of weeks of a sitting.

Hon John Halden: You are the Leader of the House. It is in your hands, not ours.

Hon N.F. MOORE: No, it is not in my hands because I cannot make the House sit after 10.00 pm without the permission of the House. If I tried to complete the Address-in-Reply debate in one sitting, I would not be successful. I have sought to be as cooperative as possible, knowing the limitations on the capacity I have to move these things along. The House has been extraordinarily slow with respect to legislation this session. A couple of Bills were passed last week, which is encouraging, and I hope that trend will continue. However, if members such as Hon Ken Travers were prepared to speak for less time and to make fewer inane comments, the House would make more progress than it has in recent times. The strategy to move amendments to the Address-in-Reply is not a new one, but on this occasion the number of times amendments have been moved is probably more excessive than usual. I must acknowledge that the first time in my memory of an amendment to the Address-in-Reply being passed was when members on this side of the House were in opposition, and the amendment was moved by the-then Opposition. Therefore, it is hard for me to say that it should not be done, because I supported the amendment on that occasion. It was felt at the time that the issue was of such magnitude that an amendment was appropriate. That is the one and only time it had occurred in the 15 years before members on this side were in government.

If members feel the world will finish tomorrow and an amendment to the Address-in-Reply is needed to prevent that happening, it is appropriate to move one. However, to move an amendment simply to allow members to speak more than

once stretches the patience of other members. Members have an hour in which to speak in this debate, which is longer than the time allowed in other debates, and that was introduced with the intention of allowing members an additional 15 minutes in which to make a reasonably substantial speech. If members move amendments to allow them to speak for another hour, perhaps on three occasions, it is beyond the pale. I am required to go along with what the House does, but amendments to the Address-in-Reply are inappropriate if they are simply to allow members to make another speech. There are other opportunities, by way of substantive motion, to make speeches about issues of importance.

I will ensure that all the speeches in the Address-in-Reply debate are looked at by the Government and, where necessary, responses will be provided to members directly by mail. I will not go through all the points raised and respond to them, because it is better to deal with them by correspondence in due course. Some issues were raised so long ago that they may no longer be relevant and we have probably forgotten them, and the Government may save correspondence by not dealing with those. However, contemporary issues will be responded to by the Government.

Question put and passed; the Address-in-Reply thus adopted.

Presentation to Governor

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

> That the Address-in-Reply be presented to His Excellency the Governor by the President and such members as may desire to accompany him.

GOVERNMENT RAILWAYS (ACCESS) BILL

Second Reading

Resumed from 21 October.

HON TOM HELM (Mining and Pastoral) [5.54 pm]: I will make my contribution to this debate in the few minutes before the dinner break. Obviously, I will repeat that the Australian Labor Party substantially supports this measure and understands the need for uniform legislation across the whole of Australia, to continue the steps which began with a reduction in the differences in railway line gauges. That had been the situation since the beginning of the century until quite recently in historic terms. A number of other changes have taken place to provide Australia with a unified network.

I must comment on the treatment of this Bill. The Standing Committee on Constitutional Affairs, of which I am a member, was asked to consider this Bill in accordance with the standing orders relating to uniform legislation. The Bill before the House, including the amendments proposed by the Government, is not the Bill that the committee was asked to consider. Some changes have been made by the Government that the committee did not have an opportunity to consider. The committee may have been advised that those changes would be made. I do not point an accusing finger at the Minister for Transport who has carriage of the Bill. However, I have no hesitation in pointing the finger at the incompetence that may be evident in his department and I express, from a personal point of view, the resentment I feel at the somewhat cavalier attitude shown towards this legislation. I advise the House that the committee will find it more and more difficult to comply with the standing order, under which it has 30 days in which to give due consideration to any Bill put before it, bearing in mind the complexities of some of the Bills. Also, I suspect a lack of cooperation or understanding from the Department of Transport with regard to a number of Bills before the committee.

Members are able to take with a pinch of salt some of the issues I find vexing when dealing with legislation before the House. Members of the Standing Committee on Constitutional Affairs are all on a learning curve, and they must understand the practical application of the tasks before them. Without doubt, committee members have tried to accommodate the requirements of the House. Also without doubt, the committee staff, Penny Griffiths and Kelly Campbell, have been run off their feet helping the committee to comply with the wishes of the House. I am sure that when reports have come before the House, the chairman of the committee on many occasions has praised the assistance received from the staff of the committee, and has recognised that they have responsibilities to other committees of the House. We try to comply as best we can with the wishes of the House, and we deal with legislation that is symbolic of good government - no matter what the political colour of the Government - as a House of Review, and avoid putting a political flavour in the report. Those reports would not be received as they currently are, if the reviews of Bills were not apolitical. However, it takes the cake when it is found in these matters that the enemies of the Opposition are not the conservatives on the other side of the Chamber, and vice versa, but rather the enemies appear to be departmental officials who seem to make a concerted effort to make our life impossible. Committee members feel the frustration of wanting to do a good job but of being unable to find the right people to ask the right questions. In some cases, members are not even able to define the questions because they must factor that into their deliberations. The whole thrust of this Bill leaves a lot to be desired, apart from the specific aspects. It is only fair to place on record my concern about the way the House expects the committee, or any committee, to deal with this Bill, and my concern that the House expects the committee to report on this Bill within 30 days, when it does not have the necessary resources to do so.

Sitting suspended from 6.01 to 7.30 pm

Hon TOM HELM: Before I proceed, for the record, any attacks I make on Westrail will not reflect on this minister because he was left to carry the baby. His approach to these matters may be a little more conciliatory than that which we are used to. Obviously the circumstances in which the minister finds himself have been inherited. We must understand that his tactics are not those about which the people in his department are concerned. With our best endeavours the members of the Standing Committee on Constitutional Affairs and the staff of the committee had problems with the Bill. As I outlined, the problems related to how the Bill fitted in with uniform legislation and whether it would be substantially amended to satisfy the concerns raised by the department. As far as I am aware the concerns were not raised in the committee or referred to in its report.

One of the most substantial issues about which I, as a Labor Party politician, am concerned is that this Bill is part of uniform legislation which, as members will be aware, seeks to ensure railway operations between each State are uniform. It was a fair assumption by this House that the standing committee would virtually skim over uniform legislation because of the way it worked in other States and that all we had to do was implement it after dealing with any obvious flaws which, hopefully, would not exist. It would be relatively simple. However, in this case, as acknowledged by the Government but not the committee's report, not only is the Bill flawed as evidenced by the Government's amendments on the Supplementary Notice Paper, but also debate is taking place in the community about privatisation of the railway, rolling stock and track. In a political sense, that throws a new light onto what we were asked to study and report on.

The committee heard witnesses who also must be aware of the debate about privatisation. In addition, private transport companies that either use the track now or will want to use the track in the future are concerned about how the status of the track under Westrail's requirements will change when it is being used by a private operator. Although we can view this legislation based on how it is presented now, some nimble footwork is necessary to put into place a competitive system. This legislation is supposed to be about making rail freight charges cheaper and fairer for everybody. We must appreciate that the culture of the rail system is about to change. I will not argue whether that change is for the better or the worse; the fact is it will change.

We must come to terms with the changes and acknowledge that the way we treat our railways under a nationalised system is one thing; it is something else when they become privatised. In a nationalised system no doubt the regulator from a government organisation would show neutrality. However, a regulator by another name may have some links with a competitor. I am sure somewhere in the population there is a person with the integrity of Jesus. The task of a regulator will be difficult and temptations must be addressed now. The Labor Party's amendments are an attempt to recognise the dangers of having the umpire, on the one hand, being part of one team while, on the other hand, having an arm's length involvement.

The minister and his advisers have briefed us on the meanings of words such as "ring fencing", which means that areas will be distinct from each other so that a person from one area, who has no contact with another area, will be able to make decisions independently of any commercial pressures. Obviously the minister's response will be very important for members on this side of the House. We want our concerns to be both acknowledged and addressed. Hon Norm Kelly asked what stage the working party has reached. The minister responded that it has just begun its work.

Hon M.J. Criddle: It is in the early stages of its work.

Hon TOM HELM: It had to look at a number of aspects and we do not know what its conclusions will be.

Even though the committee tried its best to cover all the bases, this Chamber must spend some time analysing where it is all leading. It should acknowledge that once this state asset is out of our control - I will not address the rights and wrongs of that - any other comment members may care to make might as well be made on the breeze. We will have no power to direct or to ensure that fairness, equity and competition are pursued. Surely that is what we are talking about.

The committee considered a number of proposals that would satisfy it about a regulator being recognised as an independent body. There is no way anyone can argue that the sale of Westrail to private operators will give Westrail an advantage. I would agree with that if it were to remain in state hands.

The National Competition Council advised the committee that if the Bill were passed containing the provisions to establish the regulator, it would not adhere to the council's requirements and it might ask some questions. What sort of insult would it be to this Chamber if the committee were to recommend that the Bill be accepted without recognising the National Competition Council's concerns and then be subjected to its questioning? There is every chance that that will occur. The National Competition Council was a child of the Federal Labor Government. I do not support it because it has lead to very few benefits for the nation or this State. By the same token, I would be mightily insulted if the council were to say that it did not think this Bill and the way that these issues are to be handled were in line with the national competition policy. That should concern this Chamber.

Hon M.J. Criddle: To be certified as a Western Australian Act and to be workable, it must go through the national competition policy process and be recognised.

Hon TOM HELM: I did not know that. I thought the council could come in and rap us over the knuckles.

Hon M.J. Criddle: Whatever happens, it must be certified.

Hon TOM HELM: What if it is knocked back?

Hon M.J. Criddle: Other States have gone through a very similar process and have faced the same situation.

Hon TOM HELM: In some ways we are behaving differently, particularly in relation to a regulator.

Hon M.J. Criddle: No.

Hon TOM HELM: That is fine. I have raised these issues so they are on the record and the minister will address them. The Labor Party would be more forgiving if the advantage were being given to a state-owned enterprise. However, if we are to have a level playing field for all privatised industries, surely we have a responsibility to ensure that that is something we consider.

The committee's credentials are confirmed in that it recommended that the Bill be reviewed after five years rather than the three-year time frame proposed. I have had second thoughts about that. I was a member of the committee that made the recommendation. However, the strong push towards privatisation makes me think twice. Perhaps the three-year time frame should be retained.

Hon M.D. Nixon: That relates to the code: It is reviewed after three years in the first instance and five years thereafter.

Hon TOM HELM: The committee recommended a five-year time frame. It should be done after three years.

Hon M.D. Nixon: The review related to the code, not the Bill.

Hon TOM HELM: Therefore, we should address the code. The Labor Party has problems with and has proposed amendments to the code. A code can contain many provisions, and obviously a Bill must be proclaimed before we can have a code. I am an ex-member of the Joint Standing Committee on Delegated Legislation. The members of that committee were always aware of bureaucrats and people behind the throne administering the department being attracted to mechanisms that were not able to be disallowed by this Chamber. Along with the review provisions, the code should be able to be disallowed. Whatever is published in the *Gazette* - that is, delegated legislation - should be subject to the scrutiny of this Parliament. I feel strongly about that and the committee has made some comments about it. The code is unseen. We have seen some proposed codes, and members can imagine what this code will cover. However, one of the clear departures in this Bill is the absence of ceilings or lower limits for freight rates. Members on this side are concerned about that. The New South Wales legislation includes provisions relating to guidelines about how much people can be expected to pay for certain freights over certain distances. Members on this side believe that every consumer should have some idea of a starting point when formulating a rate for the use of the track. It will be interesting to hear what the minister says about that matter, because it causes concern.

The committee was able to make several suggestions to the minister and his staff during our briefings and conversations. Much work went on informally behind the Chair to address some matters. Frankly, we approached the Bill with the view that if it was uniform legislation, at least we had a template and we could understand what was happening in other places. It should be straightforward. There should be the ability to make our rail system competitive, but equally competitive. It was not until we received certain information from people who appeared before us that we started to consider more deeply where we should go. There were only three points on which we were stuck, except for privatisation and what it meant.

Hon M.J. Criddle: You wanted to go from three years to five years, and we agreed with that.

Hon TOM HELM: That was before we considered the effect of privatisation. We had two options as to where the regulator should come from. At the moment it is proposed that the regulator should come from the commission.

Hon M.J. Criddle: The Director General of Transport.

Hon TOM HELM: Yes. We were worried about the linkage with competition that can be provided by Westrail without privatisation. We thought that there should be a clearly independent regulator. The minister indicated that Cabinet would consider providing that office. Also, there was a committee of arbiters. Are we not looking at that?

Hon M.J. Criddle: I don't know; I didn't say that.

Hon TOM HELM: Somebody said that; perhaps it was not the minister. One learns more from such committees the longer one is a member - but then we were led to believe that the committee of arbiters was not interested in regulating the change in the Bill.

I have detailed some of the committee's concerns. The routine job that we were asked to undertake has been far from routine. Our job tomorrow will be far from routine; we are to spend all day interviewing about 10 people in relation to the Gas Pipelines Access (Western Australia) Bill, which will be more complicated than the Government Railways (Access) Bill. I am proud to have served on the committee with my two hard-working colleagues. Our job would have been more difficult

if Penny Griffiths and Kelly Campbell had not carried out the donkey work behind the scenes and made the necessary inquiries.

The Australian Labor Party supports this exercise in implementing uniform legislation and is keen to have in Western Australia the competition values that exist in other States. The ALP understands and supports fully the ability to make our rail system compatible with rail systems throughout Australia. Fremantle should be a major cargo export and import centre for the whole nation, but we cannot do that without a compatible, efficient and effective rail line. We are concerned that privatisation could put a different slant on the legislation. Certain safeguards must be put in place. We are concerned about the effect of privatisation, and we ask the House carefully to consider and to support our proposed amendments. Of course, we will note the minister's response. With those few words, I support the Bill.

HON J.A. SCOTT (South Metropolitan) [7.56 pm]: The Greens (WA) support the Bill in principle, but, like other parties, we have several concerns about it. It is a difficult Bill to address. We are considering setting up a code to regulate the behaviour of parties involved in the administration of rail services. The code is not a disallowable instrument, which means that, to an extent, it is outside the ambit of Parliament. Also, the Bill clearly sets up the ability to sell Westrail to any extent, basically, whether it be the rolling stock or the rail infrastructure.

Hon M.J. Criddle: It is not about the sale. You should not confuse this Bill with the sale.

Hon J.A. SCOTT: We know that it is not about the sale, but the amendments would allow that to happen. If it did not, we would have to come back to Parliament and address the matter in another Bill to change "commission" to "owner" and so on at a later date.

Hon M.J. Criddle: You cannot use that argument not to pass the Bill. We can get people in here through the Trade Practices Act or through the National Competition Council.

Hon J.A. SCOTT: That is an argument, but I am stating my concerns about the Bill. I acknowledge that the minister has been helpful and has wanted to resolve the issue sensibly. I am pleased that he is attempting to do that, but there are a couple of sticking points that I would like to be addressed before I can fully support the Bill. The first is a fundamental concern. If we are changing the wording to allow the eventual sale of Westrail, the Greens (WA) would like to ensure that such a sale comes before Parliament for scrutiny.

This public asset is of vital importance to the State, and many people in this State would like a say in the matter before such a sale goes ahead. I acknowledge that this Bill is about access. When the wording is being changed to refer to a railway owner, instead of a commission, there is obviously an intention to allow that sale to occur, if such a decision is made. I am not saying that a decision has been made; rather, if it were made, this Bill smooths the way for that to occur. I would like to see Westrail competing with other players. It is good to have a government player involved in vital infrastructure like this. For a start, there is nothing in the law to prevent one company buying another and eventually establishing a private monopoly. Having a government player involved prevents a monopoly being established. This is a personal view, and one that comes from a considered position.

[Quorum formed.]

Hon J.A. SCOTT: I am concerned with the structure we are moving towards via this Bill, others that have already been passed and those yet to come to us. We might end up with a private monopoly. Presently that may not be the intention of the State, but there is nothing to stop one rail company buying another and our ending up with a monopoly anyway. These sorts of things happen all the time. We need only look at what happened with the privatisation of the banks; we have fewer banks and more conglomerates. I can see nothing in the Bill to prevent that from happening with our railways.

Hon M.J. Criddle: We will control it from Western Australian privatisation. If people are coming in and taking out half of this Westrail business, we will have a real problem; but that has nothing to do with the Bill.

Hon J.A. SCOTT: That is one side of the argument. The other is that if we sell all of Westrail and it is not still there competing with other players in the markets, we allow the possibility for a number companies to come in, with some doing better than others at many different levels, and one ending up buying out the rest. Effectively that company would be in control of the whole market.

Hon M.J. Criddle: There is always competition with road transport. That has assisted in reducing the road rates.

Hon J.A. SCOTT: I believe road transport will be limited to the next 20 years, unless it quickly finds a new fuel for heavy haulage road transport. We will be stuck for road transport to a large degree, especially with the wasteful use of urban fuel that is occurring today. The competition in road transport is a short to medium term view. Currently road transport is being given a subsidy in the form of the diesel rebate. I am not sure whether that will flow through to rail, however, the diesel rebate is -

Hon M.J. Criddle: I'm sorry, but there is no rebate.

Hon J.A. SCOTT: Not for road transport?

Hon Max Evans: There never has been. It is for the mining industry, farmers and fishing boats.

Hon J.A. SCOTT: I have that wrong. I assumed there was. In that case it is not a problem, and that is good. Nevertheless there is a problem with diesel-powered vehicles, especially when we take a quick run-down of the diesel that is available. In another decade we will see road transport prices go through the roof rapidly, and for a lot of routes it will not be as viable an option as rail transport. In the long term, competition will not be coming from road transport. That is not a possibility; it is a reality. Unless a new fuel is found, that competition will simply not exist.

Another problem is that we are talking about a community asset of great value. That is why I want the community to have a say, via this Parliament. If the Government seeks to sell the rail infrastructure, that decision must come back to this Parliament. Until I can be assured that that will happen, I do not think -

Hon M.J. Criddle: Do you think that Bill will ensure that happens?

Hon J.A. SCOTT: No. Many clauses in this Bill delete the word "the commission" and substitute the words "a railway owner". It will not be possible to have a rail access Bill that works properly with a rail owner having control of the infrastructure, and the commission being the organisation that makes a lot of the decisions about the running of that rail network. That will mean the commission will retain control over many areas. That is one way to deal with the issue. I am sure the Government could take other measures to ensure that if the sale were to go ahead, it would come to this Parliament. That is the democratic right of Western Australian people. After all, the Government is moving towards a position on financial expenditure of saying that we should be using only those financial resources that are provided by the present generation. If it is saying that and it then starts selling off public assets, it is not exactly fitting the bill. The community must have a chance to have this input if important infrastructure is sold. I do not want to comment on that issue for too long because it is a pretty straightforward proposition; however, I seek an ironclad guarantee that if the rail infrastructure - preferably the rail infrastructure and the Westrail business - is to be sold, a Bill will come into the Parliament which can be debated on its merits. I am not saying I would be opposed to that if the reasons put forward were reasonable, but the community should have input at that point.

Hon M.J. Criddle: You must understand that this Bill is not the vehicle for providing that assurance.

Hon J.A. SCOTT: I understand that, but measures are included in this Bill which would smooth the way. It is not the core part of this Bill, but the amendments on the Supplementary Notice Paper clearly indicate that it is part of the complete package that could be delivered at some stage. I have heard that the Commonwealth Government can come in over the top and impose some other regime. I do not think it will do that readily, and I am asking whether there is some way in which the Government can put forward an amendment - I have not thought of how it could be done - that ensures it can happen. The only way I can see at this stage is not to go along with it. I do not think it would do it completely, but it would make it more difficult if the Government did not allow that amendment to replace the words "the commission" with "a railway owner". That is one aspect that concerns me.

The other aspect is that the code is not a disallowable instrument; it is not like a normal regulation. From my reading of the code, a number of matters are not adequately covered. At page 7 of the code, under division 2, it states the general duties of the commission in negotiation of access agreements. It must be remembered that "the commission" is likely to be changed to "a railway owner" if the sale of Westrail goes ahead. The code provides that in negotiation of access agreements the commission must use all reasonable endeavours to avoid unnecessary delays on its part, meet the requirements of a proponent who has complied with the code, and must not unfairly discriminate between one proponent and another. However, if the words "a railway owner" are inserted in place of "the commission", there is no requirement for the owner running a rail service not to discriminate between himself and the proponents. Already I am concerned about one aspect of the code, and it will not be a disallowable instrument. The code should be disallowable, especially if the House agrees to the proposed amendments, because it has flaws.

Hon M.J. Criddle: You realise the code has the NCC, public consultation and other things that must be abided by?

Hon J.A. SCOTT: I do indeed, but I also realise we are entering a period in which we are likely to see many changes, not only in competition policy but also in the mutual agreement on investment. That will take away many of the powers of State Governments to impose restrictions with regard to that sort of thing. If some company with enough push did not want the Government to say who could access its rail line and at what price, if the MAI were in place, it might create a problem because the Government could not do anything about it. Much background activity is going on which can cause a problem. It is very important in that regard that the code be a disallowable instrument. I do not think it would be such an onus on the Government to allow that. After all, many other regulations go through this place which are part of uniform legislation and to which the competition policy principles apply, so I do not see why this issue cannot be treated in the same way.

I am a member of the Joint Standing Committee on Delegated Legislation, and more and more the committee becomes aware of government departments using all sorts of terminology to describe regulations to escape the scrutiny of subsidiary

legislation committees. Descriptions such as ministerial orders, codes and all sorts of things represent a complete turnabout in the balance between the Parliament and the Executive. This concerns me very much, and the idea of providing for this as a non-regulation is a mistake, both in that regard and also because I do not think it will be such a big problem to the Government if it becomes a disallowable instrument. The committees themselves will not be able to move for disallowance if it does not fit within their terms of reference. If a private member moves for disallowance and the Parliament disagrees, it must be debated in this place. Obviously, if there are competition policy problems, that matter will be addressed reasonably sensibly because usually committees in that instance will report and put all the arguments before the House. Decisions will be based on good information and not on prejudice.

The code that goes with this Bill does not offer equal access. I probably need to talk further with the minister's advisers about my concerns, particularly those relating to page 7, clause 15, dealing with the general duties of the commission in negotiation. I do not think it adequately addresses unfair discrimination by a railway owner against proponents. It addresses only discrimination between proponents. In principle, I like the idea of equal access to the rail system because it will increase the use of rail in this State. I certainly do not want a private monopoly to replace a state monopoly. If the Government wants to sell the rail infrastructure, the matter should come to this Parliament. Those are my principal concerns and I will follow them through in the debate that ensues.

HON NORM KELLY (East Metropolitan) [8.20 pm]: The Australian Democrats support the principle of this Bill in its original form, which is to increase competition on and access to the rail network. We are also supportive of the view that these decisions and controls are best kept at a state level rather than giving those rights to the federal level. It is imperative that we do our best to ensure that they are maintained at that state level. We have concerns that have been reflected in the report of the Standing Committee on Constitutional Affairs and Statutes Revision. I will deal with those concerns later. However, as Hon Tom Helm mentioned earlier, it is disappointing that the committee was not able to consider this Bill in the Government's preferred final form. I am curious to know whether the lateness of the Government's decision to look at privatisation is the reason we have this swag of amendments before us now. I appreciate the intentions of the Government in that respect. However, it is unfortunate that the spirit of Standing Order No 230 was not able to encompass the Government's now preferred position as stated in the Supplementary Notice Paper. We have serious concerns about the implications of supporting the approximately 10 pages of amendments that appear on the Supplementary Notice Paper. However, we can easily condense those into four or five issues. The amendments are mainly consequential upon those five principles being endorsed.

We support the introduction of competition into Western Australia's intrastate rail network. Of course, we have had that competition at the interstate level for goods coming into and going out of Western Australia for a few years now, and that competition has resulted in a marked decrease in freight rates in and out of the State. It has been about a 30 per cent average drop.

Hon M.J. Criddle: It has been 30 per cent within Western Australia in recent years as a result of the changes to Westrail.

Hon NORM KELLY: Is it about 30 per cent for the interstate network? In any event, it is quite substantial. I am sure those who have to pay the freight rates greatly appreciate it, and hopefully it is passed on to consumers. With competition coming into that intrastate freight network, we are looking for assurances that services will be maintained on those less viable sections of the rail system, particularly into the extremities of the grain network in this State. On this matter, I have noted that the National Farmers Federation is greatly concerned about the possible sale of Westrail and the assurances or guarantees that may or may not be forthcoming for ensuring that that network of services is maintained.

Hon Tom Stephens: I note that the National Party leader in another place dismissed those concerns out of hand on behalf of the National Party.

Hon NORM KELLY: Was that when he was confusing the National Farmers Federation with the Pastoralists and Graziers Association, or was that on a different occasion?

Hon Tom Stephens: I am not sure why he dismissed them out of hand. However, they have been dismissed out of hand.

Hon NORM KELLY: It is interesting that the general executive of the Western Australian Farmers Federation last week passed a motion stating that the WAFF opposed the third-party track access Bill until such time as the State and Federal Governments replaced a narrow gauge rail system with a standard gauge network in the agricultural areas. That is because the narrow gauge is considered inferior compared with the standard gauge in servicing those areas. I do not know whether I would go as far as to say that the entire system should be replaced, but farmers would be happy to have some security for future rail services in those areas.

Competition from road transport is already occurring in some areas where lines have been closed down because they were not viable. One can argue about comparing road and rail transport in those areas. However, sometimes the direct costs of either road or rail transport do not take into account the longer-term costs of the upkeep of a road network which has become severely downgraded because of the additional heavy truck transport using it.

Hon M.J. Criddle: That was only done in consultation with the industry itself, though.

Hon NORM KELLY: That is right. I am not making a complaint about those rail closures. About four or five closures took place, and a couple of other lines were not operating at the time. I have no complaint about that. However, when possible closures are considered, they should be considered in the light of the long-term costs of the road infrastructure.

The issue of the grain network is also relevant, given that it is estimated that a 50 per cent increase in grain production could occur.

Hon M.J. Criddle: I hope so.

Hon NORM KELLY: I can understand why the minister would smile. From what I have heard, his farm has been increasing production so much in recent years that I do not know whether he could cope with any further increases. However, it is estimated that a 50 per cent increase in production could take place from the 1996-97 financial year through to 2005. This information is contained in a grain logistics committee report. When we consider that, we must look at not only the current amounts being carried on the rail network, but also what can be anticipated in future years. That is why it could be a false economy to act too hastily in closing down any other lines. However, I am not saying that is what the Government has planned. By the same token, if the Government is looking at the possible privatisation of Westrail, a severe danger exists that Westrail could be severely undervalued if a figure were calculated based on current freight figures. The history of both State and Federal Governments recently has been to undervalue their services. Federally, of course, we have seen Telstra, Qantas and the Commonwealth Bank considered for privatisation. As soon as those types of services are put on the stock market, one can see their real value. One can do a quick calculation to realise how many billions of dollars the Australian population lost once those services were privatised.

The Standing Committee on Constitutional Affairs has produced a good report. In regard to the inadequacies of the Government's preferred final Bill, the report states on page 5, at point 4.9 -

> The government announced an intention to privatise Westrail after the Bill had been referred to the Committee. The Committee noted the announcement but has not referred to the matter in this report as it falls outside the Terms of Reference of the Bill.

It could be argued that we would be in a far better position to debate this Bill in the whole House if we had a committee report which took on board all of the Government's proposed amendments. It may have saved some of the debate on finer detail which may eventuate as we progress this Bill tonight.

However, as the minister has already pointed out, it is important to separate the access and privatisation issues. Unfortunately, the Government appears to be bringing those two issues together again by virtue of its amendments on the Supplementary Notice Paper. Therefore, at the moment the Democrats are not willing to support the amendments which appear designed to facilitate the sale of some of the State's assets. However, I am willing to listen to the minister's comments on why he believes the amendments should be supported, if his comments relate to matters other than expediting the sale of Westrail. We are willing to debate the privatisation of Westrail later when the details are available and support it if it can be proved that it is in the public interest and will result in guaranteed long-term economic and social benefits to Western Australians, particularly rural communities.

On 2 July this year in an article in *The Australian Financial Review* Professor John Cogon of James Cook University said -

> The case for privatisation rests on the claim that private owners could achieve efficiency improvements not feasible under public ownership.
>
> By focusing on the dividends from public enterprises, and ignoring their retained earnings, they make it appear that the interest savings arising when privatisation proceeds are used to repay debt are more than the income foregone by the public.
>
> In fact the reverse is almost invariably the case, partly because the rate of return demanded by private holders of equity is considerably higher than the government bond rate. The total loss to taxpayers from privatisation so far amounts to billions of dollars.

Although I will revisit the issue of privatisation, I will do that only in reference to the amendments on the Supplementary Notice Paper.

The main issues raised by the committee report concern clauses 9, 12 and 14. Clause 9 provides that the government railways access code is subsidiary legislation within the meaning of the Interpretation Act. The committee recommends that further debate take place on whether that clause should be extended to allow for the code to be disallowed. Although the Bill and the draft code already contain strong provisions that changes to the code and proposals require public consultation, public consultation can have a wide interpretation. There are no guarantees about how a public consultation process would be handled and whether it would be a fair way of determining whether changes were justified.

Hon M.J. Criddle: There is also the Australian Competition and Consumer Commission requirement. There are two issues there.

Hon NORM KELLY: That is right. The ACCC is examining its safeguard. From my reading of the draft code and the Bill there does not appear to be a mechanism by which the original code can be gazetted. Even though provisions exist for changes to the code there is no provision for public consultation in the original form of the code. We have been given a copy of the draft code. I imagine that, unless major changes are made to the Bill, we can rely on the draft code being close to its final form. However, no mechanism is available to scrutinise the final form, even when it is gazetted. We believe it is in the best interests of the State to have Parliament scrutinise the code and any changes. Neither this nor future Governments should fear the ability to disallow. It would be a severe action and strongly warranted, as would any disallowance, for it to be successful.

Hon M.J. Criddle: A financial transaction would not go ahead with that hanging over it. Any business would be reluctant to go ahead with a deal until it had passed through that process.

Hon NORM KELLY: I can understand that difficulty. That is probably more in line with the inadequacies of the disallowance process. For example, if a regulation were gazetted tomorrow it might not be debated until the end of April or early May next year.

Hon M.J. Criddle: Is that not a reasonable argument for going down the other path?

Hon NORM KELLY: That is right. I am not sure how speedily we can change our rules for disallowance to avoid that lengthy process. The sixteenth report of the Joint Standing Committee on Delegated Legislation refers to the need to put disallowable matters before the committee prior to gazettal to pre-empt any problems further down the track. I am aware that a contract can be signed and a regulation gazetted to allow for the contract to be signed. Months later the regulation might be disallowed, but it would not be retrospective so the contract would stay in place. I am not sure whether that translates to what the minister is talking about concerning commercial transactions. It is unfortunate that it is possible an agreement can be reached and gazetted and remain in force.

Hon Tom Helm: If consultation is taking place there should be no reason that the regulation be disallowed.

Hon NORM KELLY: Hon Tom Helm raises a good point about the need for public consultation before changing the code. In the light of the commercial agreement about which the minister is concerned -

Hon M.J. Criddle: They are two different issues. Changing the code is a different issue from a business transaction.

Hon NORM KELLY: I understand that the danger of making changes to the code disallowable would be based on a commercial transaction or an agreement. It might be better to address this in more detail at a later stage.

For the reasons outlined there is a good argument that the changes to the code should be subject to disallowance. I also notice that there is a difference between what is proposed by the committee and what is proposed by the Australian Labor Party. I will listen to the argument at that stage.

Regarding clause 12, the committee has recommended rolling reviews of the code every five years rather than every three years, as the Bill provides. It appears that the Government supports that change. The Democrats also support it as it does not interfere with the initial three-yearly review. We would have been concerned if it had provided for an initial five-yearly review. The initial three-yearly review followed by a five-yearly rolling review is a good proposition.

The final contentious issue on which the committee has commented is clause 14, which determines who will take the role of regulator of rail access. The Democrats support removing the Director General of Transport from the position of regulator as we believe he is not perceived to be in an independent position. However, the Democrats are not convinced that the alternatives put forward by the committee are the best mechanism for changing the Bill.

The South Australian model has been referred to by members and includes an independent pricing and access regulator. Although separate, that arrangement is not necessarily independent as the position is still filled by executive appointment and the regulator's functions can be reassigned to another authority or person. That provides for a degree of executive influence as to the role of the regulator. The Democrats also believe that the Western Australian legislation is stronger than the South Australian legislation in that it requires public consultation prior to any changes to the code, rather than its happening by executive action.

Another part of the committee's report about which the Democrats are not convinced is the proposal that the best path to follow is the use of the Commercial Tribunal in the interim 12-month period prior to an independent registrar being appointed. A compromise, although not an ideal position, might be to allow the director general to be the regulator for that initial 12 months and then to move to an independent authority. That independent authority could be based on the New South Wales model, which includes the Rail Access Authority. At this stage I do not know the detail of its operations, and I would appreciate the minister's comments on that model. Although it would not be ideal, it would be workable and would

also move towards that position of independence, which is lacking by having the Director General of Transport performing those functions.

I will not refer in detail to the pricing formula now, because the establishment of an independent regulator can lessen those concerns. I appreciate the minister's providing his explanation of the nine or 10 pages of amendments that appear on the Supplementary Notice Paper. The Democrats support the Government's commitments in that explanation: Firstly, that competitive rail access will be available even if Westrail remains in government hands, consistent with the state transport policy and the national competition policy; and, secondly, that the regulatory environment within which a privatised Westrail will be expected to operate will be firmly established prior to any sale. That should also be subject to parliamentary scrutiny. We should not be selling such government infrastructure without parliamentary approval.

The word "commission" will be replaced by "railway owner" throughout the Bill. A definition of "railway owner" has been included and the government railway network is redefined so it does not depend upon continued government ownership. It is clear that these amendments are designed to facilitate the sale of Westrail. As I said, I would be more than happy to debate that issue at length at the appropriate time - when the task force has completed its work and when the Government can, if necessary, introduce any legislation required to facilitate the sale of Westrail. We would then be able to debate that issue fully aware of the facts. Although the Democrats support the original intention and principle of this Bill - that is, increasing access to and competition on our rail network - we will not vote for changes to the Bill that are designed simply to facilitate the sale of Westrail. It would appear that that is the reason for these amendments. I would like to hear from the minister whether other reasons exist for these amendments. In addition, if the amendments are defeated, how will that negatively impact on the original intentions of the Bill?

I have stated clearly that the Democrats support the Government's move to ensure access to and competition on the rail network, that Western Australia have control of that process rather than the federal bodies and that we revisit the privatisation of Westrail at the appropriate time.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [8.47 pm]: There is some general agreement that this Bill is acceptable. This legislation is not designed to facilitate the sale of Westrail, and we should not lose sight of that. It allows access to the network and for it to be run from the Western Australian point of view rather than going through the Trade Practices Act and the National Competition Council. We are allowing Western Australia to have its access regime, which will be certified by the NCC.

Hon Norm Kelly: That is the Bill in its original format.

Hon M.J. CRIDDLE: No, in the amended format.

Hon Norm Kelly interjected.

Hon M.J. CRIDDLE: It will do that from a Westrail point of view.

The PRESIDENT: The detail can be dealt with in committee. We are dealing with the policy of the Bill.

Hon M.J. CRIDDLE: The Bill is about the implementation and enforcement of an effective rail access regime in Western Australia. The Government recognises the requirements of national competition policy and the advantages to users of rail services to be accrued through facilitating access to the Western Australian network for other rail operators. However, it is determined that these arrangements should proceed under state laws, and that is the crucial issue.

The rail access regime proposed consists of a code and legislation giving legal force to that code. To be effective, the regime has incorporated a legally enforceable right to negotiate access and an independent dispute resolution process. Western Australia has led the way in Australia in opening its rail network to competition from road transport and has brought about many improvements in rail efficiency. We are now seeking to take rail transport competition to the next level, and that requires the opening up of the rail system to new service providers.

Third party access will promote competition, which in turn will encourage rail operators to provide best-practice services to customers. The Standing Committee on Constitutional Affairs and Statutes Revision, chaired by Hon Murray Nixon - supported by other hard-working members - has made three recommendations to amend the following clauses of the Bill: Clause 9, to fully debate whether the code should be disallowable in Parliament; clause 12, to change the three-yearly review of the code to five years; and part 3, to establish an independent office of rail regulator within a 12-month period, and until that time for the functions of the regulator to be performed by the Commercial Tribunal. I will comment on each regulation.

Firstly, as to clause 9, I do not believe that it is necessary or desirable for the code to be disallowable in Parliament. The reasons for that are that although subsidiary legislation is seen as a proper means to present the code, as it needs a form of official status, the code is not appropriate as a regulation and is more of a manual on the provision of access and a way of setting out the procedures. It is comparable to industry codes of conduct which are typically determined by executive government. Secondly, the code deals with matters such as information about the regime, timeliness, the role of the arbiter,

what must be included in an agreement, and the framework within which prices will be set. There has been much talk about that. Thirdly, the proposed status of the code has precedent in other States. The National Competition Council secretariat has expressed concern about the Director General of Transport being the regulator. However, the position is at officer level, not council level. Members will understand that the matter must go through the National Competition Council. It was always understood that the position was negotiable and subject to further classification at officer level.

In New South Wales the access code, which was used as a model for the Western Australian code, requires only government gazettal. In Victoria, although there are several code provisions in the Rail Corporations (Amendment) Act 1998, the Act provides the Governor in Council, on the minister's recommendation, the power to declare rail transport services and specify pricing and other principles to be applied in an access regime outside the parliamentary process. Likewise, the South Australian Railways Operations Access Act 1997 requires the Governor only to proclaim any changes to the application of access regime and the assignment of the regulator to a nominated authority. In South Australia, the regulator, not the minister, establishes the pricing principles.

Fourthly, the Bill requires the minister to undertake a public review process and to have regard to submissions received prior to amending, repealing or replacing the code. Fifthly, any changes to the code that are required to comply with the national competition policy requirements to ensure certification of the regime should be able to be implemented without the risk of subsequent amendments through the parliamentary process. If we add the regulator to that, we will have three processes through which the requirement would have to travel.

Last Wednesday, Hon Tom Stephens acknowledged that rapid decision making is usually necessary in the freight business. That is the point I was trying to make to Hon Norm Kelly earlier. All those processes might be detrimental to the decision-making process. If the code is subject to parliamentary disallowance, it would mean that a change to the code would need to undergo a public review, a national competition review and a parliamentary review for it to be finalised. Those are the three processes. If there are differences of opinion between the National Competition Council and the Parliament, the process could become protracted. Members could argue that changes can be implemented while they are tabled in Parliament. However, the reality is that changes involving, for example, commercial decisions on capital investment will be unlikely to proceed until all required approvals are obtained. I agree to amending clause 12 to require the code to be reviewed every five years after the initial three years. Hon Norm Kelly was happy with that arrangement.

The third recommendation of the standing committee pertains to the establishment of a separate office of regulator. We must examine in a responsible, pragmatic way the most cost-effective way to establish the office. Firstly, the role of regulator comprises monitoring, enforcement and administrative functions for the implementation of the code. Secondly, and more specifically, the regulator is responsible for compliance of all access-related requirements. Thirdly, he or she is also to review the code for effectiveness, establish a panel of arbiters on the recommendation of the Chairman of the Institute of Arbiters Australia, determine a weighted average cost of capital for ceiling price determinations and maintain a register of access agreements and determinations. Fourthly, the regulator is not the arbiter who, for example, will determine an access price in the absence of agreement between Westrail and a third-party operator. As a result, the regulator will have no influence on the commercial results of a dispute over access prices or any other factors.

Hon Tom Helm: Who will be the arbitrator?

Hon M.J. CRIDDLE: As I have said, the arbiter will be picked by the Institute of Arbiters Australia.

Because the regulator is explicitly prevented from being a mediator or an arbiter under the proposed regime, that part of the standing committee's recommendations pertaining to the commercial tribunal is inappropriate given that the tribunal is a mediation and arbitration body. The tribunal chairman has advised that he is not in favour of the proposal, that tribunal has no expertise in transport, especially railways, and that there is no spare ability or capacity to undertake that function. In my view, the role of the Director General of Transport is not in conflict with that of the regulator. It should be pointed out that the Bill explicitly prevents the minister from directing the regulator. The director general is currently the Rail Safety Regulator under the Rail Safety Act, a position which also requires independence to promote the safe construction, maintenance and operation of railways.

The setting up of an independent office of the regulator general is a decision that will need to be considered from a whole-of-government perspective. There will be an additional budget expense associated with establishing such an office. If an office of regulator general is set up at some time in the future, I would be happy to support the transfer of the functions of the rail access regulator from the Department of Transport to that office. That would just pass over as a matter of course. However, in the meantime it is hard to justify the time and expense involved in setting up a separate rail regulator office given the nature of the functions involved. It would be a very expensive item for just one requirement.

I now refer to the proposed amendments. Members are aware that the Government has decided to examine options for the disposal of Westrail freight. Although the final decision whether to sell Westrail will depend on the recommendations made to Cabinet by the sale task force, the Government has committed to progress rail access on a priority basis to ensure that competitive rail access is available even if Westrail remains in government hands - that is consistent with state transport

policy and national competition policy - and that the regulatory environment within which a privatised Westrail is expected to operate is firmly established prior to sale.

Since its introduction into Parliament, the Government Railways (Access) Bill has been reviewed to ensure that the rail access legislation can apply equally to a government-owned Westrail as well as to a privatised Westrail. The amendments, which appeared in the 21 October Supplementary Notice Paper, affect five areas. The word "commission" will be replaced by "railway owner" throughout the Bill. A definition of "railway owner" has been included, and the Government railway network is redefined so that it does not depend upon continued ownership by the Government.

A new clause has been added to require the minister to consult with a railway owner when amending or replacing the code and to have regard to any submission that the railway owner makes. It also provides for a railway owner to request the minister to amend or repeal and replace the code if it becomes unreasonable or inappropriate in its application as a result of changed circumstances.

Hon Tom Helm: Who can do that?

Hon M.J. CRIDDLE: The minister can do that.

Hon Tom Helm: At whose request?

Hon M.J. CRIDDLE: At the request of the railway owner, but it would go through the previous process that we talked about - the two stages.

That is to recognise that changes to the code and/or changing circumstances can financially affect a railway owner and to require that the railway owner be consulted. A set of penalties has been included to ensure compliance by a railway owner with obligations under the Bill. Penalties for obligations under the code will be specified by regulations to be developed later. The level of penalties is consistent with those identified in the Rail Safety Act. The regulator is to have the power to enter and inspect the railway owner's premises. This is considered necessary for the regulator to effectively enforce ring-fencing requirements. The amendment to change the review period of the code from three to five years is based on a recommendation of the Standing Committee on Constitutional Affairs.

Hon Tom Stephens has also proposed several amendments on the same Supplementary Notice Paper. His amendments are to clauses 9, 10, 12 and 43. I have already commented on clause 9 as to why the code should not be placed in the regulations. The amendment to clause 10 should be deleted because it duplicates the following amendment proposed to clause 12. Members should note that the existing clause 12 is not removed by my amendments. In Hon Tom Stephens' proposed amendments to clauses 12 and 43 he is proposing that in the event that the commission's track infrastructure is sold, transferred or leased, the regulator must carry out a review of the code and submit the code to Parliament for approval within six months of such sale, transfer or lease. That is to be added to clause 12. The Opposition is also proposing that a freight operation's track infrastructure or the rolling stock of the commission cannot be sold, transferred or leased by the commission without approval of Parliament. That is to be added to clause 43.

I will give members an example of what Hon Tom Stephens' amendments would achieve. The commission has a track infrastructure replacement program and frequently sells off used rails and sleepers that are no longer required. Under the recommended change to clause 43 the commission would in future need to obtain Parliament's approval to sell those items. After Parliament agrees to their sale - will this be by resolution of both Houses? - but not before six months have elapsed, the regulator must review the access code, which has absolutely nothing to do with the sale of used rails and sleepers. This is to occur because of his recommended changes to clause 12. Furthermore, the reviewed code, which is unlikely to be changed because it has absolutely nothing to do with the used rails and sleepers, will need to be forwarded to Parliament for approval. I can provide members with similar examples involving the sale of old rolling stock and the lease of land and track to private rail companies - for example, SCT and Toll Transport - to operate interstate terminals and so on, which not only demonstrate how unworkable the proposed amendments are but also that they are totally unrelated to the issue of rail access. The Opposition's suggested changes to clause 12 should not proceed.

Under this Bill the minister has responsibility to ensure that the regime is effective and complies with national competition principles. The National Competition Council has an oversight role. If the sale of Westrail requires changes to the code not previously anticipated, these changes will be made in accordance with the process of public consultation and NCC review. If we go through the other step, it will mean a further complication and will extend the problem.

Hon Tom Helm: You must be more explicit than that. Could the code not contain the ability for the responsible person to approve of the sale of sleepers or old railway lines?

Hon M.J. CRIDDLE: If the Government goes through the Opposition's mechanism, it will end up with a very extended process.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! The minister is quickly giving a good overview of what will be discussed at the committee stage. Those details should be left till then.

Hon M.J. CRIDDLE: The change to clause 43 cannot be considered a consequential amendment as it does not relate to an access issue. Clause 43 is an attempt to change section 13 of the Government Railways Act. Section 13 describes the legal capacity of the commission. It does not confer powers such as those in other sections - for example, clause 62, dealing with the power to lease - in the Act. I have been advised by parliamentary counsel that accepting the amendment to section 13 would be ineffective. For example, the Government would still be able to lease the rail tracks under section 62 of the Act, even with this proposed amendment to section 13.

In addition, this broad amendment requiring parliamentary approval before the commission can sell, transfer or lease the freight operations, track infrastructure or rolling stock would contradict many of the clauses in the Government Railways Act which confer on the minister and the commission powers to manage the government railways. An example of this is section 8B(3), which allows the commission, with the permission of the minister, to dispose of or lease railway property to a body corporate or joint venture for the purpose of carrying on business.

The Leader of the Opposition has also suggested that there is "lack of impartial rate fixing" and that "the pricing formula should be completely transparent, ensuring a level playing field for all entrants". The fundamental thrust of the rail access regime is to provide a legislated right to negotiate access on the Westrail network. The proposed pricing principles provide for market-based pricing between a price floor and a price ceiling, to be determined by commercial negotiation. Posted prices by nature preclude negotiation between the two parties.

Hon Tom Helm: That is not true. We will argue that.

Hon M.J. CRIDDLE: There is no negotiation if there is a posted price. The issue of posted prices was considered by a working group of the Western Australian Rail Advisory Council comprising government and industry representatives - Co-operative Bulk Handling Ltd, Alcoa of Australia Ltd, Toll Rail, Anaconda Nickel Ltd - and there was general agreement that industry does not want posted prices. Access prices reflect the combination of many factors, including commodity type, length of train, weight, speed, priority for access, the particular section of track in question and the number of other track users. Duration of contract is also an important factor. An operator negotiating a 20-year contract would receive a different rate from someone wishing to haul something for the next six months. Posted prices are inflexible and could result in some freight business being lost to road transport because the track owner was unable to negotiate lower charges. A high level of administrative effort is also required to maintain an updated list of posted prices. South Australia and New South Wales regimes have also adopted the same price floor and ceiling as outlined in the WA regime. The NCC did not have any difficulties with our proposed floor and ceiling proposal. The Australian Rail Track Corporation has reference prices which are a guide to access prices to standard operations. If we are talking about reference prices rather than posted prices, I refer members to clause 7(1)(b) of the code; this requires the rail operator to provide an indicative price for access when an access seeker initially applies for access. The WA regime adopts a negotiation-arbitration model to ensure that access prices are fair. By referencing the Commercial Arbitration Act, the code enables the arbitrator to require any information he or she needs, including access prices negotiated by other operators, to be able to specify the terms and conditions of access. It is certainly not true to say, as Hon Tom Stephens claims, that the track owner can set prices whenever it wants. The code requires consistency and fair and reasonable cost allocation.

In summary, there can be no question that a system of charging which does not have the flexibility to allow negotiations will not deliver what both the Government and the industry want; namely, the maximum volume of freight to rail. The real issue is the safeguards which can be built into the system to ensure that fair prices are negotiated. I am sure the code will achieve this, particularly through its arbitration provisions. However, it is an issue I am sure will be closely examined by the National Competition Council, and I will be happy to look at any modification which will arise from the process. Benefit will accrue in introducing access to Westrail networks as soon as possible, and deferring the legislation will risk parts of the track being "declared" under the National Competition Council process.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon TOM STEPHENS: I listened with interest to the minister's reply to the second reading debate, and heard a range of comments which cannot pass without response. These comments must be viewed in the context of the clauses of the Bill and the proposed amendments on the Supplementary Notice Paper in my name and that of the Minister for Transport. The minister's response clearly indicates that almost a sleight of hand is taking place in the way the Government is tackling the legislation before us; that is, ambivalence regarding what the Government will do relating to the future of Westrail has been outlined during the second reading debate, the minister's reply, question time today and community comment. However,

with a series of government amendments on the Supplementary Notice Paper, the opportunity will be opened up for the sale of Westrail.

The Opposition has placed on the Supplementary Notice Paper some response amendments, particularly to clause 12, in an attempt to say to the Government that it cannot proceed any further without parliamentary approval. The proposed opposition amendments will require legislative approval before the Government sells any additional aspects of Westrail. The amendments may be viewed by some, perhaps even by people with great authority in this place, to be outside the existing scope of the Bill. This is the point expressed by the minister in his reply. He almost called for the Committee to not accept the amendments as they are outside the scope of the Bill. If I argued likewise, it is outside the scope of the Bill, by way of the minister's amendment, to open up the concept of a "railway owner" and deleting the reference to "Government". Alternatively, an opportunity exists for me to build upon a legislative proscription for proceeding too far down the path of private ownership without parliamentary approval.

In an ideal world, if the minister's interpretation of what is within the scope of the Bill is correct, and mine is wrong, I would recommend that the Government withdraw its Bill and produce one which delivers both scopes to which I refer: The opportunity for the minister to include the amendments deleting all reference to "Government" to be replaced with "railway owner", and leave me at liberty to require parliamentary approval before a sale of any additional feature of Westrail proceeds. I am sure that many ways to skin a cat are available in dealing with these issues. When I first arrived in this place, I saw Hon Des Dans as the Leader of the Opposition face any difficulty presented -

The CHAIRMAN: Order! I trust the Leader of the Opposition is addressing the clause.

Hon TOM STEPHENS: I address the short title. Hon Des Dans would find a way of producing an amendment which would have his desired effect, even if it were necessary to approach it from alternative directions. If I were unable to proceed down one path, I will find another way to proceed to ensure that the Government will not get away with moving to the sale of Westrail through sleight of hand; namely, by slipping in words to this Bill necessary to enable a sell off without parliamentary approval. I flag Labor's intransigent and implacable opposition to the amendments on the Supplementary Notice Paper to facilitate privatisation by replacing "Government" with "railway owner". I am more than prepared to find another way of expressing the words outlined in my amendment to clause 12 on Supplementary Notice Paper 2-5. We will persist with requiring in this statute that the code be treated as delegated legislation.

Hon M.J. Criddle: As regulation?

Hon TOM STEPHENS: Yes. The minister's response displayed the ambivalence of what he is doing. He said that the code is a mere guideline. He cannot say that when at the same time the second reading speech refers to this code as a regulation that should in the normal course of events be subject to disallowance by the Parliament. The minister needs to describe it as a regulation for the purpose of complying with the federal requirements. However, he cannot then minimise the impact and import of what he is doing with this Bill and the code by saying simply that it is a mere guideline; because if it were a mere guideline and not of any great import, we might as well, to use another member's words, pack up and go home. Our amendments provide the opportunity of treating the code as if it were a regulation that was disallowable by motion of this House.

Hon M.J. Criddle: Are you saying that if there was a power to disallow, the rest of the amendments would be okay?

Hon TOM STEPHENS: That is an important feature of the amendments in my name on the Supplementary Notice Paper.

Hon M.J. Criddle: That is a long way down the track.

Hon TOM STEPHENS: Yes, but at this time it is worth flagging that the Labor Opposition will oppose the amendments that the minister has put on the Supplementary Notice Paper, particularly if at the same time the minister is calling on the Committee to not proceed with my amendments on the basis that they are outside the scope of the Bill.

Hon M.J. Criddle: Are you referring to your amendments with regard to regulation?

Hon TOM STEPHENS: Not just regulation, but future sale.

Hon M.J. Criddle: This Bill is not about future sale.

Hon TOM STEPHENS: The minister's amendments seek to delete the words "Government" and insert the words "railway owner".

Hon M.J. Criddle: That will not necessarily facilitate a sale down the track.

Hon TOM STEPHENS: It will allow sufficient facilitation -

Hon M.J. Criddle: It may allow it, but that does not necessarily have anything to do with this Bill.

Hon TOM STEPHENS: If the minister wants to go down that path, he should put before the Chamber a Bill that accommodates what he is trying to do and what I am trying to do -

Hon M.J. Criddle: I will explain -

Hon TOM STEPHENS: I think I understand what the minister is up to and the minister understands what I am up to. If I cannot do what I want to do - that is, require parliamentary approval for a future sale of Westrail facilities - the minister should not be allowed by the Chamber to proceed with his amendments either. If the minister wants to accommodate me, I will accommodate him. I will let the minister get in his amendments if he will give me a new Bill that requires the prior approval of Parliament before the Government can proceed down that path. I do not believe the minister will make that offer. I believe that one of the purposes of the scoping study, on which the minister is spending large amounts of taxpayers' funds, is to find a way of flogging off the assets of the community of Western Australia without parliamentary approval. The National Party seems to have a motto that has come out of a Lou Reed song; it wants to have a bit both ways in its approach to infrastructure in the bush. It seems to be saying that it supports the maintenance of infrastructure for rural communities, but at the same time it is sponsoring legislation that will facilitate the removal of infrastructure from its own constituency. The National Party does not appear to have come to terms with the lesson that people in the bush delivered to it nationwide on the question of privatisation, and with why those people are turning away from it in droves towards an alternative radical party of the right. The Minister for Transport, as a National Party minister, is, by facilitating the further privatisation of Westrail through the amendments contained on the Supplementary Notice Paper, providing additional reasons that his constituents will continue to do exactly that.

I urge the minister to withdraw this Bill and come back with a Bill that provides for parliamentary approval before any sale of Westrail's assets. If the Minister is not prepared to do that, I hope this Chamber will consign his amendments to the scrapheap and will entertain my amendment to clause 9 to require that the regulations be subject to disallowance, and my additional amendment to provide for a review of the code and the opportunity for this Chamber to disallow that code. I hope this Bill will be withdrawn in double-quick time and a new Bill produced that will facilitate what I have been talking about; if not, I commend to the Committee the courses of action that I have flagged.

Hon NORM KELLY: The minister is confusing the issue with regard to the 40 or so amendments on the Supplementary Notice Paper about ownership of the railways when he says that this Bill is not about the sale of Westrail. If the minister's amendments were passed, they would facilitate the sale of Westrail, because there would be no need to amend the Act to achieve that. I believe that the best time to debate this amendment Bill is when we know the details about a sale. Are there any reasons for these amendments apart from the need to facilitate the sale of Westrail? Would there be a detrimental effect on rail access in this State if the amendments with regard to the ownership of the rail network were defeated and the Bill remained in its current form? This is particularly relevant, given that we are unable to ascertain whether there will be a need for other legislation to come before Parliament if Westrail is sold. It would probably make it easier if the minister's task force could tell us that.

Hon J.A. SCOTT: I listened to the minister's response to the second reading debate. I did not hear any assurance that, if we allow this Bill to pass and we put in place the change to the wording from "commission" or "government" to "railway owner", we would see the sale of Westrail come back to this Chamber. I have been told that it is likely that it will, which is not good enough - even if the minister would like that to occur. Like Hon Norm Kelly I believe that the clauses on the Supplementary Notice Paper would facilitate the sale of Westrail. We do not know how much of Westrail will be sold, but those clauses will allow any or all of Westrail to be sold off. It is not correct that this Bill has no effect on the sale of Westrail; it will have a considerable effect on the sale of Westrail.

I challenge the minister's assertion that the Federal Government could come in over the top and force its code and regime upon the State.

Hon M.J. Criddle: The Australian Competition and Consumer Commission can do that with the Trade Practices Act.

Hon J.A. SCOTT: I would like to hear some expert advice on that, because I do not believe that is true. The Federal Government could impose financial burdens upon the State, but it could not impose its regulations on the State - unless we agreed. Politically, the Federal Government would not do that, and it is a hollow threat. Competition policy is getting beyond a joke. We see public servants trying to override Parliaments all around Australia by saying they can impose regulations. It is nonsense, and the States need to do what is right for the States. What is right for the States is what is right for the community.

On the weekend I attended the 100th anniversary of the Doodlakine Primary School. I was approached by a number of farmers who were very concerned about what is occurring.

Hon M.J. Criddle: That is to do with the sale.

Hon J.A. SCOTT: They were not prepared to accept what is being put before them. It is not true that the ACCC, the Commonwealth or anyone else, can impose those regulations on the States. The Federal Government can impose a financial penalty, but I doubt it has the political will to do that.

The minister stated that the code was not an enforceable item, like a regulation, and it had to be submitted to three different

regimes. The office of regulatory reform in Victoria requires even ordinary regulations to go through a rigid process with a lot of consultation, and at the end of the day Victoria has fewer and better regulations than this State. The claim that this will eliminate our going through yet another body is not an adequate argument, because it is once again taking away the power of this Parliament to scrutinise the Government. This code does not contain wishy-washy stuff; it is essential, important regulation, and some of it warrants more than regulation and probably should be in the Bill.

This Bill will put in place a single code which will apply to all of the users seeking access on the rail system. Victoria is a step ahead with its regulations. It is moving to a different situation so that proponents can put forward to the regulator a proposal for the way they will carry out their function. If the regulator accepts that the proponents fit the requirements - for example, the safety, competition and whatever other requirements they might have - the proponents are able to create the regulatory environment which is most suitable for their own profitability. Victoria's approach is far more flexible than ours. This code is wrong, and there will be problems because this is not tight enough.

If we change the wording from "commission" to "rail owner", the rail owner will have an advantage over other users of the rail. I am still waiting to hear from the minister how we will see the sale of Westrail in this place for debate; and also to hear of a good reason for not making the code an enforceable regulation rather than one of these ministerial orders which can bypass parliamentary scrutiny.

Hon TOM HELM: I share the concerns of my comrades in suspecting that this Bill may facilitate the privatisation of Westrail. I do not want to dwell on that. I want to dwell on the short title and some of the comments made by the minister in the second reading debate about his concern that a number of hoops had to be jumped through before certain matters were able to be debated in this place.

Apart from pleasing the National Competition Council and the trade practices people and so on, I expect the code will also be influenced by ministerial councils that meet from time to time to discuss these matters. I am also aware of other pieces of uniform legislation that have been promoted in this place by way of template legislation from another jurisdiction, but with regulations that would be disallowable in that other jurisdiction - usually in Queensland and sometimes in the Australian Capital Territory. There appears to be a hidden agenda and some things that we must be aware of, keep on top of and not allow to slip through without debate.

I am in a bit of a quandary, Mr Chairman. I have been reading a document that I cannot disclose to anybody who is not a member of the Standing Committee on Constitutional Affairs or an officer of this Parliament. However, in that document reference was made to a Bill that will come before this place that requires a regulator to be appointed. However, we are told that there is no way this Bill can contain a provision for a defined regulator in the way that the other Bill that I cannot talk about will have in the near future. I will talk about that at some later stage, I am sure, but at this stage I cannot. However, that is what this Bill says. Therefore, one of the reasons for this Bill being referred to the Standing Committee on Constitutional Affairs was that this is uniform legislation.

Members will remember the late lamented Hon Bob Pike; he was the instigator of our having the ability to look at uniform legislation. Among others opposite, he was quite strident that uniform legislation undermined States' rights. Unlike Hon Jim Scott, I am prepared to give away States' rights so that we have a more efficient and effective way of doing things, and for us to be treated as a nation of equal Australians on a number of matters. Therefore, I have no problem with taking away the rights of this Chamber to have a say in many matters of a uniform nature. However, in this case, with the code which will come before us and for which we will be responsible, we need to take extra care. The extra care is needed because of this intent to privatise the rail system and also to make sure that the government railways access regime that we are dealing with is conducted on a fair and equitable basis.

As members of Parliament we must not give away our rights to the Executive. That is the crux of the matter. We are saying that because we have no independent regulator who has responsibility for a code, we cannot disallow what we are presented with; however, the code becomes the responsibility of this Parliament because it is published in the *Government Gazette*. If we are unable to disallow the code, we are giving away our rights. We are not giving away those rights to the NCC, for instance, or to the ministerial conference; we are giving them away to a member of the Executive who can have some influence over what is contained in the code. As Hon Jim Scott said, the draft code contains some important measures. Even if the code were before us to agree to as a legislative instrument, we are being invited to agree that the regulator should have the ability to change that code. We must consider what this access Bill stands for and what it is all about. It is a whole bag of matters that should cause us some concern. It should certainly cause some concern to members opposite, because when they were on this side of the Chamber they were always screaming about States' rights. I am not an advocate of that at all. However, they must understand that we should not be giving our authority to the Executive - not without a fight and not without the ability to have some check on the Executive. I am prepared to fight and have done so in the past. However, I will give our rights not to a state Executive but to the authority that we will put into place in the uniform legislation that will give all Australians the chance to be equal under the law.

Progress reported, pursuant to standing orders.

PORT AUTHORITIES BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon M.J. Criddle (Minister for Transport), read a first time.

Second Reading

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [9.50 pm]: I move -

That the Bill be now read a second time.

It is with great satisfaction that I bring this Bill before Parliament. The Port Authorities Bill will give effect to the Government's policies for port reform in this State as described in the Government's major policy statement on ports, *Principles to Guide Western Australia's Port Authority Development Through the Nineties,* which was released in November 1995.

The November 1995 statement clearly identifies that the role of the State's port authorities is to facilitate trade and export opportunities for Western Australia's farmers, miners and manufacturers and that this be undertaken in a commercial and efficient manner.

Port authorities are provided with the power under the Bill to provide all the services and activities which are required by port users. The legislation provides port authorities with the flexibility to provide a service themselves, enter into business arrangements which will allow the private sector to become involved, or stand back and let the private sector provide the service.

The overall objective of the legislation is to improve the efficiency and effectiveness of ports which will benefit port users and the Western Australian community. The Port Authorities Bill is based on the successful and proven model adopted for the water, electricity and gas corporations. Adaptations have been made where appropriate to tailor the legislation to the ports' environment. The legislation is also in keeping with the principles recommended by the Commission on Government report and national competition policy and principles.

Placing the new legislation in some perspective requires a brief overview of the present position. Each of the State's seven statutory port authorities has its own piece of legislation detailing its duties, functions and powers. Some of these Acts date from the turn of the century and all are in need of updating. Port authorities are also required to comply with a number of maritime Acts covering aspects associated with shipping, pilotage, navigation aids, dangerous goods, pollution and a host of central government and other Acts including the Financial Administration and Audit Act 1985 and the Public Sector Management Act 1994. The existing port authority Acts, together with the regime of other legislation, make it difficult for port authority boards and management to facilitate trade in a commercial manner. The Port Authorities Bill, together with the Port Authorities (Consequential Provisions) Bill and the Maritime Fees and Charges (Taxing) Bill will address these shortcomings. The Port Authorities Bill both reforms and modernises existing port authority legislation. It creates the opportunity for the State's ports to benefit from greater commercial freedoms more closely aligned with those of the private sector. Port authorities will be better placed to respond to changes in market conditions and meet users' needs in terms of price and service quality. In keeping with modern-day commercial thinking, port authorities will no longer be agents of the Crown or have the status, immunities and privileges of the Crown. Moreover, like the water, electricity and gas utilities, port authorities will not be subject to the Public Sector Management Act or the majority of the provisions of the Financial Administration and Audit Act. Provisions based on corporations law will apply in relation to the constitution and proceedings of boards, the duties and responsibilities of directors, the chief executive officer and staff, and financial administration and audit. Boards will be responsible for the appointment of chief executive officers and staff, subject to minimum employment standards and conditions.

The Port Authorities Bill also redefines the relationship between the port authorities and the Government. Port authorities will have a greater responsibility for day-to-day operations, and management autonomy and authority will increase. Management will put into action decisions in response to changes in the market. It will encourage port management to become more competitive in the provision of services to existing and potential port users. However, there will still be government controls and an emphasis on accountability to Parliament.

The legislation requires port authorities to develop an annual strategic development plan and an annual statement of corporate intent for approval by the minister and the Treasurer. This will enable the minister and the Government to play an important role in setting the overall direction of the ports while ensuring minimal involvement in the daily operations of a port authority. The Treasurer's focus will be on the financial and economic aspects of the plans. The statement of corporate intent will be the primary document against which the Government will annually evaluate the performance of port authorities.

The Port Authorities Bill requires port authorities to consult with the minister before embarking on any major initiative or taking any action that is likely to have significant public interest. The minister may give directions in writing to a port

authority in respect of the performance of its functions and the port authority is to give effect to any such direction. Directions by the minister must be laid before Parliament. Port authorities will continue to be audited by the Auditor General and annual reports will be tabled in Parliament.

Special provisions in schedule 6 of the legislation relate to the port authorities of Dampier and Port Hedland. These are necessary because both ports were initially developed and constructed by private sector interests. Schedule 6 picks up the relevant provisions from the existing Acts applying to both port authorities and confirms obligations arising from state agreements. The remainder of the Port Authorities Bill unifies an approach to activities already existing in current legislation, including navigation, port charges, proceedings for offences, miscellaneous provisions and regulations.

During consideration of this Bill in committee, I will be moving two minor amendments. These amendments will require port authorities to provide for environmental management in their strategic development plans and place responsibility for the approval and monitoring of marine safety plans with the minister rather than the Director General of Transport.

In summation, the legislation rationalises, unifies, reforms and modernises existing port authority legislation. It represents a new partnership between Government and the State's port authorities to take Western Australian port users into the next century. It meets the Government's competitive neutrality principles. It provides for rigorous accountability and for mechanisms to monitor and assess performance.

Port authorities will be expected to achieve certain financial and operational targets. There will be clear authority for management to seek opportunities, within the scope of a port authority's functions and powers, to improve productivity, reduce costs, and provide the best possible service to customers either directly or indirectly. It will enable the Government to set broad strategic policy directions. Most importantly, the Port Authorities Bill is a mechanism by which the State's port authorities can more effectively facilitate and foster growth in international trade and commerce. This legislation will improve the administration of the State's port authorities for the benefit of port users, the broader community and the State's economy. I commend the Bill to the House.

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

PORT AUTHORITIES (CONSEQUENTIAL PROVISIONS) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon M.J. Criddle (Minister for Transport), read a first time.

Second Reading

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [9.57 pm]: I move -

That the Bill be now read a second time.

The Port Authorities (Consequential Provisions) Bill is a straightforward piece of legislation which deals with consequential amendments to Acts which will be affected by the commencement of the Port Authorities Bill 1998 and the repeal of the Ports (Functions) Act of 1993 and the individual port authority Acts for Albany, Bunbury, Dampier, Esperance, Fremantle, Geraldton, and Port Hedland.

These provisions are of a technical nature and are mainly to do with amending references to existing port authority Acts in other Acts. It should be noted that the existing port authorities are not being abolished and appropriate transitional and savings provisions are provided for the continuation of these port authorities. I commend the Port Authorities (Consequential Provisions) Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

MARITIME FEES AND CHARGES (TAXING) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon M.J. Criddle (Minister for Transport), read a first time.

Second Reading

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [9.59 pm]: I move -

That the Bill be now read a second time.

In terms of their new commercialised status and functional responsibility, port authorities will be required to provide a fair and reasonable dividend return to their owners, while continuing to facilitate growth in regional trade.

However, in order to comply with national competition policy obligations, specifically the competitive neutrality objectives

of the competition principles agreement, port authorities must also compete with private port operators on a level playing field. This requires that port authorities be subjected to similar cost inputs and investment return requirements as their private counterparts. As government organisations, port authorities require legislative power to levy fees for services and any recoupment of a profit margin within a compulsory fee over and above the cost of providing an essential service may be construed as a tax.

The Maritime Fees and Charges (Taxing) Bill is designed to overcome any possible legal impediment to port authorities including necessary profit margins within their fee structures. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

ADJOURNMENT OF THE HOUSE

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [10.00 pm]: I move -

That the House do now adjourn.

Creery Wetlands Zoning - Adjournment Debate

HON J.A. SCOTT (South Metropolitan) [10.01 pm]: I understand that tonight the Mandurah City Council is making a decision on whether to lie down and comply with an order to change its town planning scheme to allow urban development in the Creery Wetlands. This order is an outrageous imposition by the Minister for Planning which flies in the face of the proper democratic processes carried out by the Mandurah City Council; namely, before the council decided not to rezone the Creery Wetlands area from rural use to urban, a referendum was held which overwhelming rejected any rezoning of the area to allow the project to proceed.

The area is subject to a raft of international agreements, such as the Ramsar and Jamba Conventions and others I cannot recall, for the protection of migratory birds. The Creery Wetlands is the most important habitat for migratory birds in the southern half of Western Australia. The type of development which is occurring in the area is destroying the whole tone of the city of Mandurah. It is a disaster area and development is wiping out the natural beauty that once existed there. The minister has seen fit to overrule the council, despite its very good processes. The minister's action is very poor government.

Hon Kim Chance: When did the minister take the action?

Hon J.A. SCOTT: Some time ago - I cannot remember precisely when - he ordered the council to rezone the area. Interestingly, in the process of that zoning application and rejection, I received a letter from the developer, who was concerned about some legislation before the House to give the right of appeal against planning decisions to a party other than local government. That developer wrote in outrage. He said he was involved in the whole process in Mandurah and in the referendum, and claimed that people had voted for the development. The referendum showed that 67 per cent of people were against the development, and not all other people supported it - some were neither for nor against it or did not express an opinion. Clearly, a strong vote against the proposal was registered. He also said that the council then rezoned the land from rural to urban, which was not true either. This fellow did a very good job at writing fiction. None of the sentiments he expressed was true.

Also, I remember that when the council had made its decision, and it instructed the town planning scheme to be drawn up, somehow a council officer drew up a certain area as urban, despite what he was ordered to do. An investigation should have been held into that action at the time. It was not an accidental occurrence, and a number of such occurrences have arisen in that process.

I have been very disappointed in the council as it has acquiesced to the minister's tactic of overriding councils in this way. It is a pity the Mandurah City Council did not have more gumption, like that displayed by the Fremantle City Council, which was prepared to stick its neck out on a heritage matter; namely, it reacted when the minister went against the wishes of the council concerning buildings in North Fremantle. That council had the courage of its convictions to take its fight to the minister. The Mandurah City Council was elected to represent the views of the Mandurah community, and it held a referendum. In fact, the referendum was held by a previously elected council and most councillors who wanted the development to proceed were kicked out at the last election and were replaced by people wishing to preserve the Creery Wetlands. That council had the very strong backing of the community to ensure that the preservation took place. If the council does not resist the minister in this matter, and push as far as possible on behalf of the community, it will let the community down.

Some of the deals which took place following that referendum were very shoddy indeed. At the federal and state government levels, meetings took place behind closed down doors with the developer to do a deal for him to hand over a piece of land to the community if the rezoning went ahead. The process was completely taken out of the hands of the community, and ignored people's right to live in the sort of environment they choose. I condemn the minister for his action, and indicate to the Mandurah City Council that principles sometimes cost money and much effort. However, if one does not stick up for those principles, one will be repeatedly trodden upon and be seen as an easy mark. I am concerned about what will happen

to the Mandurah City Council, and other councils in this State, in the future if this is allowed to be the modus operandi of the Minister for Planning.

Question put and passed.

House adjourned at 10.09 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

FISHERIES

Northern Demersal Fishery Access

53. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

With reference to the means of calculation that have been used to determine each interim licensee's access to the Northern Demersal Interim Fishery -

(1) Is it correct that members of the Kimberley Trap Fishermen's Association ("KTFA") were told by Fisheries WA that these calculations were based on the catch history of the three top performing trap boats and the three top performing line boats during their five top catching months?

(2) Is it correct that an analysis of the information later provided by Fisheries to the KTFA, by facsimile of April 4, 1998, indicates that the calculations were in fact constructed from a much smaller and more selective base than had been advised, sometimes involving two rather than three boats, and sometimes using only one month of catch history per boat, rather than five?

(3) Is it also correct that the figures provided in the facsimile indicate that the vessel G406 had catch (by line) recorded in the months of July and August 1994 and June and July 1995 despite the fact that State Line Permits were not issued until August 1995?

(4) If so, has an alleged illegal catch been recorded and used in the calculations as a result of the inclusion of G406?

(5) As it seems apparent that KTFA members have been mislead, what action does the Minister for Fisheries intend to take to ensure that the situation is properly addressed and to provide and assurance of fair play in this fishery?

Hon M.J. CRIDDLE replied:

(1) Yes.

(2) Yes. Gear efficiency was determined by analysing fishing activity, in each year between 1994 and 1996, of the three most efficient trap boats and the three most efficient line boats during the five most efficient months in each of those three years.

(3)-(4) Authorisations to fish by line in state managed waters off the Kimberley coast were not required by Western Australian Licensed Fishing Boats prior to September 1995. Any illegal catches were disregarded when determining access to the fishery but are still relevant when assessing the maximum efficiency of a boat.

(5) The Kimberley Trap Fisherman's Association has been kept fully informed of management decisions in relation to the Northern Demersal Interim Managed Fishery.

ATTORNEY GENERAL

Indemnities for Legal Costs

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

With respect to the guidelines relevant to Ministers and Officers involved in legal proceedings and the answer provided in question on notice 2003 -

(1) With respect to what matters and on what dates did the Hon P G Foss, MLC apply for indemnities for legal costs and/or damages since December 14, 1996?

(2) In each case on what date was the application approved?

(3) In each case who made the assessment?

(4) In each case what was the budgeted amount, if any?

(5) In each case what has been the cost to date?

Hon N.F. MOORE replied:

(1) Defamation claim by Mr Gary Byron on or about 13 February 1998.

(2) 2 June 1998.

(3) Solicitor General.

(4) No amount was budgeted.

(5) $190.64.

SWEETCRETE INDUSTRIES PTY LTD'S CONTRACT

219. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

(1) Has Sweetcrete Industries Pty Ltd received any Government contracts since January 1, 1997?

(2) If yes, could the Premier list the contracts?

(3) What were the contracts worth?

(4) What other companies tendered for the contracts?

(5) What prices were tendered by all the companies?

Hon N.F. MOORE replied:

I am advised that:

Minister for Resources Development; Energy; Education:

Western Power Corporation

(1) Yes.

(2) Supply and lay 4.3m3 of concrete for generator sets.

(3) $1041.75.

(4) No other tenders were received.

(5) Not applicable.

Minister for Housing, Aboriginal Affairs, Water Resources:

(1)-(2) Yes.

(3) The contract details with the Water Corporation are;

(a) Supply small tank lid - $100.00
(b) Hire of excavator - $1,875.00
(c) Hire of plant on eight (8) occasions - total value - $5,718.00

(4)-(5) Due to the small sum involved per occasion, tenders are not required and purchase/hire was done on an individual quotation basis. Information on the quotes were verbal and were not retained.

PUBLIC SERVANTS AND MINISTERIAL STAFF

Business Class Air Travel

283. Hon J.A. COWDELL to the Leader of the House representing the Premier:

(1) On what basis are public service employees and Ministerial staff entitled to travel business class for air travel within Australia and overseas?

(2) Has there been any change in the Government's policy on this matter over the past three years?

Hon N.F. MOORE replied:

(1) Chief Executive Officers of government agencies and Senior Executive Service officers, where stipulated by contractual obligations, are entitled to business class travel. An Officer required to accompany a Chief Executive Officer may travel the same class as the Chief Executive Officer for that trip where this will facilitate the performance of their duties at the destination. One staff member of a Minister's office, who is accompanying the Minister on official business, may also travel at the same class as the Minister.

(2) No.

COMMISSIONER FOR STATE REVENUE

349. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Has the Commissioner for State Revenue been reappointed to his position?

(2) If so, what are the terms of his reappointment?

Hon N.F. MOORE replied:

(1)-(2) In November 1995 Mr Bryant was reappointed as Commissioner of State Taxation (redesignation of office to State Revenue in 1996) for a further four year period to 25 September 1999. The reappointment followed completion of a one year appointment.

In September 1994, Mr Bryant was originally appointed as Commissioner of State Taxation for a one year term following national advertising of the position and completion of a comprehensive merit based selection process. At the time of Mr Bryant's appointment, Cabinet agreed that a further four year term could be approved without the need for further advertising.

The initial one year appointment was made on the basis that new legislation - the Public Sector Management Act - would be enacted in October 1994, which would replace the Public Service Act and affect the terms on which chief executive officers were appointed. Given a transitional period was anticipated, a one year term was offered to Mr Bryant in the first instance.

PRISONERS, ABORIGINAL AND CANNABIS USERS

378. Hon CHRISTINE SHARP to the Attorney General:

(1) What are the most commonly recorded offences for -

(a) male Aboriginal prisoners;
(b) female Aboriginal prisoners; and
(c) Aboriginal juveniles?

(2) What percentage of female prisoners are serving time for Cannabis -

(a) possession;
(b) manufacturing; and
(c) selling?

(3) What percentage of male prisoners are serving time for Cannabis -

(a) possession;
(b) manufacture; and
(c) selling?

Hon PETER FOSS replied:

(1) (a) The most commonly recorded offences for Male Aboriginal prisoners during 97/98 are "Breaking and Entering/Burglary", followed closely by "Assault" (disregarding "Breaches/Escapes").

(b) The most commonly recorded offences for Female Aboriginal prisoners during 97/98 are "Other Theft", followed closely by "Other Offences Against Good Order" (disregarding "Breaches/Escapes").

(c) The most commonly recorded offences for Aboriginal juveniles are "Car Theft" followed by "Burglary".

(2)-(3) The information is not readily available in relation to cannabis specifically.

HOMESWEST CONSTRUCTION CONTRACTS

393. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

Can the Minister provide the following details regarding companies who have received at least three Homeswest construction contracts since January 1, 1995 for the following regions -

(a) Mirrabooka;
(b) Fremantle;
(c) Cannington;
(d) Albany;
(e) Bunbury;
(f) Kalgoorlie;
(g) Geraldton;
(h) South Hedland;

(i) Broome; and
(j) the City,

with details of -

(i) the name of the contractor;
(ii) the date it was awarded;
(iii) what the contract was awarded for;
(iv) the original tender cost of the contract;
(v) the actual final cost of the contract;
(vi) which other companies tendered for the contract; and
(vii) if the contract was advertised, where and when was it advertised?

Hon MAX EVANS replied:

It is not possible for Homeswest to commit the resources required to answer the question in its current form. If the Hon Member has a specific question on construction contracts let by Homeswest then I would be prepared to commit the resources to answer these questions.

LANDCORP, JOINT VENTURES

396. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

Can the Minister for Lands provide the following details of any land development joint ventures that LandCorp has entered into since January 1, 1995 -

(a) the lot numbers of the land to be developed;

(b) the name of the company or companies with whom the joint venture was entered into;

(c) the date on which the joint venture was signed?

Hon MAX EVANS replied:

The following are details of land development joint ventures LandCorp entered into since 1 January 1995:

Joint Venture	**(a)**	**(b)**	**(c)**
Thornlie	575	RDC Projects and Pentage Nominees	29.12.95
Duncraig	30	Treasury	5.2.96
Port Kennedy	600	North Whitfords Estates Pty Ltd	26.3.96
Landsdale	44	North Whitfords Estates Pty Ltd	13.3.98

HOMESWEST, JOINT VENTURES

397. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

Can the Minister for Housing provide the following details of any land development joint ventures that Homeswest has entered into since January 1, 1995 -

(a) the lot numbers of the land to be developed;

(b) the name of the company or companies with whom the joint venture was entered into; and

(c) the date on which the joint venture was signed?

Hon MAX EVANS replied:

No Joint Ventures have been entered into since 1 January 1995. However, I would be pleased to arrange a briefing by Homeswest of the various Joint Ventures.

LANDCORP CONTRACTS

399. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

With regards to contracts awarded by LandCorp since January 1, 1993, valued at $500 000 or more, for each contract can the Minister for Lands state -

(a) the date it was awarded;
(b) what the contract was awarded for;

(c) the cost of the contract;
(d) if the contract was advertised, where and when was it advertised;
(e) which other companies tendered for the contract; and
(f) what was the actual final cost of the contract?

Hon MAX EVANS replied:

(a)-(c),(f)
[See tabled paper No 317.]

(Contracts awarded from 1 January 1993 to 30 June 1993 have not been provided as this information will require a considerable resource effort).

(d) Contracts are not advertised. Tenders are invited from a list of pre-qualified contractors.

(e) I am not prepared to allocate the resources necessary to provide this level of detail. If the member requires information on a specific tender I will endeavour to obtain it.

HOMESWEST CONTRACTS

400. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

With regards to contracts awarded by Homeswest since January 1, 1993, valued at $500 000 or more, for each contract can the Minister for Housing state -

(a) the date it was awarded;
(b) what the contract was awarded for;
(c) the cost of the contract;
(d) if the contract was advertised, where and when was it advertised;
(e) which other companies tendered for the contract; and
(f) what was the actual final cost of the contract?

Hon MAX EVANS replied:

It is not possible for Homeswest to commit the resources required to answer the question in its current form. If the Hon Member has a specific question on contracts let by Homeswest then I would be prepared to commit the resources to answer these questions.

DALYELLUP BEACH ESTATE, BUNBURY

405. Hon BOB THOMAS to the Minister for Finance representing the Minister for Housing:

In relation to the Homeswest development at the Dalyellup Beach Estate near Bunbury -

(1) When were submissions called for this joint venture?

(2) What were the names of the five companies which submitted expressions of interest on this joint venture?

(3) When was the decision made on the successful tenderers?

(4) Who made the decision which saw Satterley Real Estate and Home Building Society as the preferred joint venturers?

(5) What share of the joint venture does each of the joint ventures hold?

(6) What are the terms of the joint venture agreement in terms of -

(a) profit sharing;
(b) cost sharing; and
(c) liability in the event of failure of the project?

(7) What are the anticipated costs and profits of the project?

Hon MAX EVANS replied:

(1) Expressions of interest were publicly invited nationwide in October 1996. Submissions were then called from the short-listed applicants in January 1997.

(2) Lester Group Ltd, Giorgiou Corporation Holdings Pty Ltd, Prudential Financial Holdings Ltd, Home Building Society and Satterley Real Estate Group and Amex Corporation Pty Ltd.

(3) Three applicants were short-listed in December 1996. Preferred tenderers were recommended in May 1997 and approved in June 1997.

(4) A selection panel comprising Homeswest Commissioners and officers, relevant local governments and industry representatives made recommendations which were approved by Homeswest's Board and myself. The full Joint Venture agreement will be submitted to the Homeswest Executive, Board of Commissioners, me, Cabinet and the Governor in Executive Council for approval as required by the *Housing Act 1980.*

(5) 50% each.

(6) The Joint Venture Agreement is still being negotiated and the terms are subject to commercial confidentiality.

(7) The cash flow for the project is subject to commercial confidentiality.

DISABILITY SERVICES - SERVICE PROVIDERS

452. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Disability Services:

(1) What cross checking is done to ensure that the terms and conditions of performance agreements with services providers are met?

(2) How many service providers received grants in 1996/97 and 1997/98?

(3) How many service providers failed to submit financial statements relating to specific community funded activities in 1996/97?

(4) How many service providers failed to submit the audit certification to attest to the proper use of grant moneys and establish whether any surplus moneys should be refunded?

Hon MAX EVANS replied:

(1) Service providers are required to:

- complete an annual self assessment of their services against the National Disability Service Standards.
- submit audited financial statements which are analysed by the Disability Services Commission (DSC) staff.
- complete an annual client data collection for the services they provide.
- fully participate in an independent standards monitoring of their services.
- liaise directly with DSC funding staff who verify service delivery, provide information and respond to funding issues.

(2) In 1996/97, 134 service providers received DSC grants; for 1997/98 this number was 141.

(3) None. In 1996/97 all funded agencies submitted financial statements relating to their funded activities. Some agencies did not submit separate audited financial statements for funded activities and instead forwarded audited statements for the whole agency within which identification of funded activities was possible.

(4) None. All service providers submitted audit certificates for whole of agency operations in 1996/97. All surpluses from this financial year were subsequently investigated and resolved.

ABATTOIR, NARRIKUP

481. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

In relation to the new abattoir at Narrikup I ask -

(1) Did the Minister for Primary Industry meet with representatives of the Fletchers Group?

(2) If yes, on how many occasions, and on what dates, did the meetings take place?

(3) At those meetings were any assurances given to the Fletchers Group that Government assistance would be forth coming?

(4) If so, what assurances were given?

Hon M.J. CRIDDLE replied:

(1)-(4) Numerous meetings have occurred with representatives of the Fletcher Group of Companies over the terms of this Government. The Group was assisted with Government Agency contacts related to the development of the Narrikup Project.

QUESTIONS WITHOUT NOTICE

ABORIGINAL YOUTH SUICIDE PREVENTION

372. Hon TOM STEPHENS to the minister representing Minister for Health:

With regard to the tragic and unacceptably high rate of youth suicide in Western Australia, particularly in the Kimberley and other regional areas -

(1) Has the minister taken the report which deals with Aboriginal youth suicide prevention to Cabinet yet?

(2) If not, what is the reason for this delay?

(3) Has the Government decided to run a youth suicide prevention pilot program outside the metropolitan area?

Hon MAX EVANS replied:

(1) The strategy for Aboriginal youth suicide prevention has been submitted to Cabinet for consideration and will be discussed in the near future.

(2) Not applicable.

(3) There is no specific strategy titled "youth suicide prevention pilot program", so I ask Hon Tom Stephens to clarify what he is referring to. However, a range of services are available in country areas to help suicidal youth and some have been established to deal specifically with suicidal youth. National youth suicide prevention strategy funding is being used to establish counselling services for youth at risk of suicide in the East Kimberley and the goldfields. National funding also supports an initiative in the Northam area to promote gun safety and reduce suicides using firearms.

WESTRAIL SALE SCOPING STUDY

373. Hon TOM STEPHENS to the Minister for Transport:

On 13 October 1998 the minister acknowledged that the scoping study for the sale of Westrail cost $765 151. Why is none of this sum which was paid to various consultants included in the reports of consultants for the period 1997 and 1998 tabled in Parliament?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. None of the $765 151 was incurred during 1997. A six-monthly return on engagement of consultants for 1998 has not been tabled in Parliament. Some of the expenditure in question will appear in the return for the six months ended 30 June 1998, and the remainder in the return for the period ending 31 December 1998.

BEACH ACCESS FEE

374. Hon N.D. GRIFFITHS to the Minister for Tourism:

Was the minister consulted about the recently announced Department of Conservation and Land Management fee for beach access, and what consideration has he given to the fee's impact on tourism?

Hon N.F. MOORE replied:

Along with all ministers I am aware of the decision-making processes of my colleagues. I am not absolutely sure whether this matter will impact severely on tourism, as has been indicated by some spokespeople today. I am not aware of the exact details of the decision, and until I am, I will not be in a position to indicate whether it will have an effect.

LANE BLOCK, NORTHCLIFFE

375. Hon NORM KELLY to the minister representing Minister for the Environment:

In response to question without notice 327 of 21 October, which asked whether a temporary control area notice had been placed over Lane block, the minister answered no. In part (4) in answer to whether there was an intention to issue a TCA notice, the minister stated that a TCA notice would not be necessary if campers could be encouraged to leave.

(1) Can the Minister for the Environment confirm that she signed a TCA notice for Lane block on 20 October?

(2) Was this notice signed before or after the response to question without notice 327 was initialled?

(3) Who made the recommendation to the minister to declare a TCA?

(4) When was this recommendation made?

(5) When did the minister first have an intention to issue a TCA notice?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(5) The Lands and Forest Commission recommended creation of temporary control areas in Lane and Wattle blocks at its meeting on 16 October 1998. The recommendation was conveyed to the Minister for the Environment on 19 October. On 20 October she signed a temporary control area notice. At the same time, prior to any action being taken on the TCA notice, she requested that further reports on the safety of protesters and forestry workers and the log supply be provided to her. She also requested CALM to make a final attempt to encourage persons camped in the forest to leave the area. CALM officers visited the site on 21 October and subsequently advised the minister that the protesters had refused to allow access to the area. CALM considered it would be unsafe to carry out forestry operations while these protesters were present. The report on the log supply situation at Pemberton was provided on 21 October and updated on 23 October. Following receipt of advice that the protesters would not move, and the log supply to the mill was critical, the minister wrote to CALM on 23 October and provided authority for the department to proceed to implement the temporary control areas. The gazettal of the two areas occurred at 10.00 am on Monday, 26 October.

YOUTH ENVIRONMENT COUNCIL

376. Hon MURIEL PATTERSON to the minister representing the Minister for the Environment:

The minister has announced the formation of the Youth Environment Council to be made up of youth between the ages of 13 and 17 years. What provision has been made to ensure that adequate representation will exist for youth in regional areas?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Minister for the Environment has been mindful of the need to ensure representation from regional areas on the Youth Environment Council. Many of the State's environmental issues and the solutions are found in rural areas. The difficulty that representatives from rural areas may experience in attending meetings in the city on a regular basis was recognised before calling for nominations. For this reason, the opportunity was given to groups from regional areas to nominate a person to represent them. It is pleasing to note that a representative from Donnybrook has been selected on the council, and three representatives have come from the rural-urban interface around Perth. In addition, the council will be asked to consider formal contact with Youth Advisory Councils which have been established around the State by the Minister for Youth. The first Youth Environment Council comprises Sara Padgett, Perth College; Natasha King, Willetton Senior High School; Aimee Smith, Eastern Hills Senior High School; Laura Fraser, Swanbourne Senior High School; Alicia Curtis, Swanbourne Christian College; Mike Phillips, Eastern Hills Senior High School; Sarah Hatton, John Septimus Roe Anglican School; James Anderson, John XXIII College; Felicity Smith, Morley Senior High School; and Sallie Forrest, Donnybrook District High School.

PERFORMANCE ASSESSMENTS

377. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Public Sector Management:

I refer to the minister's response to question without notice 328 regarding the 19 chief executive officers who have failed to forward a performance assessment for the second year in a row.

(1) What are the names of the 19 CEOs?

(2) How many of the 19 CEOs have never undergone a performance assessment?

(3) Will the minister take disciplinary action to ensure compliance; and, if so, what form of action will be taken?

Hon N.F. MOORE replied:

This question was addressed to the Minister for Finance for some reason. I do not know whether it was a mistake in the system; it is to be answered by me. I thank the member for some notice of this question and ask that it be placed on notice.

WORKSAFE - MEDICAL ASSESSMENT PANELS

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

(1) Is the minister aware of any legal proceedings currently under way against the medical assessment panel established under the Workers' Compensation and Rehabilitation Act?

(2) How many actions are pending against the panel?

(3) Has the minister or WorkCover asked the Attorney General to participate in any of these actions?

(4) If so, on what basis was this request made?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(2) There are three writs of certiorari against medical assessment panels pending at the Supreme Court.

(3)-(4) WorkCover has referred these matters to the Crown Solicitor's Office for representation as that office represents WorkCover in legal proceedings.

ESPERANCE, PILCHARD CATCH

379. Hon KIM CHANCE to the minister representing the Minister for Fisheries:

(1) Is it the assessment of Fisheries WA that the total allowable catch of pilchards in the Esperance region is 2 700 tonnes?

(2) Is the amount of quota allocated in Esperance 1 330 tonnes?

(3) Why has the amount of the total allowable catch that has so far not been allocated not been distributed to quota holders?

(4) Having twice attempted to distribute the unallocated portion of the total allowable catch - as in Fisheries WA management paper 99 and in the Morgan proposal - to Albany licensees in the first instance, and by making a payment to Albany licensees in the second instance, what is now preventing the Minister for Fisheries from allowing the Esperance fishery to reach its safe and sustainable potential?

(5) Is the minister's reluctance to allow Esperance-based fishers the same right of access to the full total allowable catch that is enjoyed by Albany and Bremer Bay fishers an expression of his response to the support that was given by Esperance fishers to the Parliament's disallowance of his regulations in this fishery last year?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The Minister for Fisheries has asked that the question be put on notice.

ELECTRICITY GENERATED BY HOUSEHOLDS

380. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Energy:

People who generate electricity for their homes from renewable sources and are connected to the main grid are able to sell their excess energy to Western Power.

(1) What price does Western Power pay for this energy compared with the cost at which it sells its energy?

(2) Is this arrangement designed to encourage people to sell their excess to the main grid? If yes, in what way is it encouraging? If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) In the south west interconnected system, the price paid for excess power generated by solar, wind or hydro systems and sold by residential customers to Western Power depends on the time of day and the season of the year. The rate paid to customers varies from 9.9¢ per kilowatt hour at peak times down to 3.6¢ per kilowatt hour at off-peak times. Shoulder periods have rates of 6.9¢ per kilowatt hour weekdays and 5.4¢ per kilowatt hour weekends. Selling rates are 18.5¢ per kilowatt hour peak, 6¢ per kilowatt hour off-peak, 11.5¢ per kilowatt hour weekday shoulder and 9¢ per kilowatt hour weekend shoulder. The rates paid for renewable energy from residential customers are approximately 20 per cent higher than Western Power's avoided costs of generation.

(2) Yes. Customers on the south west interconnected system who join the renewable energy buyback scheme are provided with SmartPower meters at no charge. Customers would normally pay from $199 to $794 for installation of a SmartPower meter. This enables customers to purchase electricity at the low rate of 6¢ per kilowatt hour overnight, which is of particular benefit to customers installing solar photovoltaic systems as they provide their own power during the day, or sell excess power at the higher rates.

KEMERTON INDUSTRIAL PARK

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

In relation to the proposal to expand the Kemerton Industrial Park -

(1) Has the Government identified disposal sites for solid waste material that would be produced by increased industrial activity at Kemerton?

(2) If yes, where are those sites?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Department of Resources Development has recently made available for three months' community comment a report by Dames and Moore Pty Ltd identifying potential sites for a class IV solid waste facility in the greater Bunbury area. The study was funded jointly by the Department of Resources Development, LandCorp and the waste management division of the Department of Environmental Protection. The Government is not committed to any one of the sites at this stage.

(2) The Dames and Moore study has identified three sites which could potentially be suitable: Site 4a, Sandlewood Road, Shire of Harvey; site 12b, Henty Brook Road, Shire of Dardanup; site 18, Shire of Donnybrook-Balingup. If it is decided to proceed further with the prospective development of these sites for solid waste disposal, further technical investigations will be carried out, in addition to environmental assessment, by the Environmental Protection Authority.

MURRAY DISTRICT HOSPITAL

382. Hon J.A. COWDELL to the minister representing the Minister for Health:

With respect to the Murray District Hospital -

(1) What staffing level is required to maintain -

(a) a 15-bed hospital; and

(b) a 30-bed hospital?

(2) What staffing levels, by department, will be maintained after December this year?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) (a) 48.525 full-time equivalents, including holiday relief; and

(b) 67.15 full-time equivalents, including holiday relief.

(2)

Hotel services	13.125 FTEs
Maintenance	2.75 FTEs
Nursing	18.75 FTEs
Management	1.13 FTEs
Stores	1.25 FTEs
Ward Clerk	1.25 FTEs
Salaries	1.25 FTEs
Office	3.25 FTEs
Accounts	1.25 FTEs
Allied Health	4.52 FTEs

OSTEOPATHS REGISTRATION BOARD

383. Hon NORM KELLY to the minister representing the Minister for Health:

(1) Who has been appointed to the Osteopaths Registration Board?

(2) On what basis, according to section 6 of the Osteopaths Act 1997, was each member appointed?

(3) When are regulations for the Osteopaths Act expected to be finalised?

(4) Considering the Act was assented to on 15 December 1997, why has there been such a delay in formulating regulations?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Mr Bruce Goetze
Mr Kenneth Grogan
Mrs Helene Knox
Ms Rosemary Latto
Mr Colin McFarlane
Mr Gary Potter

(2) Mrs Knox, Ms Latto and Mr Potter were appointed by the minister from a panel of six names submitted by the Australian Osteopathic Association, Western Australian Division, in accordance with section 6(1)(a) of the Osteopaths Act 1997. Mr McFarlane was appointed by the minister under section 6(1)(b) of the Osteopaths Act on the recommendation of the Health Consumers' Council of Western Australia. Mr Grogan was appointed by the minister under section 6(1)(c) of the Osteopaths Act from among osteopaths who put themselves forward for consideration in response to a newspaper advertisement. Mr Goetze was appointed by the minister from a panel of three names submitted by the Law Society of Western Australia in accordance with section 6(1)(d) of the Osteopaths Act.

(3) Before the end of 1998.

(4) It has been necessary to appoint the Osteopaths Registration Board and to consult with the board on the content of subsidiary legislation.

BURSWOOD INTERNATIONAL RESORT CASINO

384. Hon TOM STEPHENS to the Minister for Finance:

(1) What revenue will the Government lose each year if it reduces the tax rates imposed on the Burswood International Resort Casino in relation to foreign high-rollers to the level Burswood is requesting?

(2) How does this compare with the $100m the Government is proposing to offer private developers to build a convention centre?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) At this stage only general discussion with the casino has taken place. No formal submission has been received by the Government. The member may not be aware that the casino tax revenue has declined over recent years. Casino tax collections in 1995-96 were $65.2m; in 1996-97, $59.1m; in 1997-98, $54.8m; and in 1998-99 they are estimated to be $48m. In other words, casino tax collections are down $70m in a couple of years. The tax is based on the profit made from gambling, or the losses the players make. The Government collects a tax on players' losses. That goes up and down. The turnover might increase, but the losses can go one way or the other. The Burswood casino pays casino tax of 15 per cent, plus a 1 per cent levy, to the Burswood Park Board on high-roller gaming revenues. Effective from 1 January 1999, the Sydney casino will pay casino tax of 10 per cent on high-roller gaming revenues compared with its present rate of 23 per cent. The Crown Casino in Melbourne is presently paying casino tax of 9 per cent, plus a 1 per cent community benefit levy, on high-roller gaming revenues.

COMMISSIONER OF PUBLIC SECTOR STANDARDS, COMPLIANCE REPORT

385. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

In relation to the annual compliance report by the Commissioner for Public Sector Standards -

(1) Is the Minister for Public Sector Management concerned that the commissioner found that 91 per cent of new public sector employees were on short-term contracts?

(2) Is he also concerned that interviews by the commissioner of a sample of 60 new employees across 11 agencies showed the average length of their contracts was only 4.3 months?

(3) Is he aware that these same employees had had their contracts renewed on an average of 5.7 times during their employment?

(4) Is this lack of job security a direct result of government policy?

(5) What action will he be taking on the commissioner's suggestion that government agencies should create permanent level 1 positions when they are needed?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The finding of 91 per cent of new public sector employees being on short-term contracts refers to entry level positions; for example, level 1 only. Many of these vacancies occur due to permanent officers, including those at a higher level, clearing leave entitlements or undertaking project work for a defined period. This frequently results in short-term vacancies in entry level positions.

(2) Government policy provides for redeployees to obtain first preference for placement into vacant positions, and many permanent vacancies are filled by redeployees. Therefore, it is generally the short-term vacancies that remain and are offered to external individuals on a contract basis.

(3)-(4) Contract employees who perform well often have their contracts renewed when other short-term opportunities arise. Individuals who have undertaken short-term contracts gain experience and training that provide an excellent basis to be successful in obtaining permanent positions in government or the private sector.

(5) The commissioner's suggestion that government agencies should create permanent level 1 positions when they are required is currently being considered, as are all findings detailed in the commissioner's compliance report.

WALKER, MR IAN EDWARD

386. Hon KEN TRAVERS to the Minister for Transport:

(1) Is Ian Edward Walker employed by the Department of Transport?

(2) If yes, what is his position at the department, and what are his conditions of employment?

(3) If Mr Walker is not currently employed, was he previously employed and what was his position and his terms of employment?

Hon M.J. CRIDDLE replied:

(1) No.

(2) Not applicable.

(3) Yes, as contract variations manager on Transport's workplace agreement, 40 hours a week.

EDUCATION DEPARTMENT TRIAL, SELF-MANAGED SCHOOLS

387. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:

(1) Has the Western Australian Education Department proposed a trial allowing some government schools to become self-managed schools?

(2) When is this trial due to commence?

(3) What functions normally carried out by the department will be delegated to -

(a) the school council;

(b) the school principal;

(c) the parents of students at that school?

(4) Have schools been nominated to participate in this trial?

(5) If so, have parents at those schools been consulted?

(6) How many participating schools will be -

(a) primary schools;

(b) secondary schools?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes. The Education Department has proposed a trial program whereby a group of schools will be given the opportunity to explore self-management options that build upon and improve the capacities of schools, or networks

of schools, to match their teaching and learning to unique local needs. The concept has an emphasis on local management, reflective of the partnership between the school and its community.

(2) It is proposed that a group of schools will be selected during term 1 of 1999 and that the trial of self-management in schools will occur commencing term 2. The commencement of the trial will follow comprehensive planning with the schools and consultation with their local communities.

(3) No specific functions currently managed by the department have been identified for self-management by schools at this point. A broad district consultation process, including representation from schools across the State, is currently underway. This process will assist in the development of models or options for possible self-management by schools and will be complete by the end of November 1998.

(4) No. Interested schools will be able to nominate for inclusion in the trial during term 1 of 1999. A selection process will be developed.

(5) Not applicable.

(6) The trial group will include primary and secondary schools. The composition of the group will be developed by the steering committee and the selection process.

CASINO LICENCES

388. Hon MARK NEVILL to the Minister for Racing and Gaming:

(1) Has the minister received any new applications for casino licences?

(2) Who has applied for them?

(3) For what locations have the licences been applied?

Hon MAX EVANS replied:

The member might know something that I do not.

(1)-(3) No, we have received no new applications for casino licences in this State.

BUSES, MISSED TRIPS

389. Hon TOM HELM to the Minister for Transport:

Last year the minister's predecessor tabled figures for the numbers of missed trips by MetroBus and included in this the number of trips missed because of industrial action. Will the minister now tell us in respect of each bus company how many trips have been missed or have arrived late because of industrial action since 1 January 1998?

Hon M.J. CRIDDLE replied:

I do not seem to have any indication of this question.

WESTRAIL, PRIVATISATION

390. Hon KIM CHANCE to the Minister for Transport:

On this occasion no notice has been given of my question. Will the proposed privatisation of Westrail result in the acceleration of the loss of jobs in wheatbelt towns such as occurred in Merredin where total Westrail jobs are now less than 25 per cent of those which were available when this Government came to office?

Hon M.J. CRIDDLE replied:

I guess I must give an opinion. The options from the taskforce are in the process of being examined on how we will deal with the issue of Westrail and whether Westrail will be sold. There is a real possibility for Westrail to expand its business based on the opportunity to sell. Therefore, there is a real chance that more transport will go on to rail; and, surely, that is the focus of people around the State and across the nation. The sooner we get more on to rail the better. There is a real opportunity out there for rail to expand.

BROOME AIRPORT

391. Hon MARK NEVILL to the Minister for Tourism:

(1) Is the minister aware that there has been a 240 per cent increase in passengers through Broome airport in the past three years?

(2) What plans are there to move Broome airport from its current site to further out of town?

Hon N.F. MOORE replied:

(1)-(2) I am not aware of the exact figure but I did notice that there had been a significant increase in the number of passengers through Broome. That has been the result of Ansett, particularly, having 737 flights from Melbourne to Broome via Alice Springs which has opened up the eastern States' opportunities into the Broome market. That is very encouraging indeed for tourism in Broome. The decision on a new airport has yet to be finalised. I am aware of the work being undertaken on what might occur on the Waterbanks lease and the various options in respect of land usage, including the relocation of the airport. However, to my knowledge, no decisions have been made on these matters and I do not have any information on the time line. Native title issues and a number of other matters on various planning processes must be sorted out. One can only hope that it will be sooner rather than later because there is a real need in Broome for a significant upgrade of the airport and, ultimately, an increase in the number of international flights flying directly into Broome.

KEMERTON INDUSTRIAL PARK

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

(1) Will the minister list all of the industries and companies which have expressed an interest in locating in the Kemerton Industrial Park?

(2) For each of those industries -

(a) when did they indicate an interest;

(b) how was their interest registered;

(c) what type of industrial activity are they involved in;

(d) when would they start construction if approvals are obtained; and

(e) what is the estimated area of land required by the industry?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) It is not possible to list all the industries and companies which have expressed an interest in locating in the Kemerton Industrial Park. Over many years prospective proponents have discussed with the Department of Resources Development the potential to invest at Kemerton, including those which might be classed as having a passing interest. No doubt other relevant government agencies have been involved in discussions on other industry sectors locating in the area. The Kemerton Industrial Park is a major component of the State's strategy to have well-planned and serviced industrial areas to cater for the growing downstream processing opportunities throughout Western Australia. The Kemerton Expansion Study is a strategic planning study with a 30 to 50 year planning time frame. Its purpose is to ensure that the Kemerton Industrial Park remains a world-class industrial area and that there is adequate land for downstream processing projects well into the next century. The south west region has a diverse range of minerals and potential for further downstream processing including the production of steel, aluminium and titanium metal, and the development of a pulp and paper mill.

(2) Not applicable.

WESTRAIL SALE TASK FORCE

393. Hon NORM KELLY to the Minister for Transport:

(1) Has the task force established to look at the possible sale of Westrail completed its task?

(2) If so, has its report been presented to Cabinet?

(3) If not, when is the task force expected to report its recommendations?

Hon M.J. CRIDDLE replied:

(1)-(3) The task force work has probably only just begun. I will be reporting to Cabinet on various issues, including whether legislation is required, the available options and the work force. I will have to go back to Cabinet on quite a few issues over a period of time. I imagine that the work of the task force will be carried out over a quite a period.

WESTRAIL PRIVATISATION

394. Hon NORM KELLY to the Minister for Transport:

As a supplementary -

The PRESIDENT: Is it directly on the point, because the member has asked four questions today?

Hon NORM KELLY: It concerns whether legislation would be required for the privatisation of Westrail. When does the minister expect to be aware of whether legislation is required?

Hon M.J. CRIDDLE replied:

I would not like to give an opinion on when that answer will be available. When government goes into these matters decisions need to be made. When the decision is made I will announce it.