



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE COUNCIL

Wednesday, 8 April 1998

Legislative Council

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

HON G.W. BERRY - CONDOLENCE MOTION

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.02 pm]: I move -

That this House expresses its deep regret at the death of Hon George William Berry, a former member of the Legislative Council for the Lower North Province; and places on record its appreciation for his long public service and tenders its profound sympathy to his widow and the members of his family in their bereavement.

George Berry was a very good friend of mine. He was my colleague in Lower North Province for the first three years of my term in this House. After his retirement, when he was succeeded by Hon Phil Lockyer, George and I remained good friends and we spent many pleasant hours together over the years. I also consider his family to be close friends of mine. I was, therefore, very saddened to learn of George's death last Saturday.

George Berry was born in 1913 and lived a long life until his death at 85 years on 4 April. He is survived by his wife, Dorothy - best known to all as Dot, and his three children, Barbara, Helen and Bill. George spent a lot of his early life in the Spearwood area of Western Australia. He attended Beaconsfield Primary School, East Rockingham Primary School, Spearwood Primary School and Fremantle Boys School. He went into the workforce for a number of years, before moving to Carnarvon in the 1950s. George was a little like many people who went north in those days: He went to have a look, with no intention of staying a long time, but eventually stayed for many years. From 1954 until his death, George lived in Carnarvon. He served in the RAAF during the Second World War between 1941 and 1945. He was an active member of many sporting and community organisations, prior to moving to Carnarvon to become a banana plantation operator.

George made his decision to become a member of the Liberal Party, and joined the Carnarvon branch in the 1950s. He was a very active member of the party in Carnarvon during all the time he was a resident in that town. He decided to seek election to Parliament in 1968. He opposed the then sitting member, Hon Eric Heenan. George won that seat. He defeated Eric Heenan, who had been a member for some 32 years. He won by 71 votes, after receiving 51 per cent of the vote after preferences. He joined the late George Brand, who was the first Liberal member for the region, and represented the other part of the province at that time.

In those days, Lower North Province covered the Gascoyne, the Murchison and the north east goldfields. It was an extremely large geographical area. In 1971, after George Berry had been a member for three years, George Brand stood against Stan Dellar whose father had been defeated by George Brand. Stan Dellar won the seat by four votes. George Berry, having won by 71 votes in 1968, saw his colleague George Brand defeated by four votes in 1971. It was extraordinary that in 1974 when George Berry sought re-election he was able to achieve something like 67 per cent of the vote - in that election the highest vote achieved by any Liberal Party candidate in any seat in Western Australia.

Those statistics demonstrate the high regard in which George was held in his electorate. He was a very conscientious, self-effacing member, in a sense. He did not make grandiose speeches or seek to have his name on the front page of the newspaper on a regular basis. He went about his job as a representative of the people, in a way which the people found very acceptable. He travelled widely, and took on board people's concerns. He worked on behalf of individuals. He was not a highly active political person in the sense of being a party political animal. George saw his role, as a member of Parliament, as doing what he could for his electorate, the individuals, the industries and the communities within it. His significant election result in 1974 demonstrated very clearly the high regard in which George Berry was held in his electorate.

In 1974 the Lower North Province extended from Carnarvon across to the South Australian-Northern Territory border - a very large area indeed; opportunities available for travel by members of Parliament were much more limited, and it was difficult to get around an electorate of that size. However, George was able to move through the many towns in the electorate and establish a reputation as a very conscientious member.

Coincidentally, the 1974 election, the last that George contested, saw his son-in-law, Ian Laurance, win the seat of Gascoyne. Ian had married Barbara - George's daughter - and moved to Carnarvon to contest Gascoyne, which was held by the Labor Party and had been for many years. In 1974 Ian Laurance recorded a very significant victory in the seat, which subsequently became a very safe Liberal seat.

He and George worked very hard together in that part of world. The work they did was reflected in the results they

achieved in the ballot box. In 1977, halfway through George's second term, I was fortunate enough to be endorsed by the Liberal Party to contest the Lower North Province and to stand against Stan Dellar. I defeated him in that election and spent three years as George Berry's colleague before he decided not to stand again in 1980. As I said earlier, George was succeeded by Hon Phil Lockyer.

George Berry was the sort of person who, to me, epitomises the people who are very important to the remote parts of Western Australia. He was prepared to move around; to see his role in very simple terms; to do whatever he could to assist anybody who had a problem; to assist industries that were important to the electorate - to get around and do what had to be done to achieve the end result.

George had a very simple filing system. He had a filing cabinet which had one folder in it. I shared an office with him in Parliament House for three years. Whenever a letter came in, George would read it and deal with it immediately. He would pick up the telephone and talk with whoever needed to be spoken to. If the problem was solved, the letter would be thrown in the bin. There was no need to file it because the problem had been fixed. If he had to wait a little while for the answer, he would file the letter until such time as he got an answer, and then the letter would be thrown in the bin. He was the sort of person who could telephone a bureaucrat or a chief executive officer of a government department, say that he had just received a letter from whoever and ask for the matter to be fixed. Although George was very successful, he did not keep a huge filing system, as many of us do, because he felt that was just a waste of time and energy. He achieved what he had to do in his own way.

When he retired from Parliament, George Berry again became a very active member in the Carnarvon community and assisted many community organisations in a number of ways. He was very helpful and supportive in the Liberal Party, and for that I am most grateful. He was not well for a number of years, I guess, in part, as a result of his increasing age; but that in no way diminishes the sadness I feel at his passing.

On behalf of the government members in this House, I say to Dot and George's family that we are very sad at his passing. He was a fine gentleman; a person whose astute advice I often sought and always acted on. On behalf of government members, I express our sincere sympathy to the family on the passing of George Berry, a great Western Australian.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.13 pm]: I join with the Leader of the Government in expressing, not only on behalf of Labor Party members, but also the other non-government members of this place - that is, the members of the Australian Democrats and the Greens (WA) - our sympathy to the family members of the late George Berry, and his colleagues and friends. The speech by the Leader of the House in his condolence motion demonstrates a couple of matters. One is the personal regard in which George Berry was held by him. He was intimately caught up with the life of the Liberal Party in the Gascoyne and inevitably the Leader of the House formed an association with him, which has led him to hold his former colleague in the highest regard.

I saw George Berry from the vantage point of the other side of politics, coming into that region some time after his retirement. I first went to that region three years later, under the instructions of the then assistant secretary of the Labor Party, Hon John Cowdell, to attend to some issues on behalf of the party, and then subsequently to campaign in the area in 1987. I found how highly regard George Berry was not only in the Carnarvon community, but also more widely in the Gascoyne and the Lower North electorates. That represented an obstacle for those in the Australian Labor Party because we wanted to regain the seat of Gascoyne in the State election, and in the subsequent by-election following the retirement of his son-in-law in 1987.

Hon Barry House: It was on 24 October 1987.

Hon TOM STEPHENS: Yes. It was the same election that Hon Barry House was involved in for the South West Region. At that time, as an active member of the Parliament campaigning on behalf of my party, I found interwoven in the folk law and the fabric of the lives of the people of that region a deep respect for Hon George Berry. I never had the opportunity to meet him. For me, he lived simply through the expression of appreciation of the electors of that region. I knew, again because of the esteem in which he was held by the residents of that region, he was unwell, and had been for some time. People from my party had seen him. My colleague, Kevin Leahy, the former member for the lower House for that region had indicated George Berry had been unwell for an extended time, particularly recently.

After his retirement from politics George and Mrs Berry - everyone calls her Dot - were very active in the bowling community of that area. For several reasons the death of George Berry will mean that many people have lost someone whom they hold in the highest regard. Because of that high regard, I have come to develop the same appreciation of this man whom I never had the opportunity to meet; I guess one day I will in another place.

George Berry was another member of this place who was a war serviceman. He enlisted in the Royal Australian Air Force on 29 May 1941 and served with distinction until his discharge on 2 November 1945. This experience of

military service has been formative in the lives and consciousness of the members of Parliament who have graced the corridors of this place. The Leader of the Government has placed much on the record that adequately deals with the political history in which George Berry was engaged. I am very conscious of his achievements, given that I come from the other side of politics. The intimate role he played in his local community brought with it the popular support of the various members of Parliament in the region. The seat swung from a Liberal member, to Stan Dellar and back to George Berry at the subsequent election. The intervening three years saw the election of Hon Norman Moore and, subsequent to the retirement of Hon George Berry, the election of Hon Phil Lockyer. He had an important impact on the playing out of politics in that region.

The Leader of the Government made the important point that members of Parliament in remote areas, particularly when the regions were so much smaller, were intimately connected with the lives of so many of the people in those remote parts of this State. That is still the case, but to a lesser extent by virtue of the large boundaries that now shape the electorates that we represent. George Berry was held in high regard by the people of that area.

I will quote briefly from George Berry's final speech to this House on 6 December 1979, because it places on record something of the character of this man, who was, by anyone's estimate, a good bloke. He said -

My feeling is still the same. I am still very proud to be a member of this House and I am indeed sorry that the time has come for me to say my adieus to a parliamentary career.

I have never denigrated this House during the time I have been in Parliament. I have always upheld it to the best of my ability, and I hope every member does the same, because it is a great institution.

I am sure that there is much in the life and public service of George Berry upon which we can all draw to the great benefit of ourselves and our community. I suspect that for all of us who take the role of parliamentarian seriously, those words have particular significance as we take this opportunity of paying tribute to his life and expressing our sympathy to his family, particularly his wife, and to his friends and former colleagues.

HON MARK NEVILL (Mining and Pastoral) [4.21 pm]: I also want to express my condolences to the family of George Berry. I met George Berry a couple of times during the mid-1970s and always regarded him as a fairly formidable candidate. It seemed to me that he was the one who had his hands on the tiller in Lower North; and when his son in law, Ian Laurance, took the seat of Gascoyne, he really entrenched the Liberal Party in that seat. I fought in two campaigns in the seat of Murchison-Eyre in which George Berry and Peter Coyne were involved, and George Berry was a person whom one both admired and respected. When George Berry left the Parliament, he stayed in the Gascoyne and contributed greatly to that community.

THE PRESIDENT: Before I put the question, I want to add a few words of support for this motion. I support the comments of the Leader of the House, the Leader the Opposition and Hon Mark Nevill on the sad death of George Berry. Like the Leader of the House and other members of this House, I had the opportunity of meeting George Berry in Carnarvon on a number of occasions. In 1985 when I was a member of the Legislative Assembly, his son in law, Ian Laurance, who was then a member of that House and a former Minister for Lands and Tourism, invited me to visit his electorate of the Gascoyne to understand better just what life was all about in that part of Western Australia. I stayed overnight at George and Dot's house in Carnarvon, and on other visits to Carnarvon since that time in 1985, I had the opportunity of meeting George on a number of occasions.

There is no doubt, as has already been said, that George Berry was a very fine member of Parliament. He was a member who knew his electorate well; but, more than that, he was keen to serve the electors and satisfy their many needs.

George Berry served in this House from 1968 to 1980. After he left this House, he was very proud of the fact that his son in law, Ian Laurance, was a member of the Legislative Assembly. I know that after he left Parliament George worked, in part, through Ian as a member to continue assisting the people in his former electorate, and he was always very proud of the great achievements of his son in law, Ian. I extend my personal condolences to his wife, and to his children Barbara, Helen and Bill.

Question passed, members standing.

CRIMINAL CODE AMENDMENT BILL

Ruling by the President

THE PRESIDENT (Hon George Cash): Order! Members will recall that when the Criminal Code Amendment Bill was received from the Assembly last evening, I directed that no further proceedings, apart from a motion under Standing Order No 230(b), be taken until I had an opportunity to consider the Bill. I have now done that and, for the reasons I am about to give, I rule the Bill out of order and direct that it be struck off the Notice Paper.

Standing Order No 170, subject to an exception not relevant here, prohibits the House, within the same session, from revisiting an issue which it has already disposed of. It provides -

. . . no question or amendment shall be proposed which is the same in substance as any question or amendment which, during the same session, has been resolved in the affirmative or the negative.

Although the rule is expressed in similar language across the gamut of Westminster model Houses, its interpretation and application varies from place to place. For example, the Senate applies the rule to the previous six months, for the reason that the Commonwealth Parliament is rarely prorogued within the life of a Parliament. In those circumstances, it would become extremely difficult to enforce it over a three year period.

This House has always applied the rule strictly. Members need only have regard to the prohibition against suspension of Standing Order No 170 to appreciate the way in which the rule has been approached. By contrast, the House of Representatives gives its Speaker discretion as to the circumstances in which the rule will be applied; I have no discretion.

The three elements to the rule are that -

- (1) The question must be substantially the same.
- (2) The question must have been finally disposed of by resolution of the House.
- (3) The rule applies within the life of a session and not from session to session.

The first element is that the question must be substantially the same. When the Acts Amendment (Abortion) Bill was introduced into this House as the Criminal Code Amendment (Abortion) Bill, it passed its second reading with one principle; namely, abortion-related offences created by sections 199, 200 and 201 of the Criminal Code were abolished. In the course of the Committee stage, the Bill was amended extensively and emerged as a Bill that amended both the code and the Health Act. In that form, and with an amended title and short title, it was sent to the Assembly. In part 3 of the Bill - proposed section 334(4) - the House adopted four grounds on which the performance of an abortion is justified.

In the Assembly Bill, identical provisions appear as proposed section 201A(3) of the code. It will be argued that identical words in two separate Bills, albeit dealing with the same subject, does not trigger the operation of Standing Order No 170. I agree, but the rule is not directed to a technical examination of words or their number. Relevantly, I quote a former President's ruling in 1991 on Standing Order No 170 -

The form and content of the matters that raise the issue -

That is, the same question -

- must be considered solely in the context of what the rule is intended to achieve; namely, to prevent the House in the same session from needlessly having to reconsider and again dispose of questions containing the same issue but resurrected in a seemingly different guise.

That was said by President Griffiths about the Daylight Saving Bill on Wednesday, 6 November 1991.

I note that each Bill has other similar or identical provisions, but I will use the four justifications to illustrate the application of Standing Order No 170. The fact that different enactments are being amended is not relevant. The question I must answer is whether the same issue is involved in each case; that is, what is the effect of each provision?

The answer is that the provisions provide the grounds on which an otherwise unlawful act is justified - they provide a complete defence to a charge for an abortion-related offence. The statutory vehicle chosen by each House to achieve that object is different, but the effect in both cases is the same "resurrected in a seemingly different guise".

The second element is that the question must have been finally disposed of by resolution of the House. The Acts Amendment (Abortion) Bill as it emerged from the Committee of the Whole was read a third time and passed. Subject only to the Council having to consider any amendments made by the Assembly, the proceedings on the Bill were concluded as far as this House is concerned. Using the four justifications as an illustration, they were included in the Bill as read a third time and sent to the Assembly. In my view, the second element is satisfied, and it is unnecessary for me to discuss the third element. Clearly, this matter has occurred within the same session.

If I were to allow the Assembly Bill to proceed, I have no doubt that the House would engage in a debate almost identical to that which has occurred on the Council Bill. The rule is designed to prevent that, regardless of the issues involved.

Hon TOM STEPHENS: Mr President, I want to check with you on a couple of things. I was not aware that you would be making a ruling at this time.

The PRESIDENT: I stop the member there. Firstly, is the Leader of the Opposition raising a point of order?

Hon TOM STEPHENS: I am wanting to take your advice first.

Mr PRESIDENT: The member may continue for the time being.

Hon TOM STEPHENS: I want to ascertain whether there will be an opportunity for this ruling to be immediately the subject of a motion, or could it be the subject of a motion moved at a later stage of this day's sitting?

The PRESIDENT: On that particular point, I have given a ruling and it is up to the member or any other member to move a motion of dissent; that is the only motion that is available. If the member wants to move a motion of dissent from my ruling, he is entitled to do it, and we can get on with that debate and put the question.

Hon TOM STEPHENS: I wonder whether you can indicate the standing order under which I could move to dissent from your ruling.

The PRESIDENT: Standing Order No 108 is headed "Objection to ruling of President" and reads -

If any objection be taken to the ruling or decision of the President, such objection shall be taken at once, and motion made, which, if seconded, shall be proposed to the Council.

That means you have an opportunity now to move dissent from that ruling. I have made it clear that I am required to uphold the standing orders of this House. The intent of Standing Order No 170 is clear, and my ruling upholds that standing order. If you are going to move dissent from that ruling, please do so.

Hon TOM STEPHENS: I just want to pursue a couple of queries with you first. With previous rulings given by Presidents, I have seen a contemporaneous copy of the Presidents's ruling in advance of the ruling being made in the House, and this has enabled me to consider whether to move dissent. As you know, we have had some discussions, but I have not been privy to your ruling before now.

The PRESIDENT: I am not aware of the former President, who was in this Chair for 20 years, ever giving anyone a copy of a ruling in advance of his delivering that ruling in the House. If you say that somehow you got copies of rulings before they were delivered in this House, all I can do is express my surprise.

Hon TOM STEPHENS: Are you also telling me that given the way you interpret Standing Order No 108, if I were to want to move to dissent later in today's proceedings there would be no opportunity for me to do so?

The PRESIDENT: I have already said that Standing Order No 108 requires members to move dissent forthwith. It is not the sort of motion that one can leave hanging around, because it is a potential vote of no confidence in the President. I am not sure that people who might vote for the motion would intend that to be the end result; they may in fact vote to express a particular view of the ruling. However, you are required to move dissent from my ruling now if you wish to continue this matter.

Hon TOM STEPHENS: I move that consideration of the President's ruling be made an order of the day.

The PRESIDENT: That motion is out of order. You must move dissent from my ruling or sit down so that we can get on with the rest of the proceedings of this House.

Hon TOM STEPHENS: I am most loath to move dissent, as you know.

The PRESIDENT: I am inviting you to move dissent if that is what you want to do, because it is critical that this matter be resolved.

For the benefit of the House, let me say that I have had some discussions with the Leader of the Opposition. I invited him to make a submission to me in writing on this matter. He did not make that submission in writing by the agreed time, but came and saw me prior to the House sitting to advise me or to encourage me to read a particular page of a particular parliamentary procedure book, which I did. I say that for the benefit of the House, because members will recall that last night I extended that invitation to the Leader of the Opposition.

Hon TOM STEPHENS: If you do not mind me saying, Mr President, I also handed you an entirely different ruling given by the Speaker in relation to a similar standing order and invited you to read the ruling delivered in the Assembly.

The PRESIDENT: You handed me a copy of a ruling given in the other place, that is correct, and I read that ruling and considered it. In as much as you are the Leader of the Opposition you are entitled to some preferential treatment,

so to speak, in the procedures of this House. However, I cannot allow this discussion to continue. I say to you again that if you wish to move dissent from my ruling, move it now, otherwise I am about to call for petitions.

Hon TOM STEPHENS: I will not be able to move dissent and I want to say exactly why I will not be moving dissent to your ruling. I will not move dissent because I wanted the opportunity of examining your reasons, Mr President, discussing them with my colleagues and ascertaining whether I could move to dissent. I have not had that opportunity; therefore I cannot so move.

The PRESIDENT: Standing Order No 108 is clear. If the Leader of the Opposition is not prepared to move dissent I am required to get on with the business of the House.

Bill thus ruled out of order.

SCARBOROUGH SENIOR HIGH SCHOOL

Petition

Hon E.R.J. Dermer presented the following petition bearing the signatures of 238 persons -

To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We, the undersigned residents of Western Australia oppose the likely closure of Scarborough Senior High School.

We protest that:

- . the education Minister earmarked Scarborough Senior High School for closure last year, before the community consultation process even started, when he announced that the school should probably close.
- . the local area education planning process ignored community opinion by effectively eliminating the three options which recommended retaining Scarborough Senior High School.

Your petitioners therefore humbly pray that the Legislative Council will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 1513.]

AUDITOR GENERAL'S REPORT No 1 - APRIL 1988

Tabled Paper

THE PRESIDENT (Hon George Cash): I table "The Auditor General's Report on Ministerial Portfolios Report No 1- April 1998". In tabling that document I will read the following letter addressed to me as the President -

Dear Mr Cash

REPORT ON MINISTERIAL PORTFOLIOS: Report No 1 - April 1998.

I transmit to you for tabling in the Legislative Council my first Report for 1998.

The Report has been prepared pursuant to section 95 of the *Financial Administration and Audit Act 1985*, and covers the financial statements and performance indicators of departments, statutory authorities and subsidiary bodies under that Act which have balance dates between June 30, 1997 and October 31, 1997. It excludes all agencies in the Health portfolio, as well as agencies with a December 31, 1997 balance date, which are to be reported separately.

This Report details the findings of 199 financial statement and 167 performance indicator audits conducted by my office in the 1997 audit cycle. The completion of the cycle enables me through this Report to provide Parliament with an overview of the state of financial and performance indicator reporting across government.

Also reported is the outcome of the first audit undertaken of the Consolidated Financial Statements of the State of Western Australia, and four government-wide issues. The results of agency audits are covered on a Ministerial portfolio basis.

I am sure you are aware that certain details from this Report were prematurely transmitted to a number of media outlets earlier this week. I apologise for this error.

Yours sincerely

D D R PEARSON
AUDITOR GENERAL
April 8, 1998

I do not usually read letters accompanying reports, but I read that letter of transmission to point out that the Auditor General acknowledges that certain details from his report were prematurely transmitted to a number of the media outlets earlier this week.

[See paper No 1512.]

STANDING COMMITTEE ON LEGISLATION

Criminal Law Amendment Bill (No 1) - Extension of Time

Hon B.K. Donaldson reported that the Standing Committee on Legislation had resolved that the time in which it had to report on the Criminal Law Amendment Bill (No 1) 1998 be extended from 9 April to 7 May 1998, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 1515.]

AGRICULTURE WA - AUDITOR GENERAL'S REPORT

Standing Orders Suspension

HON KIM CHANCE (Agricultural) [4.43 pm]: I move -

That so much of standing orders be suspended as to allow the following motion to be debated and resolved at this day's sitting -

That the House -

- (a) note with concern the Auditor General's report tabled today in which the Auditor General refers to accounting records at Agriculture WA which were so inaccurate and incomplete the Auditor General was unable to sign off the agency's financial statements and issued a "Disclaimer", the ultimate censure available to him; and
- (b) refer the question of the financial competence and administrative efficiency of Agriculture WA to the Standing Committee on Estimates and Financial Operations for its consideration and report.

It is not necessary for me to speak to this motion except to say it is my understanding from the Leader of the House that there will be support for the suspension motion consequent to certain things happening, including the motion not proceeding until a later stage of this day's sitting - I believe some time after 10.00 pm. It is also necessary for me to say that this is an urgent matter. It is required to be an urgent matter under the standing orders of the House for it to be dealt with in this way.

The PRESIDENT: Order! Standing Order No 433 deals with that matter and it is up to Hon Kim Chance to convince me, as the President, and the House of the urgent nature of the matter he wishes to raise in order to succeed with this motion without notice. I assume he is about to do that.

Hon KIM CHANCE: I am. It is an urgent matter for two reasons: First, it arises from a paper which was tabled by you, Mr President, a few moments ago. Second, I understand - this is the real imperative - that this is the first time the Auditor General has taken such action over the financial statements of a government agency. It is a matter of considerable import, probably without precedent, and of extreme concern to every member of the public.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.47 pm]: Is it necessary, Mr President, for you to make a decision on the urgency prior to any debate taking place?

The PRESIDENT: The previous President required members who intended to move motions without notice to justify their urgency. The Leader of the Opposition, accompanied by Hon Kim Chance, raised this issue with me before the House sat today. I listened to their comments and I have now heard further submissions from Hon Kim Chance. Yes, I am required to satisfy myself there is an urgent necessity. I am prepared to hear comment in that regard.

Hon N.F. MOORE: I do not think it is urgent at all, but that is beside the point. I am happy for this motion to be agreed to, but I am aware it requires two processes; that is, your ruling on the urgency of the matter, Mr President, and the agreement of the House by an absolute majority. I have indicated to the member that in the event you determine it to be a matter of urgency I will support the motion and request the House to do likewise to enable the matter to be debated, on the proviso that, as I understand has been agreed by members, this will happen after 10 o'clock tonight.

I suggested that because members will be aware that for some time now we have done very little of the business on the Notice Paper. It is my desire to make some progress on the Government's legislative program, bearing in mind we have two disallowance motions to deal with between now and tomorrow evening. I put the proposition to Hon Kim Chance and the Leader of the Opposition that I will support this on the basis that you believe it to be urgent, Mr President, and that the House will give it an absolute majority and will agree to sit beyond 10.00 pm, when the matter will be brought on. I have been given an assurance by the Opposition that it will agree to that.

HON JOHN HALDEN (South Metropolitan) [4.51 pm]: Mr President, in trying to get to a position to consider that this matter is urgent, is it appropriate that you should consider the comments in the Auditor General's report which you recently tabled in this House. Although I have not seen this report in its totality before this - I have only seen the faxed copy that was inadvertently released from the Auditor General's department - it is appropriate for me, with your support, to read some of the comments contained in it. On page 36 it states -

Key reconciliations to ensure financial data is completely and accurately processed were not undertaken on a regular basis and resulted in uncertainty as to whether figures reported in the financial statements were correct. These included:

reconciliations not being completed on a monthly basis between expenditure recorded in Agriculture Western Australia's system and Treasury's system. At June 30 1997 there was unreconciled variance of \$2.004m;

reconciliations of cash balances (reported as \$21.635 million at June 30) between Agriculture Western Australia's system and Treasury records were not completed at year end. Adjustments were made, without supports, to balance to Treasury figures; and

reconciliations between the accounts receivable system and the general ledger not being undertaken.

The report continues under fixed assets -

lack of appropriate asset register;

inadequate procedures to record asset purchases and disposals and reconcile to the general ledger;

stock takes not being completed; and

land values at cost which may not represent the current value.

The PRESIDENT: Order! What the member is raising now has to do with the substantive debate which may take place in due course if this motion is carried. The member is now required to argue why the matter is so urgent it must be discussed today.

Hon JOHN HALDEN: I understand exactly the point you are making and I thank the House for its indulgence in allowing me to raise some of the matters in this report. Why it is urgent is that at the end of the day this is a damning indictment by the Auditor General of a department which takes in over a hundred million dollars of consolidated revenue money each year. That in itself makes it urgent for us to consider this matter based on the Auditor General's report.

Hon N.F. Moore: How come you know? Have you read it?

Hon JOHN HALDEN: I am just reading it from here.

Hon Tom Stephens: I am trying to get him to shut up. If you keep interjecting -

The PRESIDENT: Order! I have heard Hon John Halden. He is now moving into the substantive debate and that is not necessary. I advise the House that, given the special circumstances argued in this case, I am prepared to accept that this is a matter of urgency. I also advise the House that in making that determination I have heard from both the Leader of the Opposition and the Leader of the Government about some arrangement, which I am certainly not a party to, that seems to have been agreed. As some accommodation seems to have been agreed to, I will put the question.

Question put and passed with an absolute majority.

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

That the motion to discuss the report of the Auditor General be made an order of the day for a later stage of this day's sitting.

SITTINGS OF THE HOUSE

Extended beyond 10.00 pm

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.55 pm]: I move -

That the House continue to sit beyond 10.00 pm.

As has been indicated, it is my intention that the matter of urgency be dealt with beyond the normal closure of the House. It is my intention to finish whatever is in train at 10.00 pm, if it is possible to finish within a reasonable hour before proceeding to this matter, and, as the motion indicates, to have it debated and resolved today.

Question put and passed.

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Salinity in Western Australia - Motion, as Amended

Resumed from 1 April on the following motion -

That the House calls on the Standing Committee on Ecologically Sustainable Development to examine the salinity problems facing Western Australia and to report not less than once a year, the first report to be tabled not later than 31 December 1998, on the progress of implementation of the State's salinity action plan.

HON GREG SMITH (Mining and Pastoral) [4.56 pm]: I speak against this motion. It should not be insinuated for one minute that in speaking against the motion I am in some way belittling the enormity of the effects of salinity in Western Australia. However, the motion reads as follows -

That the House calls on the Standing Committee on Ecologically Sustainable Development to examine the salinity problems facing Western Australia and to report not less than once a year . . .

Salinity is not something that must be dealt with a lot in the pastoral area. There are salt lakes and all those sorts of things but they do not really pose a problem. When I began looking into this matter I went to the Parliamentary Library and found that more studies of salinity and examinations of the problem have been made than we can poke a stick at. I concluded that for the Ecologically Sustainable Development committee to carry out another examination of the salinity problems facing Western Australia would be a waste of the committee's time and probably taxpayer's money as well.

A good study into the problem of salinity was conducted in 1988 by a select committee of this House. It comprised Hon David Wordsworth as Chairman, Hon Doug Wenn, Hon Tom Butler and Hon John Cowdell. The terms of reference were -

- (1) That a select committee of 4 members be appointed to inquire into and report on, not later than May 1988, salinity in Western Australia, more particularly with regard to:
 - (a) what action has, or is being taken, to assess the magnitude of the problem;
 - (b) what form of action can, or should, be taken to control salinity;
 - (c) what legislative or administrative acts or incentives to the private sector are necessary or desirable to assist further in controlling or eradicating salinity.

The study the committee conducted was complete and probably the start of tackling the salinity problem in Western Australia. I have read the report. The committee studied the nature of salinity, defined salinity and identified the salt affected soils. The report described the hazards of salt to humans, plants, ecosystems, farming improvements and road materials. The committee studied the natural movement of salt in the environment, the types of salinity problems and their causes including ground water, rivers, lakes and wet lands and reservoirs. It examined salinity in the dry land areas; the trends; the economic, environmental and social effects of salinity; salinity control techniques; organisation and management; planning and regulation; education; and community awareness. The committee went so far as to comment on the legislative and administrative actions that should be taken. I was pleased to see that most of the recommendations made by the committee have been acted on.

Hon J.A. Scott: So everything is okay?

Hon GREG SMITH: I am not insinuating for a moment that everything is okay. If the Standing Committee on Ecologically Sustainable Development inquired into this, it would be a waste of everyone's time because it has already been done.

Some of the recommendations contained in the 1988 report are interesting. The amounts referred to are minuscule compared with what the Government spends on the salinity problem today. In 1987-88 the total budget was \$823 400; today the Government spends \$15.1m of state funds and \$7.7m of federal grants. We are making a concerted effort to tackle the salinity problem. The 1988 committee recommended a bipartisan approach to tackle the problem. Everyone in this House agrees that salinity is a problem.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

METROPOLITAN REGION SCHEME AMENDMENT No 982/33, REGIONAL ROADS PART 3 - CLAREMONT CRESCENT, ROUTE No 58

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon J.A. Scott was moved pro forma -

That the Metropolitan Region Scheme Amendment No 982/33 - Regional Roads Part 3 - Claremont Crescent - Route No 58 published in the *Gazette* on 10 October 1997 and tabled in the Legislative Council on 16 October 1997 be, and is hereby, disallowed.

Ruling by the President

The PRESIDENT: Before I call the Hon Jim Scott, I indicate the tabling and disallowance provisions governing metropolitan region planning schemes and amendments to those schemes are not covered by section 42 of the Interpretation Act 1984. As such, the definition of "regulation" in section 42(8), which includes a part of a regulation, does not extend to planning schemes. Accordingly the law does not permit this House to disallow part only of a planning scheme. The whole of the scheme or, as in this case, amendments to the scheme must be disallowed. I therefore indicate to Hon Jim Scott that he will need to gain the leave of the House to amend his motion if he wishes the House to proceed with it.

HON J.A. SCOTT (South Metropolitan) [5.37 pm]: I seek leave to withdraw the motion standing in my name and substitute the following -

The PRESIDENT: The first question is that we must get leave to withdraw this motion.

[Leave denied.]

The PRESIDENT: I advise the Hon Jim Scott that I must rule the motion out of order as it cannot be moved in its present form because it seeks to disallow only a part of the amended scheme.

METROPOLITAN REGION SCHEME AMENDMENT No 986/33 - CLARENCE LOTS 167 AND 168 COCKBURN ROAD

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon J.A. Scott was moved pro forma -

That the Metropolitan Region Scheme Amendment No 986/33 - Clarence Lots 167 and 168 Cockburn Road published in the *Gazette* on 10 October 1997 and tabled in the Legislative Council on 16 October 1997 be, and is hereby, disallowed.

HON J.A. SCOTT (South Metropolitan) [5.39 pm]: Clarence Lots 167 and 168 form part of the System 6 conservation and recreation areas in the south metropolitan region. It was identified by the Environmental Protection Authority in the early 1980s as a valuable conservation and recreation area and worthy of protection. It has since suffered from degradation due to neglect, but it can easily be revegetated. The degradation should not be an excuse to completely destroy the area.

These two lots were originally joined to the Woodman Point reserve. Since then lots 165 and 166, immediately to the north, have been rezoned for industrial purposes. It has left the piece of land between two industrial areas high and dry. I seek to prevent this rezoning for the reasons that the area is in Cockburn sound, and it abuts an important

dog beach in the area. Copies of submissions to the Ministry of Planning were sent to me by a number of people. The first came from the Conservation Council of Western Australia and reads -

MRS Major Amendment 986/33

The Conservation Council wishes to object to this proposal on the grounds that:

1. It removes part of the buffer zone between the Woodman Point reserve (M90) and the industrial area to the south. Lots 165, 167 and 168 serve a useful purpose as a buffer which protects the Woodman Point Regional Park from noise and pollution. They should be retained for this purpose as the Park will be degraded if you allow industry to develop right up to its boundary.
2. Industrial development of Lots 165, 167 and 168 will cause visual pollution of the Woodman Point regional park. This park is an important part of the State's biological and cultural heritage and industry should not be allowed to encroach on it. There is ample space for industrial development to the south between M90 and M91.
3. The lots in question are part of the parks and recreation zone and should not be rezoned without payment of compensation to the managers of the Woodman Point Regional Park (i.e. CALM). The principle is clearly established that CALM and the WA Planning Commission have to buy land from other government agencies (e.g. LandCorp, Homeswest) for inclusion in Regional Parks. This money comes directly from the MRIF. Therefore if this land is to be rezoned 'industrial', CALM should be compensated and the funds should be used to enhance the Woodman Point Regional Park through land purchase or land swaps with other agencies or through rehabilitation programs.

That is clearly an important principle. CALM must pay for land but is not paid for land in its ownership.

The best of the submissions sent to the Planning Commission come from Heather Smedley, the spokesperson for a group called Comnet in the south metropolitan region. It links, I think, 37 local groups in that region. Some of those extend into the northern suburbs. In her submission she quotes an extract from the southern metropolitan coastal waters study of 1991-94, as follows -

The most important outcome from the study is that we, as a community, now have the basic information needed to plan for a clean and healthy future for our coastal waters. We have to be proactive and plan sensibly. We must also be vigilant monitoring the environment and the pressures upon it. . . Cockburn Sound is the most severely degraded marine area around Perth.

That is a very important factor because we are putting more industry into that area. She continues with information from the same coastal water study -

The South West Corridor has continually lost public beach space to Industry. This industry and effluent from waste water plants have reduced the quality of the water in Cockburn sound to 1970s levels. Cockburn Sound has begun to exceed it's saturation levels.

Industry has reached it's sustainable limit in the Sound and no more should be permitted as is suggested elsewhere in the above report.

Planned massive breakwaters in the Jervoise Bay area will further reduce the flushing ability of the Sound in Woodmans Point area.

I believe this piece of land is earmarked for use by Wavemaster International Pty Ltd for the construction of aluminium vessels. They are competitively built vessels and it is a very worthwhile industry. However, by the same token, all vessels require antifoulings of various sorts, although I am told they will not be using tributyltin. These antifoulings are already causing significant problems in the marine environment of Cockburn Sound.

The submission goes on to say -

Cockburn Sound is the only section of protected coastline in the Metropolitan area. It is important for recreational fishing, particularly for small boats and dinghies and family beaching. The health of the sound must be considered for users other than industry.

That is one of the problems arising in Cockburn Sound. Under other proposals that will come before this place in the future, the last remaining areas available to the community to access Cockburn Sound are to be rezoned for industrial purposes. The report continues -

Lots 167 and 168 -

The lots in question. To continue -

- constitute part of a small beach which is currently Cockburn's dog beach. Cockburn only has two beaches for dogs. The other dog beach is to become part of the Port Catherine Marina. Much of Cockburn's residential development around Coogee and Spearwood is R30 which means residents need to exercise their dogs off their property. This section of beach is used extensively on a daily basis by dog owners.

The proposal denies the public access to the beach. Access to the beach in the South West Corridor is becoming extremely limited. This proposal and other future plans associated with FRIARS-

That is, the Fremantle Rockingham industrial area regional strategy. To continue -

- will further deny the public their fundamental right to the beach.

Part of the degradation in this area was caused when access to the ocean was made to launch the original oil rig constructed in Jervoise Bay. Industry should not benefit from their environmental vandalism, rather they should be ordered to reinstate the area (which is A Class Reserve).

She has a very good point. The Department of Environmental Protection said in a letter to Mrs Assunta Dinardo of LandCorp -

Specifically, vegetation south of the bicycle trail, within Reserve 40829 and Lot 64, has been substantially degraded by past landuse and currently is of very poor quality. The DEP considers that the vegetation on the two lots is no longer of sufficient quality to warrant inclusion in the Woodman Point Reserve.

That area will never again be included in the Woodman Point reserve because already an area to the north has been rezoned industrial. The question must be asked: Why was that land allowed to be degraded specifically by the movement of an oil rig that was built in that area? Why was it allowed to destroy vegetation on an A class reserve and nothing done to remediate it? The Department of Environmental Protection must answer questions in that regard.

A fence has been placed across the front of the area, and it is difficult to ascertain who erected the fence. The area has been set aside for parks and recreation, and access to it is from the beach. Therefore, people who wish to exercise their dogs or swim at the beach must approach it from further to the north. It is supposed to be a corridor for people to use for recreational purposes, and I am interested to know who put up the fence to prevent people using the area. It is not a proper thing to do.

Another submission to the WA Planning Commission came from Bryn Davis and Bruce Campbell. Bryn Davis was recently nominated Fremantle Citizen of the Year due to his services to conservation in the City of Fremantle. In part, Mr Davis and Mr Campbell said in their submission -

Contrary to your report, the area does have recreational importance, both in itself and also in the access it gives to what little remains of the beach. This area is used as a dog beach and its removal would put pressure for sections of Woodmans Point to be given over to a dog exercise area, which is totally incompatible with its primary function.

Therefore, it is not a matter of being able to move the dogs up the beach to Woodman Point, because people do not want to take their dogs to Woodman Point. The submission continues-

Another aspect of the land is that it gives a vista across the water to Garden Island, a view that is being increasingly obliterated by the expansion of industrial buildings.

A further important consideration is that this land lends itself to scientific investigation for evidence of the effects of nearby industrial pollutants on adjoining flora and fauna.

Of great concern is the fact that this land is going to be removed from the conservation reserve without any mention of a commitment to compensate for its loss with suitable and environmentally significant land in the immediate vicinity.

We could contemplate the swapping of the above mentioned lots with land to the immediate north - Lots 165-166: this would consolidate both the Woodman's Point Reserve and the adjacent industrial land, and give a clear boundary between them. This would be a first and only really acceptable option as a land swap.

... It is with growing concern that we observe government departments and bureaucracies taking over the decision-making from local governments, especially in the area of environment and conservation. Departments such as Commerce and Trade seem to have a disproportionate input into the decision-making process and the DEP and EPA are rather domesticated and are only brought in to the consultative process after the major decisions have already been made. The whole of the FRIARS report is one massive example

of bureaucracy gone mad, and this attempt to rezone the Clarence Lots is just one manifestation of what is happening in the whole area.

It is important when considering this discrete section of land - I have had this debate outside the House with Hon Simon O'Brien on a previous occasion -

Hon Simon O'Brien: We touched on it. We have not concluded it.

Hon J.A. SCOTT: - to also consider the plan for the whole coastline from Woodman Point down to the Kwinana industrial area. Considerable expansion of the industrial estate is occurring, both at the Henderson end and into the Coogee reserve M91, which is to the south of the Henderson industrial area, where once again another big chunk of the Beeliar regional park will be taken from the beachfront. The area is situated between the Henderson industrial area and the proposed twin ports for Cockburn Sound. Once that area of land is gone, and the area we are talking about is cut off, the public will have no access to the waters of Cockburn Sound for recreational purposes. That would be a terrible situation.

Hon E.J. Charlton: Does anyone swim there now?

Hon J.A. SCOTT: Quite a few people do.

Hon Simon O'Brien interjected.

Hon J.A. SCOTT: A considerable number of people use the area. Perhaps Hon Simon O'Brien and Hon Eric Charlton do not use the area, and prefer the lakeside resorts around Tammin and other places. However, they would be surprised that the people of Cockburn and Hope Valley - people throughout the southern metropolitan area - use Cockburn Sound for recreational purposes. Furthermore, many people like to go fishing in the area; not only recreational fishermen but also professional fishermen frequent the area. Therefore, access to the sound is very important. Even though we are debating a small block of land, we cannot isolate it from what is going on around it.

I have described what has been happening to the south and how the public will be excluded. To the north there will be a large marina and private housing development which will take another large chunk of beach between Woodman Point and South Beach, leaving Woodman Point and South Beach as the only real alternatives for people in the southern metropolitan area to use. That situation will have an enormous impact on those beaches because people will have no alternative.

Hon E.J. Charlton: How big is this area?

Hon J.A. SCOTT: The Government is considering cutting off all areas in Cockburn Sound between the industrial estate and Woodman Point -

Hon E.J. Charlton: That is not what this motion is all about.

Hon J.A. SCOTT: The area allows people to get to the beach at Cockburn Sound -

Hon Simon O'Brien: That is incorrect.

Hon J.A. SCOTT: It is not. The land is zoned as a parks and recreation. People are able to make their way to the beach through that area. I have already said that someone has put up a fence - probably illegally.

Hon Simon O'Brien: With respect, we are discussing lots 167 and 168, and they do not provide any access to the beach.

The DEPUTY PRESIDENT: Order!

Hon J.A. SCOTT: As Hon Norm Kelly has pointed out, lot 168 is the beach. People use the beach, but someone has put up a fence across the reserve, probably illegally, because it is a parks and recreation area. I do not know whether members understand what parks and recreation means -

Hon E.J. Charlton: Don't pay yourself so much importance. You are no better than anyone else here.

Hon J.A. SCOTT: I am not trying to do that. I am trying to ascertain a proper designation for the area. At this stage, it has not been cut off for industrial development. It is zoned for parks and recreation, and people are able to enter the area. Nothing stops people from using the area, except on the non-beach side where an unknown person has put up a fence.

Hon Simon O'Brien interjected.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order!

Hon J.A. SCOTT: That is precisely what this debate is about. Hon Simon O'Brien has articulated the problem with the industrial development which is occurring in the area. People will not be able to get to the beach, and that is the reason I am debating this issue today. It is vitally important for people to access the beach. Putting aside people involved in industrial development, it is important for people to access the area. The area does not belong to Wavemaster International. It does not belong to the various operators at Jervoise Bay. It certainly does not belong to the industries to the south.

Sitting suspended from 6.00 to 7.30 pm

Hon J.A. SCOTT: To refresh the memory of those members who may have been lulled by the music in the dining room, I will take them back to the points of contention in relation to this amendment. The greatest point of contention I outlined was access to the coast, which is vital if the Peel region meets its objective of proposed population expansion in that area of about 240 000 over the next 30 years. That will impact considerably on the beach areas that remain there. Both dog beaches will be lost to people who need a place to exercise their dogs and who live on the small housing blocks that are prominent in that area. Until the objectives are met, I will not be able to support any amendment to the zoning of this land, or any future zoning that threatens these sorts of things. My major concerns include access to the coast, access to the beaches and the loss of the exercise areas for dogs.

A financial exchange for this land takes place as part of the normal processes. The Department of Conservation and Land Management is actually getting land from other agencies. A buffer must be maintained between the industrial sites, Woodman Point and the conservation areas. As the Conservation Council of Western Australia has pointed out, there must be a raised buffer to take away the vista that will present itself when the area is industrialised. That vista should be blocked off by raising and revegetating a buffer to the north of the industrial site in lot 166. There is a need not only to preserve that facility for access to the beach areas for the local communities, but also to protect those vistas people currently get towards Garden Island.

Because this is one of the only two remaining areas with some remnant vegetation, we must protect it carefully. That was the original idea of setting aside this area as part of the Woodman Point reserve. That it has already been degraded does not mean to say that it cannot be put back into some sort of reasonable condition. Until such time as the Government guarantees these objectives can be met, particularly that of maintaining access to the beaches, I will not support any amendment that suggests that public land in Cockburn Sound be rezoned for industrial purposes.

We are losing the balance. We are turning the whole of Cockburn Sound into an industrial estate. That will be a disaster for this State, not just for those who are here now, but for future generations.

HON J.A. COWDELL (South West) [7.37 pm]: The Australian Labor Party will not support this disallowance motion.

Hon E.J. Charlton: That is very statesmanlike!

Hon J.A. COWDELL: No doubt we are about to be persuaded by the eloquence of the National Party on this matter. The situation must be viewed in context. That particular context is adequately provided in the report of the Western Australian Planning Commission on public submissions in this regard. I refer members to some relevant sections of that report; to wit, Clarence lots 167 and 168 together comprise about 2.8 hectares on the coast in the northern portion of the ship building precinct of the Henderson industrial estate. The site is bound by the ocean to the west, vacant industrial land to the north, developed industrial land to the south, and a public purpose site, the Woodman Point wastewater treatment plant, on the east side of Cockburn Road. It states that Clarence lots 167 and 168 and the adjoining lot 165 to the north are the only vacant sites remaining in the locality. The report goes on to highlight the significance of the ship building industry in this area and the recent expansion of the industry and its contribution to Australian exports. The report states -

Clarence lots 167 & 168 and the adjoining Lot 165 to the north, are the only vacant sites remaining in the locality. Lot 165 which is already designated for future industrial development, is Crown land for the 'Use and requirements of the Western Australian Land Authority'. Wavemaster, a ship building company which has an option to purchase the site, is currently planning a \$17m stage 1 investment on the site.

One of the leading ship building operations is undertaken by Austal Ships, which operates from Lot 100 immediately south of Lot 167. . . . Austal is a prospective user of Lot 167.

The report concludes by noting that in view of -

. . . the DEP's acknowledgment that the subject site does not form an integral part of the Woodman Point Reserve, has been substantially degraded and does not offer any recreational potential, its strategic location to the established ship building precinct, and full consideration of the submissions, the inclusion of Lots 167 & 168 in the Industrial zone is a rational conclusion.

That does, to some degree, put the issue in context, particularly with regard to the modest size of the lots in question and their significance to adjoining industry.

Hon Jim Scott referred to local opinion and sentiment and to the opinion of local government about this matter. I take account of that opinion and note the formal advice of the City of Cockburn as stated in its letter dated 18 June that -

Council at its Meeting held on 17th June, 1997 resolved to advise that it supports Metropolitan Region Scheme Proposed Amendment No. 986/33 - Clarence Lots 167 & 168 Cockburn Road, Henderson in light of Council's initiation and support of amendment No. 150 for Lot 165 Cockburn Road, and amendment No. 160 for Lot 167 Cockburn Road to rezone the lots to General Industry - Restricted Use: shipbuilding and the manufacture, fabrication and assembly of components for use by the offshore petroleum industry.

I notice the conflicting advice from the City of Fremantle. I was a bit perplexed by that advice, which states that -

Rezoning Clarence Lots 167-168 would jeopardise an ecological link south of Fremantle.

I could not quite see what that ecological link was, because the City of Fremantle did not provide any elucidation of that matter.

Hon J.A. Scott interjected.

Hon J.A. COWDELL: Yes. I presume it is referring to the continuation of Woodman Point Reserve, which is all very well if lot 165 will be appropriated as well, but that is not the case. It is a relatively small area between an industrial use at the moment and a zoned industrial use.

I take account of the comments of the Western Australian Planning Commission in putting this development in context. I take account of the advice of the City of Cockburn, which is the relevant local authority, rather than the City of Fremantle. I note in passing some of the legitimate concerns that have been expressed on this issue. I understand that members have probably received advice from the Cockburn Power Boats Association Inc, which states -

The proposed Amendments are located in the recently completed Northern Marina at Jervoise Bay. Our Clubhouse is also situated in the Northern Marina, immediately adjacent to a public both ramp. The Dept of Trade and Commerce has assured us that there is no intention to relocate our premises or the public ramp and that the area will not become a public exclusion zone.

This was the crux of the concern of the association, and it appears that the association will not be impinged upon by this change.

Concerns have also been expressed by the Spearwood District Residents' Association. Obviously some of those concerns about piecemeal planning along the coast are quite legitimate and should be taken into account by the Government, and we hope to see a more comprehensive strategic plan rather than some of the piecemeal developments that have taken place.

Rachel Siewert, the Coordinator of the Conservation Council of Western Australia Inc, refers in her letter dated 15 May 1997 to the concept of a buffer zone adjoining Woodman Point Regional Park. However, lots 167 and 168 do not have the ability to provide that buffer zone. That may be applicable to some or all of the uses of lot 165, but not to the lots in question.

A question has been raised about the visual pollution of the Woodman Point Regional Park. That pollution has already been established by the industry that is in that area currently, and this proposal will not greatly add to or diminish that level of pollution.

A legitimate concern has been expressed that the sum total of land in the conservation estate is being diminished with perhaps no compensatory factor, and that as the Government is contemplating sales in this area, we could look for the allocation of some funds to be used for the conservation estate and recreation facilities.

I do note that this area is unlikely to be included in the Woodman Point reserve. It will not provide a buffer zone. We have the advice to go ahead with the rezoning from the relevant local government authority and we have the very legitimate concerns of industry and the employment that needs to be provided in the area. For these reasons, the Australian Labor Party will not support this disallowance motion. That is not to say that other motions foreshadowed by Hon Jim Scott may not enjoy the support of the Australian Labor Party. Indeed they may well enjoy that support because of the concerns that the Hon Jim Scott has pointed out - the significant depletion of reserves, beach access and facilities in this area. That will need to be addressed in other ways by this Administration, but not by this disallowance motion.

HON NORM KELLY (East Metropolitan) [7.52 pm]: I will firstly comment briefly on the ability of this Chamber to disallow amendments and the fact that in this instance we are not governed by section 42(8) of the Interpretation Act, but by section 33 of the Metropolitan Region Town Planning Scheme Act. In this amendment No 986/33 we are dealing with a simple amendment to the metropolitan region scheme, unlike another notice of motion of disallowance on the Notice Paper in regard to changes to road reserves in the metropolitan area, which was briefly commented upon by Hon Jim Scott. It is appreciated that such amendments be brought to Parliament in their current state, but it is a limitation of the Metropolitan Region Town Planning Scheme Act that we are not able to make partial disallowances of omnibus amendments, although I am aware that the one before us is not such an omnibus amendment. I am aware that such an amendment is currently in process for the Cockburn area. That amendment will effect a number of minor amendments to rezone residential and industrial areas to parks and recreation. I understand that a total of about 27 hectares will be included as additional parks and recreation reserves in the general Cockburn area.

When we are looking at amendments of that sort, it would be beneficial to have the ability to make a partial disallowance in much the same way that partial disallowances are allowed under the Interpretation Act. That would necessitate an amendment to the Metropolitan Region Town Planning Scheme Act and I suggest to the Government that it seriously consider putting forward such amendments to facilitate future disallowance debates. I understand that that Act is currently under review and I have made my thoughts known to people undertaking that review. A possible drawback of not allowing partial disallowance is that simple amendments, such as the one we have before us in respect of the Henderson industrial estate, could perhaps be regarded as a minor amendment as a way of bypassing proper parliamentary scrutiny. I can understand that if a total omnibus amendment were disallowed because of one small aspect, it would be an incentive for the department to make future amendments minor to bypass that scrutiny. I make those few comments to show that the Democrats do fully support the Government in the way it is bringing forward amendments. I know the Planning Minister and previous Planning Ministers have directed that these amendments be put before the Parliament. We fully support that; but I can see the potential, given the make-up of this Council, that the Government may want to bypass that scrutiny at some stage.

Moving to the motion before us, lots 167 and 168 Cockburn Road are currently zoned as a parks and recreation reserve. It is very much an isolated reserve and a heavily degraded area for such a zoning. Directly south of these two lots is the Austal Ships Pty Ltd site. That company has been very successful. As result of that success it wants to expand into these two lots. To the west is Cockburn Sound, to the east is the major Cockburn Road, and directly east of that is the waste water treatment plant. The two lots also have an easement over their northern portion to allow for an emergency drain from that waste water treatment plant. Directly to the north of the lots are lots 165 and 166 which are currently zoned industrial. I understand that Wavemaster International Pty Ltd has an option on that land at this moment to purchase it and relocate its shipbuilding activities from the inland or the eastern side of Cockburn Road in order to have direct access to Cockburn Sound. I also understand that Wavemaster would need to fully utilise the full area of those two lots. Directly north of that is the Woodman Point reserve.

We do have a hotchpotch of zonings and land uses in this immediate area. The area in question, lots 167 and 168, is unreasonably degraded to be zoned for a recreation and parks reserve. Lots 165 and 166 immediately to the north are even more heavily degraded. The degradation was brought about largely by the use of that land in the 1980s for the fabrication of the Goodwyn oil platforms and their launch site. I understand that this area is also popularly used by the young people of the area as a great sand boarding location. The few small dunes in the area are ideal for this pursuit and it is a needed recreational outlet for those young people.

I will also speak about other recreational pursuits which this land affords people in the local area. In addition I will talk in a general sense not only about the two lots zoned, but also about the two lots which are zoned "industrial". Due to their non-active use for industry they are used for recreational purposes. As we heard, the beach lots are regularly used as a dog beach. The area is also used for training and exercising horses both on the beach and in the water. It is one of very few areas in which people can exercise their dogs. Further north is Catherine Point, the only other dog beach south of the Swan River that people can use. Catherine Point is also under threat of development so no guarantee exists that people will have future use of that dog beach. If we eliminate the use of this area we will be saying to people that they cannot have a dog beach anywhere south of the river; they must go north to Scarborough for instance. It is not a viable option.

In considering the impact of rezoning on the local people, although doubt has been expressed about how many people use the area, much of the time it is not the active use of the area but awareness that it is accessible which adds to the quality of living. I live about a kilometre from the Swan River. Although I do not use it on a daily basis for recreational purposes, I know the area is there for me to use. That knowledge provides me with a quality of living. This rezoning will result in cutting out recreational pursuits for those people. Extremely close by is the public launching ramp for recreational boat use, another example of private use of the area. Presently a buffer area exists between the recreational area and the Austal Ships Pty Ltd industrial yard further south.

As Hon Jim Scott mentioned earlier, we should not look at this amendment to the metropolitan region scheme purely as excising 2.8 hectares from parks and recreational reserves. We should examine it in the context of the overall strategic plan for Cockburn Sound which is already under threat from other industrial developments such as the southern harbour at Jervoise Bay and the Fremantle Port Authority's super port which will encompass four or eight kilometres of the shoreline. We can understand concerns of local residents when they see that their ability to enjoy their lifestyle in that area is under severe threat. Any supposedly minor change is another chink in the quality of life.

The term incrementalism has been bandied around. The removal of one more recreational area makes it that much easier for industry to say it has a dominant right to the area. Piece by piece it obtains that right. The Planning Commission conducted a public hearing after the Conservation Council's written submission on the amendment. Dr Phillip Jennings' commented on incrementalism. His submission reads -

We object to that because we saw it as incrementalism and we wanted a full strategic assessment of the Jervoise Bay project, which, in fact, we have never been given. Now we find out from Commerce and Trade that even this is only a small part of the picture, in that this is really the big agenda and we are probably not going to be given any opportunity to comment on that as a concept, either.

Individually as each change occurs the local residents cannot comment on the big picture. The people of the City of Cockburn are screaming out for an opportunity to be heard on the entire future of their area, not one small strip. Residents in places such as Wattelup and Hope Valley are living in the supposed industrial buffer zone. They are living in a state of uncertainty about their future because they do not know whether the Government will resume their land later and incorporate it into a larger industrial area, retain it as a proper buffer or protect and develop it as a residential area.

It is this uncertainty about the future that worries people. Some members were at a public meeting at Cockburn Sound a month or two ago. They would have heard residents say that they do not mind which decision the Government makes as long as it gives them an answer. They do not want to go on for another 10 or 20 years not knowing what the future holds. People who moved into the area when they were about 30, are now 50 or 60 and are thinking about retirement. They are unsure whether they must make a major shift in those later years of their lives. Phillip Jennings also said that this situation underlines the problem with the current planning and environmental legislation, that there is no opportunity for matters not up for discussion; what is up for discussion are the consequences of putting in those ports and how they are going to create enough land in the buffer zone to support the port related development. It is just another example of incrementalism on a larger scale. He refers to other areas which I know Hon Jim Scott mentioned and which are important to consider in the overall picture of this disallowance motion.

The Australian Democrats have publicly stated before - I will do so again now - that they will remain opposed to the developments proposed for the Cockburn Sound area until a proper full strategic assessment is carried out; that is, a full environmental and social impact assessment, not of individual projects, but of the future area. Unlike the Australian Labor Party, the Democrats are consistent in their position.

We must consider the potential effects if this allowance is successful. It is obvious that the ideal use for that land should be industrial. Its condition is such that it would take an inordinate amount of time and money to rehabilitate it to a prior park and recreational reserve. Even then we would be left with a pocket handkerchief piece of land surrounded by industry which would not be suitable for proper conservation or recreational use.

The Democrats support the rezoning of this land but it must be conditional on making sure that that loss of amenity for the local community is replaced. At present there is no commitment nor any prospect of a commitment from the Government to ensure that replacement value is provided. The simplest solution would be to rezone the two lots "industrial" and place lots 165 and 166 into a recreational reserve.

That would have the effect of being contiguous with the existing Woodman Point reserve and would also create a suitable buffer between Woodman Point and the industrial area. Strategically, that would be the best option. Unfortunately, that is not possible because lots 165 and 166 are already zoned industrial and Wavemaster International Pty Ltd wants to make use of the total area of that land. Hon John Cowdell also mentioned the opinions of local councils on this amendment. He may have run out of time because he did not mention the position of the Town of Kwinana in supporting this amendment. Its support is conditional. The council's submission to the Planning Commission states -

The site is separated from the main reserve by industrial land and should more logically be zoned for industry . . .

While the above points are not disputed, the process of excising land from System Six reservations, or the Parks and Recreation Zone, for alternative land uses should be consistent.

The State has consistently adopted the "no net loss of area" approach in assessing proposals for development which impact on environmental attributes . . . If land is required for such developments which encroach into conservation reserves or wetlands, the proponent is required to recreate equivalent features or purchase alternative sites to be included into the conservation estate, such that there is no net loss to the conservation estate.

This amendment does not comply with that undertaking.

Hon E.J. Charlton: If you go back a few years you will see how much more has been created in the same area.

Hon NORM KELLY: The Minister for Transport is probably referring to an area to the north, which is not consistent with this area. The Government is prepared to zone Cockburn Sound as an industrial area and wipe out public access to the sound, both from the land and the water. What is proposed for the area will increase pollution. It will be a no go area for the public. The Government will give industry carte blanche to that area and write it off as having no intrinsic value for the local community.

I appreciate that significant improvements have been made to the land north of Woodman Point at Coogee, etc. However, the Minister must recognise it is a different area and a different community. Such amenities as access to a dog beach, etc will not be provided for that area north of Woodman Point once this development is approved. We will lose amenities that are unique to the area.

If there was some compliance with the no net loss of area formula for this local community the Democrats would support this amendment. Unfortunately, that is not the case. Another option would be to try to maximise the protection of the beach area; that is, the two coastal lots 166 and 168. Lots 165 and 167 are inland from the high water mark. I am not too sure of the technical aspects but Wavemaster International Pty Ltd and Austal Ships Pty Ltd need beach access to launch boats. Austal has beach access on its existing development south of lot 167. I do not imagine that Wavemaster will need the full beach access to utilise launching facilities, etc. That opens up the possibility for public access to a dog beach along the northern most part of those beach lots, while still retaining beach access for industry for launching and other activities. Unfortunately, that is not possible.

A substitute for the concept of no net loss of area would be to ensure that the money generated for the Government from the sale of these lots could be used to compensate the local community for that loss of local recreation facility. That money could provide other recreational facilities for the local area. It still does not address the problem of losing the beach access. However, it addresses the problem of the ability for the local community to use the area for such recreational activities as sand boarding and to provide other youth facilities. At the moment this land will be lost to the local children, who will be unable to go sand boarding. They will find other pursuits which I hope will be worthwhile, but all too often when youths have fewer recreational outlets we see an increase in crime. I do not need to go into the social problems associated with that. Unfortunately, the Minister for Lands is not in a position to utilise the money that would be generated for those sorts of activities. He is compelled to use that land for further development of industry; his hands are tied in that sense. None of these alternatives is available for the Democrats to support the amendment.

Although the Planning Commission's processes are well documented they do not address the concerns of the local community. If members read the submissions from the local community they will understand the real fears of that community. They will see that those concerns are being washed over because of the drive for industry in this area.

I was interested to listen to Hon John Cowdell's comments during which he stated the Labor Party's position on this disallowance motion. The Democrats' position on development in Cockburn Sound has been consistent. Unfortunately, it is hard to work out where the Labor Party stands on this because it changes its position from week to week. I will be interested in how the Labor Party votes on this motion.

Hon E.J. Charlton: They are looking after the 48 per cent of the vote.

Hon Ljiljanna Ravlich: We are trying to get a win-win situation.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): The member is engaged in a compelling peroration of his address; do not interrupt him.

Hon NORM KELLY: I refer to a copy of a letter from a Labor Party member of the Council to a local resident who expressed her concerns to him. I was talking to this resident yesterday and she was happy that the Labor Party will be supporting the disallowance motion. In his letter to this resident the member states -

I am happy to inform you that the State Parliamentary Labor Party (SPLP) will support this Disallowance Motion in the Legislative Council.

I am sure we are all happy to hear that. The letter continues -

The Disallowance Motion referred to will be debated in Parliament in the next two sitting weeks, and while the SPLP cannot carry this Disallowance Motion in its own right -

We are well aware of that -

I can assure you that I will do all I can to ensure that Metropolitan Region Scheme Amendment No. 986/33 is disallowed.

That is a strong conviction. Unfortunately, I am not allowed to refer to members not currently in the Chamber but I will be interested to see how this member votes.

Hon E.J. Charlton: I ask that the letter be identified and tabled at the conclusion of the member's speech.

The DEPUTY PRESIDENT: Hon Norm Kelly will identify the document.

Hon NORM KELLY: The letter is actually from Hon John Halden. It is dated 30 March 1998. That is just over a week ago and maybe the wind has changed or something and is going a different way. I will be interested to see how Hon John Halden does vote on this disallowance.

Several members interjected.

The DEPUTY PRESIDENT: Order! Members are spoiling this compelling peroration.

Hon NORM KELLY: I am well aware of the future of this area if this disallowance motion is successful. The reality is that if these two lots remain as a park and recreation reserve it will be an isolated area heavily degraded with no substantial use as a conservation area. It would have shipyards on the north and south boundaries, a road which could become even more major in years to come to the east and an increasingly degraded Cockburn Sound to the west. However, to support this amendment would be to support the Government's push for industry to blatantly override all the concerns and interests of residents in this area. Until the Government listens to the residents, until it hears their opinions, their fears and their concerns, the Democrats cannot support these types of amendments.

It is important that community consultation processes be set up and that they be genuine and not just a piecemeal attempt to put up a facade of consultation, as occurs in some cases. It is important that their views be genuinely heard. I would like to think that the Government will address this with the projects that are in the pipeline.

I have outlined the ideal options for addressing this problem, which was brought about in the 1970s when these two lots to the north, 165 and 166, were rezoned industrial to facilitate possible use by the fishing industry. The lots were not used for that purpose but have since been used for the offshore oil industry. Unfortunately, those decisions of years gone by and the problems that have emanated from them are still with us and need to be addressed in the ways I have outlined. The Democrats fully support this disallowance motion and urge all members to do likewise.

HON SIMON O'BRIEN (South Metropolitan) [8.23 pm]: There have been two speakers in this debate so far after the mover. The first was Hon John Cowdell. I was delighted to hear from him that the Australian Labor Party will be opposing this disallowance motion. He mentioned a number of factors which led the ALP to that point of view. In so doing he raised a lot of the points that I was intending to raise. I shall not raise them again. Suffice it to say that if plagiarism by advanced mental telepathy were an offence he would probably be hanged. Nonetheless, the points Hon John Cowdell raised were very pertinent and I compliment him on them. A couple of points raised by Hon Norm Kelly robbed me of some more of my material and indeed the Minister -

Hon Ljiljanna Ravlich: You are a real victim tonight.

Hon SIMON O'BRIEN: I am. I am seeking sympathy. The Minister himself by interjection took another string from my bow. I limit my canvassing of those issues to the briefest summary, but before I do that I raise another point which concerns me about this whole business. Members have already heard that in the scheme of things this is a very minor amendment which, by rights, should not be shrouded in controversy because there are so many reasons why lots 167 and 168 should indeed be rezoned to become industrial. Even Hon Norm Kelly in supporting the disallowance acknowledged that there are all sorts of logical reasons for the rezoning.

The way the public has had some of its fears fuelled in this debate is of concern. It is true that the members of the public generally are concerned about what happens in their wider community and how changes, especially large scale changes, will affect their lifestyles. A minority with a different point of view have preyed upon this sense of insecurity which is latent in the community and tried to exploit it in respect of this disallowance motion. The amendment has been presented to some residents in the nearby area as the thin end of the wedge, as a lack of concern on the part of the Government to approach the issues relating to Cockburn Sound in anything like a global or omnibus

way. I do not believe that is a fair criticism of the Government. The Minister will no doubt respond to that in due course.

I have had representations from the community which express extreme concern about the ramifications of this amendment on a very small plot of land. Members have heard from Hon John Cowdell about the submissions that he and other members, including me, have received from the Cockburn Power Boats Association and about letters, which I have also received, from the Spearwood District Residents Association. The Cockburn Power Boats Association is concerned that it may be required to vacate its comparatively new premises near the new public boat launch ramp within the new public purpose built marina. That will simply not happen. Any responsible member within this place or without should do his best to quash such public fears when they are raised, rather than fuel them. The tone of the letter from the residents association was one of global fears about the whole future of Cockburn Sound, which is a large body of water with a great deal of surrounding shoreline in all its various guises. The residents' association is worried that all this hangs on the outcome of this disallowance motion, which is patently untrue. Members of the Spearwood District Residents Association can have their minds put at rest on that point at least.

Further down the track, large scale, important and momentous developments will be considered for Jervoise Bay in particular and Cockburn Sound in general, and many of these matters will be discussed then. I will not go into them now except to the extent of responding to some of the claims made earlier in this debate. I am glad to note that the member for Cockburn supports the proposed infrastructure development at Jervoise Bay. I understand the Australian Labor Party supports the Jervoise Bay infrastructure project.

Hon Ken Travers: If done properly.

Hon SIMON O'BRIEN: Absolutely. Of course, everybody wants to see it done properly.

Hon J.A. Scott: What do you mean by properly?

Hon SIMON O'BRIEN: It means having regard to all the criteria about which the community is concerned, such as environmental impact, quality of life, what the place will be like 10, 20, 50 or 100 years down the track, and the important matters relating to jobs and other benefits obtained from the worthwhile project that has been initiated. As Hon John Cowdell pointed out, the City of Cockburn is the relevant local authority and it supports the rezoning. We are often told that that level of government is the closest to the people, and it is certainly very sensitive to what is going on in this area at this stage. A number of controversial plans are being worked through in the various council and community processes. If ever a council were sensitive to these issues, it is the Cockburn City Council at this time. It has been pointed out by two speakers that the City of Cockburn supports this rezoning. I have been working with the Cockburn City Council, as I am sure have other members, to resolve some of the other matters relating to development in the area.

Discussions have been held with Ministers, including the Minister for Transport, who has been very receptive to alternative ideas and has looked with great sincerity at proposals and genuine concerns put to him. I have absolute confidence that he will support the South Metropolitan Region and its people, in reaching the best resolution possible for some of these vexing questions. He is a terrific bloke.

I am concerned that an element engaged in this debate on this small, but logical and non-controversial rezoning is beating up public opinion by suggesting that this is the thin end of the wedge and must be seen as part of an overall conspiracy to pollute and destroy Cockburn Sound, to deny people access to recreation, and by all the other terrible things that have been said in other forums.

Hon Norm Kelly: How does the southern harbour development fit in?

Hon SIMON O'BRIEN: I am not talking about the southern harbour development. I said the southern harbour development and the Jervoise Bay project will be discussed on another occasion, and it will be done properly.

I express concern that my constituents, and constituents of Hon Jim Scott, are telephoning and asking me what on earth the Government is doing. I am asked whether the Government plans to destroy their lifestyle and the value of their homes. I tell those people to settle down and I ask them what they are talking about. Hon Norm Kelly mentioned earlier places from Woodman Point north, and that is another community altogether. People from the Cockburn Waters community have contacted me in a very high temper asking what the idea is. They have heard that the view from their homes in prime locations will be piles of smokestacks and industrial development. They are referring to locations in front of Cockburn Waters, such as Woodman Point and the Coogee beach reserve. We know that will not happen. From where do they get that idea? They get it from people who have the blinkered view that a tree cannot be cut down under any circumstances, that a groyne can never be built, that a wharf can never be built, a swamp cannot be filled, and not a flaming thing may be done to affect the environment in which people live. It is

a negative and stupid point of view, and I wish some of those people in the community would stop peddling these silly ideas to try to frighten constituents in my area.

With regard to the matter of depletion of reserves, I point out for the record, in case members missed my previous references, that this rezoning relates to 2.8 hectares of degraded, hardly accessible, and virtually useless land which lies between a developed industrial area and an area zoned industrial which is about to be developed. Hon Norm Kelly mentioned that in exchange for that area, 27 hectares is about to be rezoned as public recreation space in the near vicinity. I look forward to hearing the Minister talk about that in a moment.

Hon Norm Kelly: They are all inland areas.

Hon SIMON O'BRIEN: I touch on the point of whether an inland area is adequate compensation for a short stretch of clapped out beach in a not very attractive area.

Hon Norm Kelly interjected.

Hon SIMON O'BRIEN: Hon Norm Kelly seems to think this is an Indian Ocean Bondi. It is not.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! If Hon Simon O'Brien will address the Chair and Hon Norm Kelly will desist from interjecting, we might progress the debate.

Hon SIMON O'BRIEN: I remind members that last summer some members had the pleasure of being present at the official inauguration of a stretch of coastline parkland, 1.5 kilometres long, to the immediate north of the area under discussion. This is the area around Robb Jetty. This project has been completed by the City of Cockburn working with the Department of Commerce and Trade. They have done a terrific job in refurbishing this part of the country. It is tremendous, but no credit is given for providing that area of compensatory land, which is on the seafront. It was not rezoned, but it was pretty useless as a place of public recreation compared with its current incarnation which involves well kept lawns, barbecue areas, protected dunes, and all the things a family can enjoy on a day out in that locality. That is right opposite Cockburn Waters, where the population lives. Not much of the population lives immediately adjacent to the beach area that we are talking about, because that is an industrial park at Henderson.

I do not know whether I have got the message through to those people who need to get the message, but sometimes people want to eat their cake and have it too. We have seen an example of that - I am not saying this in an offensive way - in the argument put by the Australian Democrats on this issue. They want two bob each way - they want to eat their cake and have it too. According to the Greens, we are not even allowed to touch the cake, so there is no chance to enjoy it! What this Government wants to do - I am glad to say, acting in concert with the ALP in this matter - is create a far better, more beautiful and more palatable cake for all concerned; then, as Hon Norm Kelly said, we can all enjoy it.

I conclude by referring to the furphy that has been raised about access. Many members will be familiar with the map of the area which shows this amendment. In summary, at the northern end at Woodman Point we have a public recreation reserve, and I have mentioned that that continues north from there. South of Woodman Point we have the lot upon which Wavemaster International Pty Ltd has an option; that is, lot 165, which abuts Woodman Point reserve directly to the south and runs east-west from the coastline to the coast road. The next block south, comprising lots 167 and 168, is the small block that we are now discussing. The next block down the coast is the block where Austal Ships Pty Ltd operates. Access by sea from the west to lots 167 and 168 is available to those people who have the capacity to arrive there by small craft.

Hon E.J. Charlton: Or on a horse.

Hon SIMON O'BRIEN: Yes. Access from the south is not available because Clarence Beach Road does not extend to this block, and the Austal shipyard forms a barrier from the road to the coast. On the east side there is no access because of the fence to which Hon Jim Scott referred. I presume that the reason for the fence is to stop elements that may be on the busy coast road and on the beach from getting in each other's way. Access at the moment is only from the north. With regard to the fence, the coast road, which is a very busy road with very heavy traffic, runs straight past lots 167 and 168, and there is no room for vehicles to pull up and stop there. Regardless of whether that is the reason for the fence, it is a jolly good idea to have no access from the road, because that would cause a traffic hazard as there is no off road parking to get access to those lots. I suspect that an equally good reason for having the fence is to stop dogs that are exercising on the beach from straying onto that busy road. Suffice to say there is no access from the east to this block.

Access is available from the northern side through the currently unoccupied lot 165. If this disallowance motion were allowed to succeed so that access to these lots remained because it would remain public open space, beach access from the north from Woodman Point would still be curtailed and, indeed, would be cut off to these lots because in due course Wavemaster would build on its lot 165 and that would kill the access question.

Hon Norm Kelly: Would that necessitate opening up the road?

Hon E.J. Charlton: Then you would destroy the bush.

Hon SIMON O'BRIEN: By the time a drive and a car park were put in, nothing of the block would be left, and an additional traffic hazard would be created with traffic turning in and out of that main road. I exhort all members, including the member for South Metropolitan Region, my colleague Hon John Halden, to vote against this disallowance.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [8.44 pm]: I think without question all aspects of this debate -

Hon Ljiljanna Ravlich interjected.

Hon E.J. CHARLTON: I have only just started.

Hon Ljiljanna Ravlich: Sorry; you are boring me!

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! Do not state the obvious.

Hon E.J. CHARLTON: Thank you, Mr Deputy President. I have been sitting here for some considerable time, and the debate has been most exhilarating. I want to make a couple of really important points, but the member opposite takes a bedtime approach and obviously has little interest in this very important debate. I am most surprised about that.

The points raised deal with two issues: Should we leave a small piece of land with, with all due respect, limited recreational value, if any, in an isolated situation between what will be industrial land on both sides, as against making its use consistent with the adjacent lots; and should we not look at the big picture and see what we can do to enhance the environmental and recreational value of land along the whole coast south of Fremantle? I am sure that every member of this place who has an interest in this matter is conversant with the fact that every effort has been made by successive planning administrations over recent times to significantly increase the amount of recreational reserve land along the coast. It can be seen from the map that a number of new reserve lots will be created, particularly in the Woodman Point area.

Hon Simon O'Brien pointed out quite properly that this has been a cheap, political point scoring exercise within the local community. If we stir up people's emotions by saying, "This greedy industrial-type Government that does not care about the environment will turn this piece of green into a piece of industrial land", and the people do not have the information at hand, and no attempt is ever made to give a balanced view, of course people will react accordingly. How can we ever blame the poor, innocent public when it is given a wrong message - a message that quite blatantly and inexcusably portrays this area of land as land which has a high recreational value but which will be turned over to industrial use?

Hon Simon O'Brien also touched on the Robb Jetty area. While that area is a fair way north of this area, it really was an appalling piece of real estate. It was degraded and a lot of chemical treatment activity was taking place. This Government not only closed down some of the operations but also cleaned it up. Fair is fair: Let us acknowledge that those things are being done. I do not think anyone in the community or in this House is an environmental vandal. Everyone is keen to achieve a balance in the environment of this State - not only along the coastline but also across the length and breadth of this wonderful State.

Today I went to Tammin to open the upgraded abattoir. When I drove into the town I saw about 100 cars outside the Landcare centre. Those people had travelled the length and breadth of the wheatbelt to help define another step in the rehabilitation of agricultural land. We looked at the number plates and commented that here were all these people who in their own time, at their own cost, had travelled far and wide, and were showing 100 per cent commitment to the improvement of the land. No-one ever hears about those initiatives; they are never publicised. Those people are rarely given any recognition for what they do. They are committed and use their expertise along with outside expertise to try to do something to solve the problems. They did not cause the problems; that was done by previous generations. We all acknowledge that.

The same has happened in the metropolitan area. I see large areas of bushland being cleared for housing developments - two and three hectares at a time - with not one tree left. I despair. However, given the general response, one would think that the only areas degraded are in country Western Australia and the only areas worth keeping are on the coastline. We must be fair. As Hon Simon O'Brien said, 27 hectares of land has been locked into a recreational reserve in that immediate area. It is not on the waterfront, but it is a pointless exercise to keep one little bit of land there when people will not have access to it for the reasons Hon Simon O'Brien pointed out.

A number of initiatives have been implemented, and they are ongoing. We want to minimise the amount of traffic in the area. We also want to limit the number of people walking through the natural bush; we want them on designated pathways constructed to minimise impact. In addition, swimming and that type of recreation does not take place to the same extent there as it does in other areas further north and south.

It is very disappointing that Hon Jim Scott has seen fit to move this motion. While Hon Norm Kelly presented a balanced argument, at the end of the day he acknowledged that the Democrats will support this motion. By working together, as we are doing on a couple of the standing committees, we can achieve something. We all have a vested interest in trying to improve the environment in this area and the rest of the State.

A change in land use in this area will be of more benefit to the whole community given the extension of the shipbuilding industry. We are not talking about a smoke stack or heavy industry; we are talking about a pristine industry. Recently Western Australia won this contract and one of the latest of these high speed ferries has been sold to Turkey. This Government has fought very hard to ensure that the Federal Government does not remove the financial benefit that enables those people to compete fairly with others around the world.

Leaving a piece of land that size squeezed between two large areas designated for industrial use will not lead to balance and refinement in that area.

Mr Deputy President, I thank you for your comments on behalf of the Labor Party. This demonstrates that we must have logic and balance in dealing with these questions. If members play politics with every decision that comes before us on these important issues, the environment will be the loser. While it is the right of any member to move such a motion, at the end of the day we have a responsibility to look at the bigger picture. I applaud those members who have indicated that they will not support this motion.

HON J.A. SCOTT (South Metropolitan) [8.57 pm]: I thank members for their contributions. The first speaker referred to its being a small area of land and to the importance of the expansion of the shipbuilding industry. He also pointed out that these sites are the only vacant sites in the area. Wavemaster International Pty Ltd will be spending \$17.1m on the site and Austal Ships Pty Ltd is a prospective user of that area. These are certainly issues that need to be considered, but that should be done in the context of the whole picture of what is going on in the area. I do not think that the shipping industry is bad. It is good if the right environmental standards and social impact studies are undertaken and the community has a chance to put its views in the development of those areas.

Members repeatedly stated that this was not an integral part of the Woodman Point reserve and referred to its modest size. However, despite its modest size, it was significant to industry. Being modest in size was not important for conservation, but it was for industry. This area is all part of the Woodman Point reserve. We could just as easily link it to the north and upward and turn it over to conservation. Then we could say that there was no sense in having the industrial area in the middle. That is an equally sane argument.

Hon John Cowdell and Hon Simon O'Brien mentioned that the City of Cockburn supported the amendment that the area be used for shipbuilding fabrication. The City of Fremantle opposed that, and Hon John Cowdell did not understand why. In fact, the City of Cockburn has become more concerned about what is happening in the general area and has placed a newspaper advertisement asking people to lodge submissions on the future of the area. It is having another look at the whole matter. However, I am sure it will still want the shipbuilding industry in the area.

The object of this exercise is to ensure that this does not happen without corresponding action being taken to ensure that people's access to the coast is not denied. Compensatory provisions should ensure access to that conservation estate is not reduced so people can exercise their dogs in the area. A number of reasons exist for applying some corresponding balance into this equation. We have heard other people say that it is somehow an unbalanced position. I will refer to that aspect later.

As Hon John Cowdell approached the end of his speech, he said the area already had visual pollution and this change will not add to the problem. That is fine. Nevertheless, the Conservation Council of Western Australia (Inc) proposed providing a break by revegetating the block to the north on lot 165 and raising the terrain to break the visual pollution.

Hon Norm Kelly at first spoke about the new omnibus amendment and the earlier problem of breaking off Claremont Crescent from the entire amendment. That provision was not controlled by the Interpretation Act. It would be subject to continuous problems with large omnibus provisions. Therefore, it would be necessary to disallow all parts of the amendment. It is a recurring concern that it is a form of blackmail of members: If they disallow one part of the omnibus amendment, the whole lot go down the gurgler. The sooner we change our system so we can take out certain areas of regulations, even if we hold them and not disallow them until certain areas have been considered perhaps by committees, we will be better off. Otherwise, we end up with the situation found at Claremont Crescent; that is, we play off the citizens of Claremont against the citizens of Bayswater or Stirling. A change is needed. The

concerns of the people of Claremont were very real, and they need to be dealt with properly and consideration should not be snuffed out on a technicality.

Hon Norm Kelly went on to say that the beach area is needed as a recreational outlet. It is used as a dog beach and for horse training. A number of horses are trained in that area. I have seen them up at the power station. They have even placed an interesting sculpture on the beach to celebrate the history of horse training on the beach.

Hon Norm Kelly said that the area improves the quality of living for residents. I agree that if we take away all the areas which give access to beaches and recreational areas, we suffer a real loss. It is also a loss in economic terms with house values if we look closely at that aspect.

Hon Norm Kelly agreed with me that we should not be looking at the 2.8 hectares in isolation from the other proposals. This policy is to incrementally take away such reserves. I very much concur with that view. This is happening little by little. However, it does not take too many 2.8ha areas to be removed before the remaining parts of the beach will all be gone. The other areas to be considered soon are bigger. If they go, we will have nothing left in Cockburn Sound whatsoever.

I also pointed out that the same approach is adopted by the Minister for Transport through Main Roads. He tries to kid people that nothing is happening with the eastern bypass and the Rockingham-Fremantle controlled access highway. We were told that Servetus Street and Curtin Avenue are not planned to be a single major road and they are presented as little parts in the overall plan: "It does not matter; it is just a little bit. It is just a bypass to stop people going down to Hampton Road." People are not fooled by that nonsense, and they want to know the true picture. Hon Simon O'Brien is one of those people who sticks his head in the sand and waits until the area is all gone. He then will talk about memory and say that it is bad luck that the nice part of beach has gone.

Hon Simon O'Brien: I reject that. It is uncalled for. I do not believe I have conveyed that to you or the public in any way.

Hon J.A. SCOTT: Hon Simon O'Brien is saying that we should take each part as it comes and not consider things to come in the future.

Hon Simon O'Brien: I said no such thing.

Hon J.A. SCOTT: The member did.

The PRESIDENT: Order!

Hon J.A. SCOTT: Regarding the small areas of land, last night I attended the fifth birthday celebration of the Urban Bushland Council. That body is most upset about the low regard that the Government has for small parcels of bushland the Government says are not worth keeping as they are tiny bits of land. However, small areas in the urban environment are vital because very few are left.

Hon Norm Kelly said that the land concerned would be difficult and expensive to rehabilitate. It will not be so difficult to rehabilitate. It may be reasonably expensive to do so, but I wonder why the people who degraded that A class reserve through the commercial enterprise on that land did not fix it up. Why did the Government not ensure that they replaced the vegetation destroyed? It is required in mining these days and with people who degrade A class reserves. Why not in that case? It should not be expensive.

Hon Simon O'Brien: It must have occurred decades ago.

Hon J.A. SCOTT: I believe the operation was called ODECO Ocean Explorer at that time.

Hon Norm Kelly said that his support of the amendment would be conditional on replacing the land or the value of the land. He also pointed out that the Town of Kwinana made a submission in support of the amendment but that support was conditional on the same point. The Town of Kwinana said that the amendment was linked to an industrial area and it was logical to rezone but the proponent should provide or recreate an alternative area. I agree with that proposition.

Hon Norm Kelly also said that the Government was prepared to wipe off Cockburn Sound as an area for public recreation. He said that some improvements had been made in the Coogee area. That is the case, but the improvements have not been made as a gesture of goodwill. Much of the area suffered significant pollution from PCBs from the power station, which was a government responsibility. The Government was required to clean up the pollution, because it could not be left in that state.

The beach area has not been touched. The sand dunes and the beach are the same as they ever were. The area behind the dunes has been flattened by bulldozers, and some of the rubbish has been taken away. Quite a few structures

including asbestos lined structures have not been removed. I assume that the Government will remove them at a later date. The Cockburn Council has played a significant part in putting in a little park in the area. Nevertheless, the beach area has been used constantly by people despite the industrial blight that was there.

Hon B.K. Donaldson: The area must be fairly good. It cannot be polluted if people are using the beach.

Hon J.A. SCOTT: The area was polluted with PCBs, and activities at Robb Jetty have discharged material into the area. It is far less polluted than in the past.

Hon Simon O'Brien: The area has been improved. Let us put some positives on the record.

Hon J.A. SCOTT: The area has been cleaned up quite a lot. However, the Government was responsible for the worst of the pollution, such as PCBs. Therefore, the Government had to clean up the area because it should be responsible for its own mess. A positive aspect is that the Robb Jetty pollution no longer exists.

Members may say that the Government has done some wonderful things in cleaning up and improving the area for the community, but the intention was to have a biotech park attached to the Robb Jetty facility which would result in downstream products from the old slaughterhouse. The biotech park was to produce medical products; however, the Government decided not to proceed. Currently, much of the land is vacant, waiting for something to happen. The Cockburn Council has been trying to rezone the area for urban development.

Point of Order

Hon E.J. CHARLTON: With respect the member is canvassing a new area of debate rather than summing up his motion.

The PRESIDENT: Order! I have been listening to Hon Jim Scott for some minutes. It is clear that he is now stepping beyond the overview in summing up his reply. He should contain himself to his right of reply.

Debate Resumed

Hon J.A. SCOTT: I realise that I was moving to the edge of that area. Some members spoke about the Government being responsible for improvements in the area, and how good it was that the Government had cleaned up the area. I felt it necessary to point out the reason that the Government had cleaned up the area.

Hon Norm Kelly spoke about the change in the Labor Party's position in this regard. He also said that Hon John Halden said that the Labor party would support the disallowance motion. He would support the amendment because he did not want to allow the Government's agenda to take over the entire Cockburn Sound area. He hoped that the Government would address community concerns, and that he would not have problems with the amendment if that were the case.

Hon Simon O'Brien was delighted that the Australian Labor Party was of the same mind as he is. He did not want to plagiarise Hon John Cowdell's speech. He said that he had nothing left to say, but he then proceeded to tell us a lot. He said that he was surprised that such a minor amendment would cause such a controversy, and that the public was having its fears fuelled because the project was being presented as the thin edge of the wedge. He thought that the overview was unfair and that was creating a problem.

This is the thin edge of the wedge. I would like Hon Simon O'Brien to visit the area. I will show him the areas that the Government proposes to take away from the conservation reserve on the beach, and turn it over to industry, which will leave very little for the community. It is not misleading the public to say that this is the thin edge of the wedge.

Hon Simon O'Brien interjected.

The PRESIDENT: Order! Hon Jim Scott is trying to wind up his comments.

Hon J.A. SCOTT: It was also stated that the Cockburn Power Boats Association feared the loss of its new premises, and that the association was glad to be reassured that that would not be the case. I spoke to members of that association, who said they had been in government offices and seen a plan indicating Austal Ships headquarters being located above the association's premises. Therefore, the members of that association have not had their fears allayed. They do not trust the Government. They hear what the Government is saying, but they will believe it only when they see the proof.

Hon Simon O'Brien also said that the Spearwood District Residents Association had global fears which were unfounded, and that we should be debating this small piece of land in isolation. I disagree with that opinion, and I have provided the reasons for doing so. Hon Simon O'Brien was glad that the member for Cockburn supported this amendment. When I queried his opinion on the way to proceed, he said that he would like the project to progress,

with the environmental impact and quality of life issues being addressed, and jobs being provided as a result of the project. Unfortunately, not much quality of life will remain for the residents of the southern district if they cannot access the beach without travelling a long distance, or if many people are crammed onto the few remaining small beach areas. I foresee a reduction in the quality of life. If the member would like to live next door to an industrial area -

Hon Simon O'Brien: If you got your head out of the sand, you might see a glimpse of daylight.

The PRESIDENT: Order! I ask Hon Jim Scott to address the Chair.

Hon J.A. SCOTT: The concerns of the people who live there are related to the range of changes that are occurring, and which have been described not only in this amendment but in the Fremantle Rockingham Industrial Area Regional Strategy study; for example, the towns of Hope Valley and Wattleup -

Hon Simon O'Brien: We are not talking about that.

The PRESIDENT: Order! Hon Simon O'Brien will come to order. I want Hon Jim Scott to address the Chair, so that there is no interjection which will lead him to go off on a tangent.

Hon J.A. SCOTT: Those people have global fears, and that is their right. If some members think people should stick to their tiny patch and not worry about the holistic picture, that is their right. I think people are more intelligent these days and like to look at the whole picture. Hon Simon O'Brien repeated that the City of Cockburn supported the rezoning. I am informed that the Minister was looking at the proposals to deal with the local concerns, and I am happy he is doing so and I hope he has some success. Hon Simon O'Brien also said that some elements were engaged in stirring up this debate over this very small area and it was logical to include it back into the industrial estate. He said that people were beating up the situation and that we were not discussing new harbours. The unfortunate thing is that members of this community are discussing new harbours quite considerably. That will impact on them further. A range of impacts is about to occur.

Hon Simon O'Brien was also surprised that Coogee residents would be overlooking industrial areas in front of where they live. That is quite true. That area will not contain major industry, although a lot of it will form the biotech park, which is zoned for light industry. If the member checks the map, he will find that is the case in the area north of Catherine Point. If he familiarises himself with the zoning, he will see there is some risk of light industry being established there.

He also went on say that some people believe we should never do a whole range of things, including building a wall and filling up the swamp, and he wished some people would stop peddling these ideas. The problem is that the people who are doing that are quite aware that 80 per cent of the wetlands - he calls them swamps - have been filled already, and they continue to be filled constantly. We will soon have very few left if we continue along that route. I think the people who keep filling in the wetlands are unbalanced. He said that it was a useless bit of land; although it seemed that it would be useful for industry. He said that it would be useless for conservation.

Hon Simon O'Brien: How pedantic can you get?

The PRESIDENT: Order! I ask Hon Jim Scott to address the Chair. He is being provocative by looking at the member and tempting him to interject.

Hon J.A. SCOTT: I do apologise, Mr President.

The PRESIDENT: Order! The right of reply is not a rerun of every single word people have spoken; it an overview, a summary and a reply to various points.

Hon J.A. SCOTT: Hon Simon O'Brien went on to say that new areas were being included in the natural estate and that a terrific job had been done in refurbishing the areas around Robb Jetty. I have already referred to how that is hardly conservation estate. In fact, the beach has always been conservation estate; it has never changed. The area being refurbished around Robb Jetty is not for conservation. He said that the Democrats were trying to have two bob each way, and that the Greens did not want to touch the cake. He went on to say that the Liberal Party wanted a more beautiful and palatable cake. My idea of palatable is probably different from his. He went on to say that the areas was inaccessible; that people could not get in because the company had blocked off the area from the south; that there were fences on the east and the only way to get there was through block 165 to the north. I think I have already explained that no-one had any right to erect the fence there in the first place. With some proper planning, ways could easily be found to enable people to get through the area; for example, there could be a parking area on the road further up towards Woodman Point. People who exercise dogs walk them there and a walkway from the beach down to the dog beach could easily be constructed. It would not be very difficult, and I do not think it would be asking too much. Hon Simon O'Brien completed his comments by saying that the industrial company would build on that area

and block the access from the north. Once again, I cannot see why there cannot be a walkway connecting the land at Woodman Point. Hon Eric Charlton said that every effort was being made by the planners -

Point of Order

Hon SIMON O'BRIEN: For some time Hon Jim Scott has been purporting to quote what I have said. I do not believe I have said any of the things that he has attributed to me. If he is quoting me, I would like him to tell me what he is quoting from. He may have an advanced copy of *Hansard*.

The PRESIDENT: Order! Is the member saying that he has been misrepresented? If so, I ask him to advise me of the words he claims have been said which misrepresent him, and I will find out whether that was the case. If his point of order is that Hon Jim Scott is reciting almost every word of everyone's speech, he has a point of order. I say to Hon Jim Scott that this is a right of reply. If he does not focus his comments on the requirements of a right of reply, he will have to sit down and we will take the vote.

Debate Resumed

Hon J.A. SCOTT: Hon Eric Charlton said that every effort was being made by planners to increase significantly the recreation area along the coast. In the time I have been living in the area, the area near the Fremantle yacht club has been cut off. Since the America's Cup Challenge most of that area in Fremantle has been cut off from the beach by fences. New development has occurred at Catherine Point, and it has been cut off to the public. We are about to have 100 per cent of Cockburn Sound cut off from the public. That is hardly increasing the accessibility of the beach area along the coast. It is a huge loss.

Hon E.J. Charlton: That is not right. Access to the public is not to be cut off.

Hon J.A. SCOTT: It is not just by this amendment, but by future amendments.

Hon E.J. Charlton: That is not right either.

Hon J.A. SCOTT: The Minister should look at the FRIARS study.

Hon Eric Charlton said also that he thought that people were more concerned about coastal areas than they were about other areas of the State. Large areas all over this city have been cleared for urban development, and this Government is basically in control of that. Therefore, perhaps the Minister for Transport would speak to the relevant Ministers and ensure that that stops, because that is a huge concern to the Urban Bushland Council as well. Hon Eric Charlton repeated what Hon Simon O'Brien said about the number of initiatives to improve industrial land at Coogee and the benefits that will result from the change to that land use. That land did need upgrading, but I will not go into that any further. Hon Eric Charlton concluded by saying that to leave a bit of land of that size between two industrial areas would not be of benefit, and we need to have some balance.

I have moved this disallowance because I want to have a balance in Cockburn Sound. I do not want 100 per cent of Cockburn Sound to be cut off from the public. I want a vibrant shipbuilding industry in the Henderson industrial estate, and I want Jervoise Bay to be successful. However, I also want proper environmental controls; and that is not happening at the moment. Huge problems are being experienced with the flushing of the Jervoise Bay facility, and that will become worse in future. Also, access to that area is not being protected. Another amendment that will come into this place will remove reserve M91. The area that is proposed for a port will also be an area to which the public will not have access. That will leave nothing. I want to have that balance. That is the reason that I have moved that major amendment 986/33 be disallowed.

Question put and a division taken with the following result -

Ayes (5)

Hon Helen Hodgson
Hon J.A. Scott

Hon Christine Sharp
Hon Giz Watson

Hon Norm Kelly
(*Teller*)

Noes (22)

Hon Kim Chance
Hon E.J. Charlton
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon B.K. Donaldson

Hon Max Evans
Hon N.D. Griffiths
Hon Ray Halligan
Hon Tom Helm
Hon Barry House
Hon Murray Montgomery

Hon Mark Nevill
Hon M.D. Nixon
Hon Simon O'Brien
Hon Ljiljana Ravlich
Hon B.M. Scott
Hon Greg Smith

Hon Tom Stephens
Hon W.N. Stretch
Hon Bob Thomas
Hon Muriel Patterson
(*Teller*)

Question thus negatived.

ENVIRONMENTAL PROTECTION AMENDMENT BILL
ENVIRONMENTAL PROTECTION (LANDFILL) LEVY BILL

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That leave be given for the Environmental Protection Amendment Bill and the Environmental Protection (Landfill) Levy Bill to be debated cognately.⁰

Second Reading

Resumed from 26 November 1997.

HON J.A. COWDELL (South West) [9.37 pm]: The Australian Labor Party supports the second reading of these Bills. These Bills have much that is commendable, and much needs to be achieved.

Hon N.D. Griffiths: And said.

Hon J.A. COWDELL: Yes. I note that on various occasions, the Minister for the Environment has indicated the dimensions of the recycling problem that faces Western Australia. While we may be ahead in paper recycling, in overall recycling we are currently at about 19 per cent, and when the new demolition and waste site comes on stream in Cockburn, that will bring the percentage of recycling in Western Australia up to 28 per cent.

There is a significant challenge here that the State must face. I took the opportunity to receive a briefing from officers of the department, and of course they highlighted the advantages of this legislation. They did that very well, so well that I was almost entirely convinced of the merits of every section of this legislation.

Hon Max Evans: Why do you not stop while you are in front?

Hon J.A. COWDELL: I thank the Minister for that kind invitation. Hon Kim Chance will probably want to say a few words as well.

Hon Max Evans interjected.

Hon J.A. COWDELL: As I said, one step at a time; I am supporting the second reading stage.

Hon Max Evans: I thank you for that.

Hon J.A. COWDELL: Of course, the Government and the Minister in his second reading speech set out the merits of these two Bills, and they were the five principles that are sought to be embodied in the legislation: The reform of offences and penalties, the landfill levy itself and the dimensions of that levy, waste management facilities and the particular regime of waste management to be instituted, any NEPM implementation, and of course the wood heater regulations. I will refer to some of those very laudable objectives and then refer to some proposed amendments.

Members are aware that in another place a range of amendments were proposed and one amendment was passed. If members consult the Supplementary Notice Paper, they will see that I propose to proceed with amendments pertaining to the defence of due diligence, and also to the geographic restriction of the levy to the metropolitan area. Other concerns have been mentioned and I will refer to those. Those pertain to the amount of the levy and the concept of taxation by regulation, which we once again see in this piece of legislation; concerns about the expenditure, that is that the revenues that are derived are appropriately expended; and also the regime of waste management, where the CEO of the department constitutes Waste Management (WA). These latter areas may not be the subject of amendments brought to this House.

With respect to the intent of the legislation, the Opposition agrees with the reform of the offences and penalties and believes that this is overdue and endorses the initiatives in the legislation. I note the proposed three tiers of offences. Tier 1 offences are the most serious offences, for which we now have fines up to \$1m for companies and \$500 000 plus five years' gaol for individuals, and we note that the defence of due diligence arises in this regard, so with this tier we have an increase of penalties up to tenfold. The tier 2 penalties are general and administrative offences, with penalties up to \$125 000 for companies and \$62 500 for individuals, and there may be a modified penalty system. Tier 3 offences attract penalties up to \$5 000, but these offences will be subject to regulation and indeed inspectors may issue infringement notices. We endorse this initiative with infringement notices, and the fact that the Minister is not required to consent to prosecute and may not direct the CEO in this regard. I note the flexibility of these infringement notices, that there is the possibility of time payment, that appropriate records will be kept, and that a sanction will apply of publication of those who transgress the new laws. The Bill provides a range of criteria for modified penalties and a range of court orders that may be issued. The court may order the offender to prevent,

control or abate pollution, restore the environment, prevent continuance or occurrence, or undertake works to enhance the environment in a public place or for the public benefit. I note that all of these orders that may be issued are applicable on the submission of the prosecutor. I will ask for some comments in that regard with respect to limiting court options to executive initiative which seems to -

Hon Max Evans: What option?

Hon J.A. COWDELL: The courts' options, not the Premier's options, but the courts would normally have a full range of options at their sole discretion. I note that these options are available only if they are proposed by the prosecuting authority, which seems a limitation on the courts' discretion. The principles are sound, the increase in penalties is sound, and we are supportive of the intent of the legislation in this regard.

We are also supportive of the intent of the legislation with respect to the landfill levy. As stated by the Minister, the objective is to reduce environmental and public health impacts of waste, to conserve energy and resources, to help make waste avoidance, re-use and to make recycling a way of life, and to inform the community on waste reduction and sustainable development generally.

We are of course supportive of all those principles as enunciated by the Government in this legislation. We are pleased that we are establishing in this legislation, to some small degree, the principle of polluter pays, some equity among our waste reduction sites and some incentive for waste reduction. The Opposition looks forward to seeing the Government use the levy as stated; that is, for public education and information; to support municipal recycling and recycling in remote areas, although we acknowledge that in many instances that will be difficult to achieve; waste classification and information service; market development for recycled products; waste recycling and reduction infrastructure; and cleanup production programs. The Opposition is clearly supportive of all those principles as enunciated by the Government. We look forward to the review which has been proposed and accepted in another place to ensure that the money levied is spent on those very worthy purposes.

The third area the Bill encompasses is waste management facilities. It is proposed that Waste Management (WA) operate the Mt Walton intractable waste disposal facility and the Forrestdale facility and other operations approved by the Minister. We note that the Minister cannot approve an operation when an adequate service already exists. There is some argument about the form of Waste Management (WA), and I will refer to that in some detail shortly. The proposal is to give some legal form to current practice in the management of waste management facilities.

The Opposition is further supportive of those provisions which deal with the implementation of national and environmental protection measures made under the National Environmental Protection Council (Western Australia) Act 1996 and the other equivalent Acts and the concept that these NEPMs can be implemented by the Minister by making them environmental protection plans or by introducing regulations made under the Act.

Finally, another area of which we are supportive addresses some of the problems we have confronted in recent years such as the use of wood heaters and firewood in our community. In that regard the proposed regulations contained in this legislation are worthwhile.

As I said, I am pleased to note that this Bill comes before us with a review mechanism to ensure proper use of funds that are collected by virtue of the waste levy. I think the clause states that the Minister shall carry out a review of the operation and effectiveness of this part of the Bill as soon as practicable after the expiry of three years from the coming into operation of clause 20. That amendment is to ensure that three years after the levy has been imposed a review will be undertaken of both its operation and effectiveness. The amendment enhances the legislation, although that clause on page 49 may be in an imperfect form and need to be amended by virtue of its reference to clause 20 rather than proposed part VIIA of the Bill. Nevertheless, I am sure that if it must be altered it will be along the way. That enhances this legislation.

The Bill deals with the due diligence defence. Members will be aware of my concerns that that defence should also be available for second tier offences. Clearly when penalties are increased up to ten-fold, more defences should be provided. The aim of the legislation is to have people who commit an offence unintentionally report to the department and take remedial action as soon as possible. It seems that due diligence and reasonable precautions should also be provided for in that defence, given the increase in penalty for the higher tier of offences. I will move an amendment that I am sure the Government will be able to accommodate in its infinite accommodatory mood!

Hon Max Evans: As we did in the other House.

Hon J.A. COWDELL: The third area of some concern is obviously the geographic restriction of the levy. The Government has given assurances in this regard, although no doubt members have received correspondence, as I have, from a range of local country authorities about their concern at being subject to this levy without receiving a great deal of benefit from it. One such letter from the Shire of Gnowangerup addressed to me sought my assistance

in having the Bill amended to ensure that rural areas are excluded from the provisions of the Bill. The shire considered that the Bill did not guarantee the levy would not be applied to country landfill sites. As far as the shire was concerned the Minister for the Environment had indicated that the levy would apply to rural areas, but the legislation does not support that. I will give a further example of a similar nature.

Hon Max Evans: Did they say they did not want the metropolitan levy to be used in the country? That is strange; it is very one sided. I suppose you could put that in as part of your amendment. You would ingratiate yourself to them.

Hon J.A. COWDELL: I thank the Minister for his kind assistance in this regard. No doubt he will be of even more assistance during Committee. One further example is from the Shire of Kondinin. The council wrote that it was concerned at the direction of the State Government to levy landfill sites. The council said it was concerned that although the Minister for the Environment had stated the levy will not apply to country shires clause 4 of the Environmental Protection (Land Fill) Levy Bill does not limit the geographical extent of the levy. The council saw that as a convenient backdoor approach to apply the levy to country shires at some future time. The council urged me as a country member of Parliament to ensure that the legislation clearly reflected the Minister's intention to exclude country local authorities.

That is a legitimate concern. It would be unfair for small country towns to pay the levy when they have few alternative options. In some areas it would be prohibitively expensive to transport recycled goods. It has been rumoured that some of our major country towns may wish to be involved in this exercise. I look forward to hearing about any such examples. I have not received any advice to that effect. It is simply a concern that the Government's stated guarantee should be placed in the legislation. I perceive that the Government's stated guarantee with regard to non-applicability to country areas generally may only have a lifespan of this term in office. The country shires are concerned that the operation of this levy has a stage 1 and a stage 2. Stage 1 relates to the metropolitan area, and stage 2 to the non-metropolitan areas - the Government not wishing to neglect the country unduly. Other members of the Labor Party and I have given assurances to the country shires in this regard. To honour those undertakings during Committee we will be moving to allow the Government to state clearly in the Bill its pledge to the country shires rather than having to rely on a ministerial assurance in a second reading speech, when that Minister may be replaced - such an unfortunate thing could occur. We look forward to assisting the Government to improve its credentials in country areas.

The other concerns - but not such as may propel members to suggest an amendment - apply to the amount of the levy and the concept of taxation by regulation. The Government's proposal strikes a levy at \$3 per tonne for solid waste, and \$1 per tonne for other waste. Effectively, that can be varied by regulation, so we give the power to government to tax and vary a tax by means of regulation. Clause 5 of the Bill could be amended to remove that discretion by the words -

A levy imposed under subclause (1) shall not exceed \$3 per tonne for solid waste and \$1 per tonne for other waste.

That would clearly put the amount of taxation back under the control of the Legislature and it would not be subject to variance by regulation. I look for an assurance from the Government with regard to the stability of the levy and for what period it will apply.

Any concern about how the income will be expended will, as a result of the Assembly's amendment, be subject to review in three years' time. The levy restriction on geographic grounds will not assist all country municipalities, and the municipalities in my area will be subject to this levy. The City of Mandurah will be using the facility within the City of Rockingham and will be subject to the levy. Just this week we witnessed the breakdown of the Waroona-Murray-Mandurah joint effort in waste management. It may be that the Shire of Murray and others will also be using the Rockingham facility and may be subject to the metropolitan levy.

Hon Max Evans: Are you going to move an exemption for those people when their rubbish costs go up?

Hon J.A. COWDELL: No, Minister. The Labor Party agrees with the principle contained in the legislation; that is, metropolitan waste or waste deposited within the metropolitan area.

Hon Max Evans: They might not want your waste.

Hon J.A. COWDELL: The geographic restriction that we will propose will not alleviate the situation of immediate country municipalities such as Mandurah and Murray.

Some concern has been expressed and should be expressed with respect to the chief executive officer of the department who will constitute Waste Management (WA). I am aware that this is the effective practice at the moment and that arguments were canvassed in a discussion paper that was released. In many circumstances, the State

Government should act as an operator in the waste management industry. Obviously it would make sense with hazardous waste disposal, in which there is an overriding public interest in the State undertaking its long term management and the public would expect this. The issue arises whether a significant conflict occurs with the Department of Environmental Protection not only operating and regulating such a facility and licensing other facilities, but also setting policy.

I understand the argument of the expertise of the department and that the EPA will set the guidelines and assess the situation in that regard. I recall that the discussion paper envisaged that the Minister for the Environment might have body corporate powers, but in the legislation those powers were given to the chief executive officer. The question is whether there is a better mechanism than the CEO and the department solely constituting Waste Management (WA). I note the Minister's case, which she has put very clearly in her undated letter of recent times, as follows -

The advice I have received is that there remains no other Government agencies with the expertise or desire to undertake management of the IWDF, and contracting out responsibility is not appropriate given the time frames in which waste will have to be managed at the site. The facility is operated to high standards, but in dealing with hazardous materials there are always risks to be assessed and managed.

If the relevant Clauses in the Bill were withdrawn the following issues would arise:

- . the day to day operations of the facilities, performed on the Minister's behalf by officers in the Waste Management Division of the Department of Environmental Protection, would continue as they are now.
- . the proponentship for the facilities, would remain clouded as it is now, and would be subject to considerable examination in the event of an accident or pollution incident (particularly one that may suggest a prosecution under the EP Act, or another Act).
- . the question over the State's ability to contract to accept, and charge for the disposal of waste will remain as a risk. A power to charge for taking waste at Mt Walton is required in some legislation to ensure that contracts imposing fees or charges are not contestable.

I note that very strong case put by the Minister for the Environment as the Government's response to the concerns about the current structure.

It appears that the options in this regard include perhaps a direct amendment to the section concerned. However, the Legislative Council cannot create an independent authority, which may be the most desirable way of constituting Waste Management (WA). It has revenue implications, and the Legislative Council cannot make such an amendment. It may well be that the most appropriate course is to send a message to the Assembly seeking an amendment. This would indicate the Council's level of concern, and it could then await the Assembly's response. Such an amendment would involve detailed and complicated drafting.

Hon Max Evans: You would do that for us. You were going to tell us how to run the independent body.

Hon J.A. COWDELL: If consideration were given to an independent authority, it would have to be the subject of a message to the Assembly. Although one might like to say that the Assembly should be requested to amend part VIIB of the Environmental Protection Amendment Bill 1997 to constitute Waste Management (WA) as an independent authority, and it would be a laudable wish, five or six pages of redrafting of the current legislation would be needed in order to effect that. It cannot be done in the time frame available.

Hon Max Evans: There is no time limit tonight.

Hon J.A. COWDELL: Even with unlimited time available tonight, it is not a possibility. Clause 22 and the immediate subsequent clauses could be referred to the Standing Committee on Ecologically Sustainable Development for advice on the form of message to be sent to the Assembly or alternative direction, or this House could decide to take no action in this regard but merely express its concern and reservations. I note that the Minister for the Environment concluded her letter with the following -

For these reasons outlined above I remain of the view that the Government should proceed in the Legislative Council with the Bill intact. However, I remain committed to finding an appropriate solution and will continue to investigate alternative management structures for these facilities in Government. I have referred the matter to the Machinery of Government for further review and consideration, and I await those views.

The Minister concedes that there may be a need for further investigation in that regard. At this stage of the second reading debate, it is a matter of concern.

Hon Max Evans: Does it concern you in the second reading debate?

Hon J.A. COWDELL: It is a matter of concern that at this stage we look to comments from the Minister handling the Bill in reply. Obviously, it may be necessary to consider in a short time frame of say three weeks seeking some advice from a Legislative Council committee as to whether there is a suitable alternative. If there is a suitable alternative authority, can it be suggested only in the form of a message to the Assembly or is there a non-authority model that does not require expenditure? That would provide a solution immediately. I see Hon Bruce Donaldson warming to the proposal of an expert committee finding a solution. I feel sure an expert committee could furnish us with valuable advice, but whether the House takes that course remains to be seen.

I conclude my comments by once again confirming the support of the Australian Labor Party for the second reading of both Bills, and I alert members to the two minor amendments that appear in my name on the Supplementary Notice Paper to give effect to the goodwill evinced by the Government in various assurances on this legislation. I note ongoing concerns with regard to the amount of the levy, the form of the levy by regulation, and the constitution of Waste Management (WA). I am sure that these matters, although of some importance, should not jeopardise the overall benefit that may be obtained from the early passage of these Bills.

Hon Max Evans: That is your choice.

Hon J.A. COWDELL: Good. We look forward to the proposed reforms, to the revision of penalties, to the institution of the landfill levy and the use to which it will be put, to the adequate legal constitution of the waste management authority rather than the current de facto form; and, of course, to the wood heater regulations and the ability to expedite National Environmental Protection Council measures in Western Australia. All those we seek to progress. We commend the legislation. We are sure that the minor concerns expressed may be answered and the problems dealt with by way of minor amendment. I support the second reading of these Bills.

HON B.K. DONALDSON (Agricultural) [10.22 pm]: The two Bills reflect the very important elements that were contained in the 1996 coalition policy. One would naturally support the implementation of much of that policy that was announced prior to the 1996 election. One of the concerns I had, which I expressed over a number of briefings, was the waste management levy to be raised. Another concern was that there was no real program to be put into place. The objective seemed to be to raise the money and then think what we would do with it afterwards. That was quite some time ago and much has happened since.

Hon John Cowdell raised one of the major issues with which I have problems; that is, where the levy will be promulgated, whether right across Western Australia or confined to the metropolitan area. Like all country members I receive a lot of correspondence asking whether that could be entrenched in some way. One of the great difficulties that was foreseen was the \$3 per tonne levy on putrescible waste and the \$1 a tonne for inert waste going to metropolitan landfills. When thinking of a per tonne levy, in the country many small towns do not have a public weighbridge, so a levy on a weight basis would be very difficult. In many small country towns the only weighbridge is at the local Co-operative Bulk Handling Ltd site. Many small country towns do not have manned CBH sites other than at harvest time. There would certainly have to be some arrangement with CBH if the weighbridge were to be utilised. Many small councils have a contractor, usually from a large regional town, who may spread out and handle five to eight small country towns. That would create some difficulty.

We all know that the revenue to be gained from some recycled products is very small. With some recycling taking place even in the metropolitan area there is great difficulty obtaining enough revenue to offset the costs. I certainly felt uncomfortable with the arrangement. I knew what was trying to be achieved but I wondered how it would eventuate. At one stage I asked the Minister whether we would see this money being utilised to set up a group called the Wastebusters as opposed to the Ghostbusters and whether people would be screening my bin at night to make sure that I had not been a naughty boy and chucked a couple of recyclable cans into my 240 litre wheelie bin. Would I find a sticker the next morning with a very stern warning that if caught again I might be sent straight to gaol for committing such a heinous crime? I found there were quite substantial fines. However, I was assured by the then Minister that that was not the case and that I could rest peacefully at night knowing that someone would not be scurrying around checking to see whether people broke the law by not having a couple of bins and bags in which to put recyclable items.

Like all country members I was assured by the Minister at the time during the briefings and certainly in correspondence and copies of correspondence that the Minister sent to many local authorities, that the levy would not extend into country areas. I understand the levy will be imposed by way of regulations, which of course can be disallowed in this House. I ask that the Minister in his response give me that assurance once again because I will feel more comfortable when I leave this place tonight - hopefully not too late. It is important, because I saw the amendment of Hon John Cowdell. I have been aware during the past few months in conversations with a couple of people from the larger country councils that they may want to get involved at some stage in recycling and waste management. They realise the problems in those areas. They will probably be catered for along the way. There is not much point at this stage in involving smaller country councils. I hope that assurance will be given tonight.

I was also pleased to understand during the briefings that the money raised would be paid into a trust fund. I did not want to see occurring what eventuated in New South Wales, where quite a great deal of money is paid into consolidated revenue. It has become a tax raising measure. In this case the levy moneys will be placed in a trust fund. It is quite clearly stated in the second reading speech that the money must be used. There is also an opportunity to have a differential levy to cater for different types of waste. Those fees raised in any form would also be a disallowable instrument in this House. Those concerns were allayed a while ago, thank goodness, because I could not have supported the levy if I saw it as a tax raising measure. I would support it as long as the money was returned to where it should be.

The pleasant news is that some of the money raised in the metropolitan area will filter into country areas. I do not know whether that is true but there are rumours that it may occur. It would be in the best interests of Western Australia and the environment for that to take place. It is very important to recognise that sometimes money may filter out from where it is collected, but for a very good reason.

Hon Tom Stephens: What do you mean "filter outside where it is collected"?

Hon B.K. DONALDSON: Yes.

Hon Tom Stephens: But it is the very reverse of the trend.

Hon B.K. DONALDSON: That was the pleasant news. The member did not hear me correctly.

Hon Tom Stephens: No, I did not.

Hon B.K. DONALDSON: I have asked the Minister to reassure the House. Most small country councils will be relieved that this is the case. I would like to support the amendment moved by Hon John Cowdell but, on reflection, I do not want to inhibit other country councils that at some stage might want to use differential rating. It could be structured to cater for populations or specific areas. Cementing this into legislation makes it very difficult. Changes to the Health Act meant that local governments were required to continue to collect meat inspection fees and the abattoirs were going broke. That was done expeditiously one night, but it took a long time for the Government to achieve that. Entrenching something in legislation can create difficulties.

Extending the levy is a long way off because there are some fundamental problems in relation to weighing. Where will the material be weighed? Many country landfill sites do not have a huge problem; they are usually well maintained. We also do not have huge urban growth in those areas.

I support the Bills, but I look forward to the Minister's assurance to country local governments that this will be taken care of by regulation and that the money collected will remain within that trust account to be used for the stated purpose and only that.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.32 pm]: I will be very brief, only because of the lateness of the hour. I want my contribution to this debate to be one which puts on the record the expectations that many local authorities of my electorate and beyond have raised, the issues to which the last two speakers have made passing reference. I refer to the application of the landfill waste levy to non-metropolitan areas of Western Australia. This issue has been raised with me as a member for the Mining and Pastoral Region by the Shires of Broome and Derby-West Kimberley and a number of other local authorities from other regions. It was in fact the subject of discussion at the Kimberley ward conference of the Local Government Association held on 21 March in Broome that I attended with the Leader of the Opposition, Dr Geoff Gallop. It was also attended by my opposite number for the region, Hon Greg Smith.

There was an expression of support for the concept of ensuring that this Government's pre-election commitment that the landfill waste levy would not apply to non-metropolitan areas of Western Australia not be left to its discretion by including it in the regulatory regime. Rather, there was a strong expectation that the Government would protect local authorities from the effect of that levy by amending the legislation currently before the House. Hon Greg Smith received a direct request from the Kimberley ward conference for an assurance that there was no prospect of this levy being imposed on local authorities in non-metropolitan Western Australia. I hope that during the Committee stage of this debate, if an amendment is proposed in reference to this, Hon Greg Smith will join with those of us on this side of the House in voting to put into law a proscription on Governments ever levying non-metropolitan authorities -

Hon Max Evans: Even if they want it?

Hon TOM STEPHENS: If they suddenly said they wanted a new tax imposed on regional Western Australia, I am sure the Parliament would oblige.

Hon Max Evans: You told us they did not want it.

Hon TOM STEPHENS: They told us that the Government told them prior to the last election that it would not put in place a regime that would lead to a levy being imposed on them. Instead of that being left in the Act, they are left with legislation that gives the Government that authority. Understandably, like many workers and others in Western Australia, they no longer trust the Government and want to ensure that it is not left with the freedom to do that which it says it will not do. They want to ensure that it cannot do that even if it were tempted and wanted to breach their faith as it has done in respect of so many other sections of the community.

Hon Kim Chance: Like the choice between award and workplace agreements.

Hon TOM STEPHENS: They want to ensure that there is no temptation. It would be unfair of this Parliament to leave the Government with the temptation to do what it wants to do so consistently; that is, to breach pre-election commitments.

The Opposition wants to help members opposite do something they are not used to doing; that is, to be honest. One way of doing that is for the Government to amend the Bills. Members on this side want to provide that opportunity. I hope I will be joined by Hon Greg Smith in keeping this Government -

Hon Greg Smith interjected.

Hon TOM STEPHENS: I do not care what is the member's reason or whether he trusts me. No-one trusts the Government. The member should join with us to ensure that this legislation is amended so that the Government cannot impose a levy on non-metropolitan authorities.

Hon B.K. Donaldson interjected.

Hon TOM STEPHENS: That could well be. However, there are clever ways to handle this. We want to remove the temptation. There is a moral theology based on the culpability of those who leave temptation in the way of the weak and those lacking in moral rectitude and fortitude. I will base my argument on that: We should not leave members opposite with that temptation.

The Shires of Broome and Derby-West Kimberley and the Local Government Association are urging the Parliament to consider seriously an amendment to this Bill to ensure that the Government cannot impose a levy of this sort. I support that call. I hope the Government will volunteer that amendment. If it is not volunteered, I hope that the opposition member handling the Bill will see his way clear to move an amendment of that sort in Committee. It would provide the opportunity for Hon Greg Smith and others to ensure that the amendment is carried and that the Government is kept honest in this regard.

I appreciate that the waste management and recycling fund will operate from 1 July subject to the passage of this legislation. I appreciate that the waste management and recycling fund is important for all the State, including non-metropolitan Western Australia. I assume that it is a fund on which non-metropolitan Western Australia will be able to draw, regardless of the fact the proposal does not impact on the equipment of non-metropolitan operators.

Hon Max Evans: I do not believe they should.

Hon TOM STEPHENS: We want to assist the Minister in delivering his pre-election commitment. Money will be available to non-metropolitan Western Australia, although it will not contribute to the fund. That is an appropriate response to the Government's pre-election commitment and the circumstances which the non-metropolitan authorities face.

Some significant issues raised at the recent conference relate to the recycling of engine oils in non-metropolitan Western Australia. Clearly, a strategy is needed to facilitate the use of funds to ensure that engine oil waste products can be utilised and taken away from the non-metropolitan parts of Western Australia, and not simply utilised for landfill sites in the local areas. We need a strategy aimed at appropriate capturing and recycling of the waste engine oils and fuel products otherwise buried in landfill sites throughout the State. I hope the Minister will commit his Government to ensuring that the waste management and recycling fund will be deployed quickly.

I join with Labor Party members and others who support the legislation. If there is an opportunity for embracing a Government amendment along the lines of which we have spoken, I will happily do so. If it must be an opposition amendment to achieve that end, which is the expectation of the regional authorities, so be it. After all, it is only the ALP which has made a firm commitment to consistently protect non-metropolitan Western Australia. The coalition parties have consistently worked against the interests of non-metropolitan Western Australia. Now is the time to change the track record and display that something has been learned from the style and substance of the Labor Party in government in the interests of regional Western Australia.

Hon Greg Smith: You will need to win more than four country seats first.

Hon TOM STEPHENS: If not, the Government will find the Opposition will need to do it for it when in Committee.

HON LJILJANNA RAVLICH (East Metropolitan) [10.44 pm]: I welcome the opportunity to contribute to the debate, particularly as a member of the Standing Committee on Ecologically Sustainable Development. I have been very much enlightened by environmental issues since participating on that committee. I pay a compliment to my colleague Hon Christine Sharp who does an excellent job chairing that committee; she has helped greatly in my enlightenment.

I support the Bill, but have some problems with it. Although it is not an area on which I would naturally speak, given my work on the ESD committee, I felt compelled to flick through the Bill. The more I read, the more areas of concern I found.

This is a positive initiative which aims to address the entire issue of waste management and pollution. Modern society will face increased pressures in this regard as time passes. The notion of a coordinated landfill strategy should result in a reduction in dumping and, consequently, in the number of contaminated sites in Western Australia. Contaminated sites are of great concern. I have a motion before the House on that matter. I am even more concerned that we do not know what we are dealing with in this environmental problem.

Also, concerns arise about problems associated with contaminated sites which have been developed for residential purposes.

This Bill will go some way towards a coordinated approach to waste management, which has been ad hoc in the past. I am concerned that the Government is relying on the introduction of penalties to achieve certain environmental objectives. Although that is all right at face value, I have discussed in the House in the past a case in which dumping fees are prohibiting some operators in some industries, particularly the building and construction industry, from going through a proper dumping process. Operators are more inclined to avoid paying fees associated with waste disposal. Consequently, they often indulge in unsafe occupational health and safety practices. I have been advised that a common practice in the demolition industry is to burn onsite, rather than pay to transport the rubble and waste to a waste site. This might include asbestos or other building material. Some operators will endeavour to dispose of that waste onsite through burning to reduce costs. Some industries lend themselves more to that practice than others.

If we had a diligent WorkSafe carrying out precautionary checks, maybe it would not happen so often. When I visited the East Metro site a year or so ago, it was clearly a common practice. Maybe the imposition of these fees may not result in the Government's desired outcomes.

Nevertheless, the Bill attempts to address some sensitive issues relating to environmental impacts, for which I give it my support. On many environmental issues we hear about a lack of consultation. I understand that public consultation on this Bill was well carried out, and no such criticism was made.

I turn now to penalties. The Bill provides for maximum and minimum penalties; penalties of \$500 000 or five years in gaol will apply for an individual, and up to \$1m for a body corporate, for intentional cause of pollution. Although I am an advocate of the environment, I find the fee schedule to be alarming. It shows an inconsistency in the Government's priorities, and demonstrates that no clear policy applies to setting fees across the board. Under this Bill, a person who causes pollution or allows it to be caused will incur a substantial fine of \$1m; if an organisation or an employer is deemed to have caused the death of an individual in the workplace the fine is only \$200 000. There is no comparison. Provision is not made for deaths on site, or industrial injuries and diseases at the workplace. Provision is not made under the Occupational Safety and Health Act to ensure that employers found guilty of causing the damage will go to gaol. Under this legislation, a five year gaol term is imposed. It is alarming that such anomalies exist. Is the Government serious about what it is doing? Of course, the Government might have a problem finding a gaol in which to place the offenders!

The whole question of penalties across the board should be considered more closely. I refer to a speech made on 28 June 1995 by the Minister for Labour Relations Hon Graham Kierath on changes to the Occupational Health, Safety and Welfare Act, specifically the inconsistencies between penalty structures. He states -

Now we come to penalties ---- and you had better understand this one clearly. There are significant increases. Employers who breach the general duties can be fined as much as \$200 000. That's an increase of 300% ---

The penalties must have been pretty pitiful prior to that. He continues -

and, if it is warranted, it will be imposed.

No-one has been fined \$200 000. The maximum fine has been about \$50 000. He continues -

This maximum can be applied in cases of death or serious harm to an employee. The fine for workers who breach the general duty has been doubled from \$5000 to \$10,000.

There has been extensive debate in Parliament on whether the Act should contain imprisonment penalties for breaches which result in death or serious harm. The Government has decided against this option. However, make no mistake about one thing. There already is provision under the Criminal Code for imprisonment for negligence of the kind that I have mentioned.

To the best of my knowledge, I do not think it has ever been used. I wanted to draw attention to that.

This Bill also introduces the concept of unreasonable emission. I have some concern about that. What is the legal interpretation of unreasonable emission? I took myself back to my childhood. I grew up in Midland, not too far from the Midland abattoir. In summer when the wind blew, most of Midland and Midvale could smell the skin sheds, which were not very far away. Community pressure was brought to bear to do something about the smell emanating from the abattoir and eventually it was closed. As a consequence, many people who had been employed at the abattoir lost their jobs, and I am sure many of them ended up in the social security system. When I looked at the relevant clause in this legislation I thought about abattoirs, tanning factories, chicken sheds and so on.

I feel a little sorry for some of the businesses that may be caught by this definition because many small businesses may have grown into larger businesses in areas that were once not very densely populated. Many people who operated such businesses have been victims of urban spread. I do not think that they should be penalised, yet I see a potential for that to occur under this legislation. I bring to the attention of the House a typical example of how it could occur: The Watsonia establishment at Spearwood is experiencing a difficult period because Cockburn Gardens is not too far away. A lot of market garden land has become residential development, and complaints are being made about the smell emanating from the Watsonia plant.

Hon Max Evans: Watsonia was there first.

Hon LJILJANNA RAVLICH: Watsonia was established a long time ago. I am not sure how long it has been in the area, but I think it would be 90-odd years. Watsonia employs 400 people at its Spearwood factory, half of whom are residents in the area. From buying services from other companies, the factory generates 1 236 jobs, many of them in Cockburn and surrounding areas. It has a wages bill of about \$14m annually. It is estimated that it injects an amount approaching \$50m into the local and state economies. It also pays a substantial amount in council rates. Apart from producing very delicious sausages and salami and so on, Watsonia is a great employer of ethnic people. More than 70 per cent of workers at the factory are from non-English speaking countries; for them, English is a second language. The breakup is 28 per cent Portuguese, 20 per cent Croatian, 5 per cent from other non-English speaking countries, and 27 per cent from English speaking countries. If these people did not work for Watsonia, in the majority of cases they would be hard pressed to find work anywhere else.

I would like an undertaking from the Government that this concept of unreasonable emission, which means an emission of noise, odour or electromagnetic radiation which unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person, will not disadvantage companies such as Watsonia. I am not advocating that such companies should be able to pollute the environment. A balance must be struck. As would any proprietor of a chook shed, factory or other business, Watsonia would and should understand the requirement to meet certain standards. The situation in Cockburn must be resolved. There are complaints. By the same token, industry has the right to carry on -

Hon Max Evans: The sewerage park is another one. If that were closed down, we would have a serious problem.

Hon LJILJANNA RAVLICH: I am very much advocating a balanced and reasonable approach to this. However, I seek an undertaking on the question of unreasonable emission.

The Bill also introduces the concept of environmental inspectors with rather wide ranging powers. They are to be given the power of seizure so that they can step in and take preventative action before the environment is damaged. I seek some assurances in this regard. I do not know whether realistically these people should be given an almost law enforcement role. The Bill provides for this. I would like to know how many inspectors there will be, whether they will be appropriately trained, the mechanisms that will be in place to ensure they are trained, who will pay for their training, and whether it will be funded out of levy revenue or the consolidated fund. These are very important questions. If we are to put some environmental superheroes in place to save the environment on our behalf, they must be resourced adequately so that they can do the job properly. I must say that in many areas in which this Government is involved, resources are an issue. In the area of training, there seems to be some deficiencies. If these people are asked to do this job, I expect them to be given the resources and the training to do it properly, so that they are not

merely being set up. They will find themselves in some sticky situations, from my reading of this Bill. They will have the power of seizure. If they come across something which has been dumped and needs to be seized, these people will do it.

When something of value is seized, the chief executive officer will have the power to sell, preserve, destroy or otherwise deal with it in a prescribed way. I will raise this in Committee. I wonder under what circumstances this clause might come into operation and what protections there will be to ensure the offenders are dealt with in a fair way. If we are talking about the seizure of something valuable, in my view the Government should not be able to go off and sell it. Some mechanism must be in place to ensure there is some redress for the offender. When goods are seized, there is a provision in the Bill that they can then be sold and for the proceeds of the sale to be paid into the consolidated fund. I am not sure whether this is the CRF. If it is, my view is that it should not be there but in the management -

Hon Max Evans: The consolidated fund used to be called the CRF.

Hon LJILJANNA RAVLICH: If that is the case, my view is that if there is a special fund called the waste management and recycling fund, the money gained from the sale of seized products should be going into it. I am interested to hear why that will not be the case.

The Bill also introduces the concept of modified penalties for people who do something wrong and who, having admitted to doing the wrong thing, are dealt with more lightly. That is a good attempt by the Government, but I am not sure human nature has changed so much that people will want to do themselves in. I wait with anticipation and will be very interested to hear and see how this concept of modified penalties works for people who do themselves in. This is a little along the lines of self-regulation, which the Government tends to advocate for many things. It says to a person, "You regulate yourself; you tell us if you are doing the wrong thing." My concern is that some large multinational corporations may get away with doing the wrong thing consistently and may not have the good grace to do themselves in. I wonder how that situation might be handled.

The levy imposes a fee of \$1 a tonne for inner waste and \$3 a tonne for putrescible waste. One concern that has been brought to my attention is the cost of the levy. As Hon Tom Stephens has advised the House, concern has been expressed by local councils and the Western Australian Municipal Association that the legislation has no sunset clause covering the imposition of the levy. WAMA would like to see a sunset clause in the legislation to ensure a public review of the effectiveness of the levy takes place after three years. Local government authorities, by and large, have had some problems to varying degrees in adjusting to the concept of a levy. Most of them, I understand, have come on board. I just wonder how much of this information has been conveyed to ratepayers. At the end of the day this is an issue about ratepayers subsidising this particular initiative. It is of concern to me that through a fairly indirect way -

Hon Max Evans: Ratepayers are already paying to get rid of their rubbish.

Hon LJILJANNA RAVLICH: The bottom line is that they might be paying \$300 now, but are likely to be paying \$330 next year for the same service. The money must come from somewhere. That \$30 is on top of what the ratepayers are paying now. I have not been advised in writing that my rates will go up as a result of the introduction of this levy if the Bill passes through the Parliament. That is not good enough. If the arrangements are being made by the Government and local councils, some better form of communication should have occurred with local ratepayers about the impact that this levy will have on them.

Hon Derrick Tomlinson: Your council has not told you that?

Hon LJILJANNA RAVLICH: I might have just thrown that advice in the bin. That is always possible, so I ask Hon Derrick Tomlinson not to go ringing my council and giving it a blast.

Hon Norm Kelly: Which council is that?

Hon LJILJANNA RAVLICH: It is a very good council; the Cottesloe Town Council!

This Bill also creates Waste Management (WA), which is a body corporate constituted by a chief executive as part of the department. Some concern was expressed by both Hon John Cowdell and Hon Tom Stephens about the State's environmental regulator also acting as an operator. When the Minister for the Environment responded to the second reading debate, she said that the proposed arrangements ensured that the State's most problematic wastes would be managed by the agency with the highest level of relevant expertise, and they would be supervised and monitored by the statutorily independent Environmental Protection Authority with assistance from other government regulators.

Unfortunately, that contradicts the recommendations of the thirty-sixth report of the Standing Committee on Government Agencies, titled "State Agencies: Their Nature and Function". The committee divided agency functions

into operational, regulatory and advisory functions. It found that in some cases agencies are multifunctional and that such agencies present their own problems, particularly when operational and regulatory functions are exercised by the same agency. The committee considered whether it was appropriate for an operational agency to have a statutory monopoly. The report stated that the law has long considered monopolies as contrary to the public interest. If they are to exist, express statutory sanction must authorise the monopoly. It seemed to the committee that the performance of a regulatory function, for example fixing tariffs, by an operational agency required a high degree of justification and strict separation of the two functions within the same agency.

The report cited the then State Energy Commission of Western Australia as one such agency. It stated that not only was SECWA operational, but also it was regulatory, and that this mix of functions caused the committee concern. The committee was opposed to operational and regulatory functions being vested in the same agency, particularly, but not exclusively, where monopolies are involved.

Given that the thirty-sixth report is available, I am amazed that the Government is proposing to go down this path because clearly this issue arises time and again. I am not an advocate of restructuring government departments to comply with the recommendations of the thirty-sixth report. I say that because in a past life I was a government employee, and I know that restructuring government departments is an enormous task. Productivity levels decline enormously, and one body of evidence suggests that it takes two years for the agency to reach its pre-restructuring level. I am not an advocate of going down that path as a matter of course, but, as there is a clear body of evidence that it is the best way to go, when new agencies are formed there should be strict separation of the two functions. I would like to hear the Minister's response to that, and I am sure the matter will be raised in Committee. I understand amendments may be moved by some members.

Finally, I refer to regulation of the sale of wood fired heaters and firewood. The Bill proposes to ban the sale of wood fired heaters that do not conform to the Australian standard, and it is proposed to ban the sale of firewood with a moisture content of more than 25 per cent. I am pleased that these regulations will not affect existing installed wood fired heaters or constrain people who gather their own firewood in the forest. There is at least some hope. Originally I thought some people might still sell wood heaters of the old design, and this would affect their business interests. However, it does not appear to be causing a great problem, and I suppose people in the private sector move with the market forces. There have been major advances in technology so perhaps this is a non-issue.

I support the principle of the Bill but I have some concerns about the detail, which I will raise in Committee. These matters will be addressed more specifically by the Opposition's lead speaker, Hon John Cowdell, who will move some amendments.

HON CHRISTINE SHARP (South West) [11.16 pm]: I am very pleased and happy, although the hour is late, to say a few words on these two Bills. I will avoid repeating what other people have said because we all know these Bills contain heaps of good provisions. I congratulate the Minister for the Environment on her activist approach to her portfolio. I am pleased that the Government is taking new and good initiatives to expand environmental protection in Western Australia. I also congratulate the Department of Environmental Protection because many of the measures in the Bills display a certain flair and innovation that did not need to be there, but they are good to see. I refer to the flexibility in the penalties imposed; for example, in the third tier, which is the lowest level of penalty, offenders will be issued with tickets - like a grandiose parking ticket - and they have the choice of paying the fine or going to court.

Modified penalties will be imposed and an incentive has been built into the penalties to encourage companies to behave responsibly. Five criteria for modifying penalties are set out in the Bill, and they seek to differentiate between polluters who have polluted intentionally, those who have done so unintentionally, those who have quickly got to the source of the problem and tried to minimise the damage, and those who have taken a more lackadaisical approach.

Another good feature is the introduction of the power of seizure. Previously the situation was quite ridiculous. An officer of the Department of Environmental Protection might see someone dumping rubbish in a wetlands area and, although the officer's presence would prevent that dumping of rubbish, the officer could not prevent that person from driving down the road and dumping the rubbish somewhere else. That will no longer happen because the officer will have the power of seizure.

Another flexible approach included in the legislation is the introduction of additional court orders, and they represent some of the most up to date trends of environmental legislation in Australia. In addition to penalties, a court may order offenders to forfeit those things used in committing the offence, to make good the damage caused by pollution or to pay compensation or the costs avoided by committing the offence, or may order that the offence be publicised. That could be a powerful weapon of prevention. It is great that the punishment will fit the crime.

This is the first of two waves of important amendments to the Environmental Protection Act that will come before

the current Parliament. The second wave should be before the House later this year or early next year, and it will contain a far larger series of packages to expand environmental protection.

I want to move quickly to an area where I have very significant concern with the Environmental Protection Amendment Bill. This is a case of the Government acting in the short term and in haste, one might say, in a way we might in the long term regret at leisure. I refer to the way in which the Government wishes to establish the organisation called Waste Management (WA). The idea is to set up a management authority for at present two facilities, one a hazardous waste site at Mt Walton, which I believe was set up by the Health Department, and one at Forestdale, which was set up by the Water Authority a few years ago and includes a septic plant and an industrial liquid waste plant.

Clause 22 of the Bill refers to "Part VIIB inserted" and the proposed new section 110K. A body called Waste Management (WA) is to be established under the proposed section and is to consist of the chief executive officer and be a body corporate with perpetual succession and a common seal. That is it. Proposed subsection (4) reads that "Waste Management (WA) is an entity that forms part of the department", by which is meant the Department of Environmental Protection. Its services would be under the control of the Department of Environmental Protection. Its operations would be the operations of that department. I fear that with its establishment we would be making a mess of the Environmental Protection Act. That is a great pity. There are not too many pieces of legislation for which the community has genuine affection and regard; the Environmental Protection Act is one such piece of legislation. When the current Government first moved in 1993 to amend the Environmental Protection Act - and I was a member of the EPA at that time - in order to split the functions of the chairman and chief executive officer of the department, I saw at close quarters the amount of passion that was felt in universities, conservation groups and the community to protect the Act. People feel very strongly about the Environmental Protection Act because it is a jolly good Act. It has served the State very well. It has managed the very difficult area of environmental protection with very few problems. It is such a pity that in the way in which we would be dealing with Waste Management (WA) we would be messing up the clarity of the current Act. We would be setting up a situation where inevitably if the CEO of Waste Management (WA) were basically the CEO of the DEP wearing another hat, that would be too close. It reminds me a little bit of an Act which often brings controversy in this State, which is the Department of Conservation and Land Management's Act, under which the CEO of CALM and the CEO of the Lands and Forest Commission tend to be the same person wearing a different hat. That has caused no end of problems for the administration of that area of responsibility. I would hate to see that kind of conflict of interest put into one of the best Acts around.

We would shift functions under the Act in quite a new way. The proposal is that the DEP become the manager of Mt Walton and Forestdale. Normally the DEP has no management role whatsoever; it is purely a regulator. For the first time in this new section, it is proposed to make the department the manager. Who would be the regulator? The regulator would become the EPA. Currently the EPA has no regulatory authority or responsibility; it is an adviser to the Government. This whole process of shifting those functions under the Bill and the anomaly it would create in the standard functions of those two areas of environmental protection has caused the Government to introduce a whole new protocol for dealing with this different relationship that would take place in waste management operations.

The Bill provides a new protocol for the EPA to regulate the DEP. As other speakers have mentioned, this is against a lot of standard best practice in public administration. Hon Ljiljanna Ravlich mentioned the thirty-sixth report of the Standing Committee on Public Administration. There is also the very well known and oft quoted Hilmer report on competition policy. Both reports clearly advocate the separation of functions.

Why the haste over this? Why do we want to put into place a situation which in the long term we may come to regret? I foreshadow at this point that at the end of the second reading debate I will move that this group of clauses of the Bill be referred to the Standing Committee on Ecologically Sustainable Development to see if a better solution to this conundrum can be found. One possible solution is that these two waste facilities return to their original managers, the Water Authority and the Health Department.

Hon Max Evans: We could give it to your friend, Syd Shea.

Hon CHRISTINE SHARP: Yes, or maybe we could turn it into a resource and sell it.

Hon Max Evans: People do not want it.

Hon CHRISTINE SHARP: The Government has probably encountered the problem that no-one wants the job. One of the issues here is that the job is not particularly sexy so no-one really wants it. However, it is an extremely important job.

Hon Max Evans: You will give us the answer.

Hon CHRISTINE SHARP: We will indeed. I will move to refer this to the Standing Committee on Ecologically Sustainable Development to see if it can come up with an answer.

Hon Max Evans: You will; it is not a question of if.

Hon CHRISTINE SHARP: I thank the Minister.

I am very keen that we should not hold up the Bill because, as we have all said, by and large it contains excellent provisions. In foreshadowing my motion to refer these matters, I point out that we are talking about a situation in which if the changes proposed under the Bill do not go ahead for any reason, the current situation has been in place for three years anyway. I do not understand why it is taking the Government so long to come up with a better solution. In November of last year I wrote to the Minister expressing my concern about this provision of the legislation.

I said in that letter -

Generally speaking this bill has much to recommend it. It is innovative and should bring about greater effectiveness in pollution control and environmental protection for WA.

However the Greens (WA) have serious concerns regarding part VIIB Waste Management Operations. These concerns are about the conflict of interest inherent in waste management being managed by the Department of Environmental Protection and regulated by the Environmental Protection Authority. This arrangement may be simplest in the short term, but in the long term, may result in an undesirable closeness between regulator and managerial functions.

Furthermore the bill as currently worded makes significant changes to the role of the EPA, as it has operated since 1986. There is currently no regulatory power vested in the Authority. It has an advisory capacity only. Furthermore the EPA has no current role in the monitoring of environmental management. This is normally carried out either by the DEP and/or self-regulation by proponents. Not only does this bill propose a radical alteration to the function of the Authority, it also presupposes resources which are simply not available for it to perform such functions.

The Minister for the Environment wrote back to me just before Christmas and said -

I understand the concerns you have expressed about the proposed creation of a body corporate called Waste Management (WA), and as you may be aware I have referred this matter to the Cabinet Committee dealing with Machinery of Government issues for further consideration. When the results of this review are known (which I expect to be well before the next Parliamentary session) I will consider the matter again in the light of all relevant information.

It is now well and truly past the beginning of the next parliamentary session, and still the structural reform committee of Cabinet has failed to come up with a solution. It has had plenty of time. I do not know why it has taken it so long, because I made it quite clear in November that we would walk into the situation that we are facing tonight. I suspect that it is to do with a certain ideological belief within Cabinet at the moment that to set up authorities is somehow a bad thing; perhaps they cost too much - and the Minister wearing his true hat may wish to comment on that - or there is some other reason that Cabinet is reluctant to enter into that kind of arrangement.

When I finally approached the Minister for the Environment a couple of weeks ago in desperation, seeing that the Bills were getting ever closer to deliberation in this Council, and again explained my difficulties and asked whether the structural reform committee had proposed any solution, she said that the structural reform committee had not provided any new procedure and that she remained committed to finding an appropriate solution and would continue to investigate alternative management structures.

Let us do that right away, as quickly as possible, before we put into place something that I cannot see ever being dislodged once it is in place. If this waste management proposal does not go ahead, nothing incredibly serious will result from that; it will simply continue the situation of indeterminacy that has existed for the past three years.

In conclusion, I again congratulate the Government, but let us make sure that we get it right, because I am sure we all agree that we want the Department of Environmental Protection and the Environmental Protection Authority, and the Environmental Protection Act, to work in the best long term interests of environmental protection in Western Australia.

HON NORM KELLY (East Metropolitan) [11.34 pm]: The Australian Democrats support these Bills and the major changes that they will bring about, but we have reservations about some aspects of this Bill.

We appreciate the setting up of a three tiered system of penalties, and we await with interest the defence of tier 1

offences - that is, major offences which will attract penalties of up to \$1 000 000 - to see how the taking of reasonable precautions and the exercise of due diligence will be a reasonable defence against those charges. The Minister for the Environment said that the courts can refer to case law from other States in making determinations based on those defences, but it is my understanding that New South Wales is the only State that allows for such a defence at the moment, and that recent legal case history in that State has demonstrated the tenuous nature of such a defence. The Democrats have some apprehension about those penalty provisions, but because of the overall thrust of those provisions, we do support those aspects of the Bill, and we will be closely watching the outcome of any subsequent court cases that result from the use of those defences.

I note Hon John Cowdell's proposed amendment to extend those defences to tier 2 offences, and I will be listening closely to his arguments to see whether the Democrats can be convinced that such defences should extend to tier 2 offences. Of course, the substantive penalties that are proposed in this Bill can leave us with the warm, fuzzy feeling that we are protected and that the evil polluters and wrongdoers will be heavily prosecuted. Only time will tell how effective these provisions are and whether they are as effective as is hoped. That is in the future, and we await that with interest.

The second aspect of this Bill is the implementation of a waste levy. The Democrats fully support this aspect of the Bill. It is important that the user pays principle is applied in this case. The general effect is that people will be penalised for any great amounts of waste that they create. I pointed out in my submission to the Advisory Council on Waste Management, on behalf of the Democrats, that we would prefer to see a system of penalties and incentives rather than the penalty system that is proposed. The inherent incentive is that if people do reduce their waste, they will pay a lower levy. Of course, it is not that simple, because these Bills do not provide an incentive for the individual. It is very easy in a community sense to say that a local government or community area can be levied a certain amount. However, that does not reflect on the individuals in that area. An idealistic way of implementing such a levy would be to have a system where the waste collectors in the area would weigh the bin as it was deposited in the truck. That is not possible in a practical sense at the moment, but it would be possible in the mid term.

Hon Max Evans: It has been talked about for many years, since they have had the big trucks with automatic loading.

Hon NORM KELLY: That is right. We are probably looking at not the distant future but the mid term future. By implementing such a system, people would see the direct effects and they would be charged for what they were producing. That would lead to the best result in reducing the amount going into landfill. This is a commendable situation for the time being.

This Bill lacks detail in relation to the implementation of the waste levy. The detail will be included in the regulations and, by doing that, the Government is allowing sufficient flexibility to make future changes. Although I do not agree entirely with that concept, it is a practical method. However, there could be more detail than we currently have.

The quantum of the levy has been mentioned. Although the Minister for the Environment has made a commitment that the levy will be pegged at \$1 per tonne for inert waste and \$3 per tonne for putrescible waste for the term of this Government, no-one can say what will happen beyond that. Any changes require amendment of the regulations and that limits the power of the Parliament to debate and to make changes to the levy.

Hon Max Evans: You disallow it and then it goes back.

Hon NORM KELLY: That is a very messy way of bringing about change to subordinate legislation.

Hon Max Evans: It is better than changing the Act.

Hon NORM KELLY: Yes, but it is still messy. In the ideal world there would be sufficient consultation prior to any changes in regulations to avoid that messy scenario. Another issue that has been brought to my attention by a number of local government bodies and members of my party is the fact that this levy will apply only to the metropolitan area and landfills in the metropolitan area. We believe that this levy should extend wider than that - it should apply to major regional centres. I understand that smaller country towns have a different argument. I accept the difficulties of implementing such a levy in those cases. However, in the larger regional centres, such as Bunbury, Albany and Geraldton, there is a sufficient population base and the problem exists to such an extent that it warrants the imposition of a levy. For that reason, we would like to see the levy extended in the near future.

The impact of the levy is twofold: Firstly, it will reduce the amount of landfill going to the current sites and using up valuable land in the metropolitan area; secondly, and more importantly, it will reduce the amount that we consume. A user pays levy is the best way of going about that. We must look at the wastage resulting from packaging and take steps to reform the throwaway mentality of our society. A broader based levy applying to a greater population base would help solve the problem.

The draft regulations propose that although the legislation will apply to waste received at licensed landfill sites in the metropolitan area and all waste collected in the metropolitan area and received at licensed landfills outside the metropolitan area, application can be made for an exemption. It will be within the power of the CEO of the Department of Environmental Protection to allow for such exemptions. It is important that that power be used in certain cases.

An anomaly exists in my own electorate of East Metropolitan - in the Shire of Serpentine-Jarrahdale, which is in a unique situation. It is part of the metropolitan region, but it is a rural shire, although the northern part of the shire around Byford is reasonably suburban. It is an extension of the Armadale area but the majority of the shire is rural. It could be unfairly penalised by this system as a result of having to implement a recycling strategy that would be very expensive because of the extra travel involved in servicing that area.

The population density of the shire is about 11 people per hectare. By comparison the Swan region has a density of 75 people per hectare; Mundaring has 350 people per hectare; and Kalamunda has 146 people per hectare. This shire has a significant reason to be treated favourably. The town of Albany has a population density of 442 people per hectare; Bunbury has 470 people per hectare; and Mandurah has 231 people per hectare. For these reasons I strongly believe that special attention should be paid to the concerns of the Serpentine-Jarrahdale area. After having had discussions with the shire I am reassured. I have seen its commitment to implementing a thorough recycling program. It fully supports the cause but wants to ensure that its situation is addressed.

I have had discussions with the Department of Environmental Protection on this and I am aware that an exemption will probably be granted for the Mundijong tip site to ensure that the tip can continue as a waste facility. There could be a proviso that no commercial waste contractors are allowed to use that site. That is one way of adjusting for that anomaly in the metropolitan region.

The shire has put a very strong case to have the funds that will be generated from this levy directed back to it to help it implement a better recycling strategy. At the moment it has a community based strategy with community drop off points for aluminium, paper and so on. A curbside recycling system is not the best idea for such a locality, but it would work in the Byford area. Although I can understand that no definite commitments can be made at this stage, I am well aware that favourable treatment should be afforded to the shire when it comes to the distribution of funds.

The funds generated by the levy will be credited to the waste management and recycling fund and, as stated in the Bill, be directed primarily to funds programs related to the management, reduction, re-use, recycling, monitoring or measurement of waste. There is some concern as to the impact of administration costs biting into this overall fund and consuming an inordinate amount of the total funds. In a response that I received to my submission Professor Des O'Connor, the Chairman of the Advisory Council on Waste Management, said -

We have advised the Minister that only 3 per cent of funds will be needed for administration purposes.

Subsequent to that, from discussions with the DEP, I am aware that it is now considering directing 4 per cent of the total levy to administration. That is only a small difference, but at this early stage it can be a bit of a worry that some of the concerns could be well founded in that there could be even a slight blow-out of administrative costs to this fund. This leads me to the view that it is important that local government bodies have an adequate say, not only in how the funds are used, but how they are administered. They have been given the responsibility of collecting these levies and yet they are removed from the allocation of the funds, even though there is some representation. Local government is collecting what is basically a State Government tax. I believe that the advisory council that will recommend to the Minister the distribution of funds will have a good mix of local government, industry, community, and conservation representatives. There is some concern among local governments about the role that they are playing in the administration and about the purposes of this levy.

Hon Christine Sharp detailed at length the concerns that some people have with having the head of the DEP also being the head of the Waste Management (WA). I can understand these concerns and I have expressed them to the Minister; for example, there is no arm's length splitting of the operator and the regulator of these hazardous sites. Even though this current situation has operated over the past few years, I can understand why the Government wants to clarify and make it legally definite. However, it is important we do not set up a structure which is not fully accountable in that there is no separation of these roles and responsibilities of operation and regulation. In response to my concerns the Minister stated -

... contracting out responsibility is not appropriate given the time frames in which waste will have to be managed at the site. The facility is operated to high standards, but in dealing with hazardous materials there are always risks to be assessed and managed.

I totally agree with those comments. It is definitely an area that should not be privatised or contracted out. We are talking about what can be extremely hazardous materials needing long term security of management, and that can

be provided only by maintaining that management within the Government. In response to my letter which considered the deletion of these clauses from the Bill, the Minister stated -

the day-to-day operations of the facilities . . . would continue as they are now.

However, she stated that it brings up difficulties such as -

the proponentship of the facilities, which would then remain clouded as they are now, and would be subject to considerable examination in the event of an accident or pollution incident.

The Minister further stated -

the question over the State's ability to contract to accept, and charge for the disposal of waste will remain as a risk. A power to charge for taking waste at Mt Walton is required in some legislation to ensure that contracts imposing fees or charges are not contestable. This is also important bearing in mind the fairly recent decision of the High Court of Australia that moneys paid under mistake of fact or law are recoverable.

So the Democrats fully understand these problems but it is a matter of how these problems are best resolved and whether what is proposed in the Bill before us is actually the best way of resolving these problems. The Minister concluded her letter by saying that -

I remain committed to finding an appropriate solution and will continue to investigate alternative management structures for these facilities in Government. I have referred the matter to the Machinery of Government for further review and consideration, and I await those views.

I appreciate that the Minister accepts these problems exist with not only the current situation, but also the situation which will be entrenched in law if we allow this Bill to go through in its current state. It is a matter of how we best deal with those problems before we entrench these provisions in law or come up with a better solution, as Hon Christine Sharp has already alluded to. In that sense the foreshadowed motions to refer these clauses to the ESD Committee can be a beneficial way of dealing with these problems. I will speak further on those reasons when we consider that proposed motion.

The Democrats are very supportive of what the Minister for Environment has put before Parliament. We realise that these are basically the non-contentious aspects of the Environmental Protection Act, although we still have some problems with them. We realise that the second wave of amendments which are due before Parliament before the end of the year will possibly create a lot more problems; I know they are creating problems for the people trying to draft the amendments. The Democrats support the passage of this Bill.

HON MAX EVANS (North Metropolitan - Minister for Racing and Gaming) [11.58 pm]: At least everyone seems to support the principle of the Bill. We know and accept that a certain time factor is associated with the charging because there are some doubts about the legalities of it which I will come back to a little later and consider what we have been doing. It is a Bill that has been part of our policy. I recognise and acknowledge the comments of all the various speakers from the Australian Labor Party, the Greens (WA) and the Australian Democrats who want to refer this Bill to the Standing Committee on Ecologically Sustainable Development to look for some alternative.

Hon Norm Kelly suggested that some functions could go to the Health Department and the Water Corporation, but that is no real answer. Someone has to do it. I am no expert on this matter, which the standing committee will need to consider. However, it will virtually need to draft another Bill to make such changes as the matter revolves around the expertise in the Department of Environmental Protection. Members asked who will be the inspectors, who will train them and so on. If it were put under the Office of Racing and Gaming, my boys would know nothing about it and we would have to start again. They would be all right if it involved empty beer bottles.

The Government has not ignored members' comments. A lot of work has been done, and the Bill has been well exposed to the community. I understood that Hon Christine Sharp appreciated that exposure. All local shires know about the measure. It seems that only Hon Ljiljanna Ravlich does not know whether she read about it at home and whether she will pay more. She is not sure about the shire, and she said she will check on the matter.

This measure is important. Hon Norm Kelly spoke about weigh batches on trucks. Mosman Park was the first locality to have trucks with automatic loading, and that authority spoke about automatic readers of numbers like bar codes. It can be easily done, but it will occur down the track. Hon Norm Kelly said that this could be an incentive to put less rubbish into the system. I am having fun with worm farms at the moment, although I am not sure whether the garden is any better for it; however, it reduces the waste in the bins.

Hon John Cowdell referred to the court's options. The court's option is only on prosecution submissions. It will ensure that the court has access to some environmental expertise when making orders, such as a requirement to abate

pollution, rehabilitate the environment and undertake an environmental community service order. The defendants will also be able to challenge the prosecution's submissions, ensuring fairness in the system. Offences and penalties will support that intent.

Due diligence will apply under the tier 1 system. Hon John Cowdell wishes to make an amendment to have the tier 2 offences come under the same group.

The next provisions are to be reviewed in the second amendment of the Bill. These provisions are currently being drafted following wide consultation. Some members have referred to this aspect in relation to the Minister's letter. Everybody realises that this is not perfect - it has been around for a long time. We are trying to get the fund in place to allow the money to come in. If any major changes are needed, that will happen.

Today's debate indicates the problem the Minister has faced with different concerns arising from shires and different interest groups. Debate took two and a half hours. Good comments were made that people have a keen interest in the measure. As Hon Christine Sharp said, it is one of the most loved or sought after measures by environment groups and a large number of people, all of whom have their own views. One can see how the Minister has had problems working in line with all those views.

The taking of reasonable precautions relating to the offence of discharging waste, including some of the tier 2 offences, may be modified to include due diligence. The due diligence defence really applies to tier 1 offences, the big offences that result in gaol and a \$1m penalty. The opportunity will be available to show that due diligence took place so people may not face the big penalties. It is asserted that the majority of penalties inflicted will be for tier 2 offences. If every one of those prosecutions can invoke the due diligence defence, penalties may never apply as it would be impossible for the courts to convict. That may be what members opposite want, but the Minister wants a pretty good chance of convictions for tier 2 offences. Public exposure in the media will deter people from offending. It would be counterproductive if it were difficult or expensive to achieve a conviction because all people use the due diligence defence and no convictions are made.

For the tier 2 offences, the mechanism is modified to ensure that following an offence, the offender may employ due diligence to correct the situation and ensure it cannot recur. The offender may qualify for a modified or reduced penalty paid as an infringement notice with no prosecution or offence recorded. I will refer later to the extent of the penalties.

I recommended the waste trust fund to the Minister rather than the money being directed, and lost, to the consolidated fund. Otherwise, it would go to Treasury and may never be seen again. The money will be directed to the waste trust fund, and certain groups will be in place to see that the money is properly appropriated to the respective bodies. The waste trust fund will have its accounts audited every year, and that should be very visible. It will show which shires received the money and the types of problems solved with the money. About 4 per cent of the fund will be directed to administration. I believe that with the present accounting standard, the waste trust fund will show clearly every year where the money has gone. It will not require a review after three years to determine how the money was expended. I believe the accountability will be good.

Treasury never likes extra funds like these, but I did not take that into consideration. They like moneys to be directed into the consolidated fund. I supported the Minister in establishing this fund, as have all other members.

Hon John Cowdell was in a humorous mood as he suggested that the levy should not exceed \$3 forever more. If \$3 were struck now in legislation, nothing new could arise. I hope that commonsense applies. We could say that the money should go to the consolidated fund so let us not give money to the country. That is what the member suggested when proposing that the levy not exceed \$3. The Minister has proposed \$3 for the term of this Parliament. After that, things will change and more costs might be involved. Land may need to be acquired from further away. The member's amendment is not appropriate. We know that the more one puts into legislation, the longer it takes to make change. Consequently, changes must often be rushed.

A great deal of time in Parliament is spent with disallowance motions for regulations. The legislation may get through, but the regulations may be disallowed in the House, as has been proved. If the Minister introduced a \$10 levy, members might disallow it. She may want to give it to the country. I am surprised that members wanted to limit the levy to the metropolitan area. I said I wanted to make a further amendment that no money can be directed to the country, but members did not like that idea. It is a great pity. I just wanted to balance the books.

Draft regulation No 221 is subject to the exemption granted under this legislation. The regulation will apply to all waste materials and licensed landfills in the metropolitan region and all waste collected within the metropolitan region and received at licensed landfills outside the metropolitan region. Any amendments will be subject to parliamentary disallowance. Almost all the members who spoke tonight preferred that method rather than limiting the regulation to the metropolitan area. I was pleased to hear Hon Norm Kelly's comments for not including that because he

believes many country shires may want a levy for their own reasons. I hope he will support the Government's argument against that move.

Much was said about the Department of Environmental Protection being the licensing body. If this legislation is sent to the Standing Committee on Economically Sustainable Development those aspects can be discussed. All parties appear to want to do that. They will find that it will be a very difficult job. We must also consider what else should happen to the legislation.

Although everyone has been examining this and writing to the Minister for weeks no-one has provided an alternative. It is very disappointing that members want the legislation to go to the committee to find an alternative to what is in the Minister's legislation when no-one suggested who could do it. Hon Christine Sharp suggested the Department of Resources Development. That department suggested where we could put it. It did not suggest which landfill! That department said that waste was not the resource it wanted to develop other than perhaps recycling.

I am disappointed that we are all talking about rushing this issue off to the standing committee when no-one has any idea about how we should run the operation. Dr Sid Shea might like to look after it, but Hon Christine Sharp would not be happy about that. We have a problem which the Minister must resolve when the standing committee makes its recommendation.

It was suggested the Bill be returned to this place by 6 May. Time is running out for the body to be established, for the waste fund management to be established and for everyone to be notified by 1 July.

Hon Bruce Donaldson asked for confirmation of the Minister's comments. It can be done by regulation which could be disallowed if people wanted to change it away from the metropolitan area.

Hon Tom Stephens made a political speech for the benefit of people in his electorate. I do not think they would give him too many marks for that; he did nothing more than repeat his remarks 10 times.

Hon Kim Chance: It was an excellent speech.

Hon MAX EVANS: Thank God he made it, because Hon Kim Chance was going to make the same speech. He would have said the same thing 10 times as well as Hon Tom Stephens. We are grateful for small mercies.

Hon Tom Stephens: You could get Hon Kim Chance on the short title.

Hon MAX EVANS: He can learn from the Leader of the Opposition's ability to speak for two and a half hours on the short title.

I cannot give an undertaking for how the money will be used. There will be an overseeing body which will look after that in a satisfactory matter.

Hon Ljiljanna Ravlich referred to penalties compared with other Bills. The Bill is relying on penalties to achieve environmental objectives. None of the other members commented strongly in favour of the penalties. She made a bit of political mileage regarding the penalties under occupational health and other legislation. That is not the case in this legislation, but in fact the reverse is the truth. Certainly penalties are being increased to bring them into line with other States. A mechanism like the modified penalty system and the alternative court orders focuses directly on protecting the environment rather than applying monetary penalties.

Hon Ljiljanna Ravlich also asked about the penalties going to the consolidated fund versus a waste management fund. Funds from the sale of seized items go into a trust fund rather than a consolidated fund. Fines are paid into the consolidated fund except where infringement notices are issued by local government. In those cases the fines go to the local authority to help defray the cost of inspection. Other fines go to the consolidated fund for the same reason. A deal could still be done by the Minister with Treasury about whether there is flexibility. There is probably no flexibility in the waste management fund. The level of penalties reflects the levels in other States for similar offences. Comparison is necessary to prevent Western Australia becoming a pollution haven.

The amendment gives a clear definition of the term "unreasonable emission" using the same words currently in section 49(2) of the Act. It refers to fumes, sound, etc. The effect of the words is unchanged. No-one will be penalised by the amendment, which is simply to avoid repeating the words of the definition four times in proposed sections 49(4) and (5).

The Bill introduces inspectors to their training and how they are controlled. The Act already provides for the appointment of inspectors. Their training and supervision is currently handled by the Department of Environmental Protection. With these new powers of seizure, new training requirements and a new enforcement policy are being developed and will be published. If we take this responsibility away from the Department of Environmental Protection we will have to work out a whole new system of training and management of inspectors.

Proposed section 92H provides for just compensation where somebody suffers loss or damage as a result of an inspector's seizure.

Many members commented on the Chief Executive Officer of the DEP running its operation. The committee can examine that. Ministers for the Environment have been looking at it for a long time and they think it is the best way to do it. Some comments were made regarding the different tier of penalties in cases where one dobs oneself in. The real reason for that environmentally is that if someone creates a real problem it might be a few months before someone takes action, during which time much more damage can occur. Someone might have been at fault in creating pollution, but by owning up immediately the environment could be protected as soon as possible. Dobbing in oneself is rewarded with a lower penalty. That is fair. If the penalties were the same people would be less likely to dob themselves in, believing they might never be found out.

Reference was made to Waste Management (WA) and Western Power being the regulator and the operator. There is a lot of difference in the size and magnitude of Western Power's operations compared with those of Waste Management (WA).

I appreciate the comments of Hon Christine Sharp about the flexibility in the Bill and the new attitude towards the environment. She congratulates the Minister for the work she has done and she looks forward to the second wave of changes and believes they will be in the right vein, similar to this legislation. She is also worried about the chief executive officer and the corporate body. There are many different answers. I do not think we have found the full answer to how we structure these semi-statutory bodies. In the next couple of years we will need to develop a more uniform approach.

In New Zealand, museums, hospitals or waste dumps are all set up as limited liability companies with boards that are aware of their responsibilities under the corporate code. That system works very well there, with two directors. In this case, the directors will be the Minister for the Environment, the Minister for Finance and the Minister for Health. In some ways this will cut out unnecessary legislation, because it can operate under corporate law. However, we are a long way from achieving that end.

Hon Norm Kelly supported the penalties to be imposed, and the due diligence provision, together with the waste levy and the user pays system. He thought that in time some country shires may wish to impose a levy in the bigger towns. He thought that the options could be kept open. The member made an interesting comment on Serpentine-Jarrahdale. It is a rural shire in an area where the population is sparse. I am sure the Minister will agree with those comments. Under the legislation, a CEO can exempt shires from paying the levy, because most shires have a different method of collecting rubbish. The member has obviously canvassed that aspect with the Minister.

The levy will be paid into the specific trust fund established under this Bill. The \$3 per tonne landfill levy will cost the average householder \$3 per year. The matter was widely canvassed in the community and attracted a lot of comment. The geographic extent of the levy and the amount of it will be set by regulation, and will be subject to disallowance. The waste management and recycling fund is a specific purpose fund with a clear purpose. The Minister must publish the fund objectives. The Government supports the three year review of the levy.

In regard to Waste Management (WA), the operator-regulator potential conflict has been dealt with in the Bill. Firstly, the CEO is still responsible to the Minister. Secondly, the Environmental Protection Authority and the department are different at law, and the EPA has statutory independence. The body corporate will provide funds to the EPA to carry out this task, and the EPA has agreed. The body corporate came about in response to some very clear advice from the Crown Solicitor's Office that we lack the revenue raising and contracting powers to operate these facilities. Hence the State could be seen to be at risk.

The Crown Solicitor has commented on a particular case. He said that it seems that unless we find some power to charge for taking waste at Mt Walton in some legislation, any contract by which we impose fees or charges for doing so, will be to that extent illegal and void. Bearing in mind the fairly recent decision of the High Court of Australia that moneys paid under a mistake of fact or law are recoverable, it would seem that if we proceed without proper statutory authorisation to charge fees then at any time Kanowna Bell could recover from the State all moneys paid under this agreement. He said that the major problems are the fact that there appears to be no power for us to charge Kanowna Bell. This is why it is essential that we get on with this legislation. The fees have been paid and we could be forced to repay them, although I think most companies are quite happy with the facilities that are available. We cannot continue to collect fees because the Crown Solicitor said we do not have that power. That is the reason for this legislation.

The body corporate has very limited powers, cannot compete with others, and is subject to clear ministerial direction. The Bill allows the operations to be moved elsewhere, and the Minister has committed to a continual review of the position. The body corporate is very limited to the facilities listed, and is part of the Department of Environmental

Protection to ensure administrative efficiency. Setting up another authority or agency will cost more money than the Bill proposes, and this extra cost would take funds away from the environment.

There has been extensive investigation of possible alternatives, and none has yet been shown to be effective. The EPA currently acts as a regulator in respect of many ministerial conditions under the Act, under delegation from the Minister in the conditions. The Bill establishes a separation of powers. The Health Department cannot do that because the Radiological Council is also a regulator of Mt Walton East. The existing situation leaves open the risk to the State outlined by the Crown Solicitor. The Minister has said that the body corporate will be kept under review. In effect, the EPA currently regulates the infractible waste disposal facility because the ministerial conditions under which it operates allows for the EPA to approve the environmental management programs for the site.

I thank all members and parties for their strong support for the overall principles of the legislation. The legislation has been a long time coming. However, it has arrived here, and we look forward to the Committee stage. I commend the Bills to the House.

Question put and passed.

Bills read a second time.

Referral to the Standing Committee on Ecologically Sustainable Development

HON CHRISTINE SHARP (South West) [12.26 am]: I move -

That clauses 22 to 28 of the Environmental Protection Amendment Bill 1997 be referred to the Standing Committee on Ecologically Sustainable Development and that the committee report back to the Council these clauses no later than 6 May.

HON MAX EVANS (North Metropolitan - Minister for Finance) [12.27 am]: Much consultation has been undertaken on this legislation, and most of the comment has been favourable. The comments by the Crown Solicitor have indicated clearly the difficulty we face with considering other alternatives. The Minister for the Environment is very keen to get on with the legislation. The collection of levies may be illegal, and it could take some time to process any recovery. Not one member tonight has offered an alternative way to undertake that process. Most members who have spoken tonight are members of the Ecologically Sustainable Development Committee. I thought they would have a plan in mind, because they have been considering the matter for weeks. I note the dates of correspondence with the Minister and her advisers.

The Government does not support the referral of these clauses to the committee. We should get on with the legislation. The Minister has already undertaken to consider changes. This is important legislation and we should proceed with it.

HON NORM KELLY (East Metropolitan) [12.29 am]: Hon Christine Sharp has outlined alternative ways in which the waste management body could be better implemented. The Australian Democrats support this motion. Problems exist within not only the existing structure but also this legislation. This is an excellent opportunity for the Ecologically Sustainable Development Committee to work on this legislation to investigate the issues, even though the time frame is short in which to report to the House. Because the Bill covers many other aspects, I am very concerned that this House should not unnecessarily delay the passage of the legislation.

Amendment to Motion

Hon NORM KELLY: I move -

To delete the words "6 May" and substitute the words "29 April".

The Democrats are concerned that this Bill is not unnecessarily delayed and that the other important aspects of the Bill are enacted as soon as possible. By changing the date to 29 April we will have only tomorrow and Tuesday, 28 April as sitting days before we report back to the Council. That would not delay the passage of the Bill unduly. I feel it would be difficult for the committee to fully investigate and to come up with new proposals to change the Bill, but it is important that the committee investigate this situation with which it is presented. It would be negligent not to allow the committee to have that brief examination and to report back in that short time frame.

Hon J.A. COWDELL: The Australian Labor Party will support the amendment. The Minister has expressed some willingness to look at alternatives. The request is that the Standing Committee on Ecologically Sustainable Development look at those alternatives and come back to the Council in the next sitting week. Therefore, there will not be any undue delay to the Government's legislation and on that basis the Labor Party supports the referral to the committee in the amended form.

Hon CHRISTINE SHARP: I also accept the amendment to my motion to change the reporting date to 29 April. Fortunately, 29 April goes on to midnight so there will be just about time for the ESD committee to meet twice and to report back to the Council in that time frame. I am sure the committee accepts that it is important that this Bill proceed, and members will work hard to meet that deadline. I accept the amendment.

Amendment put and passed.

Question (motion, as amended) put and passed.

SELECT COMMITTEE ON NATIVE TITLE RIGHTS IN WESTERN AUSTRALIA

Extension of Time

Hon Tom Stephens presented a report of the Select Committee on Native Title Rights in Western Australia seeking an extension of time within which to report from 31 May 1998 to 22 July 1998, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

Visit to Canada

Hon Tom Stephens presented a special report of the committee in relation to a proposed visit to Canada, and on his further motion it was resolved -

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

[See papers Nos 1516 and 1517.]

LOTTERIES COMMISSION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Max Evans (Minister for Racing and Gaming), and read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Racing and Gaming) [12.36 am]: I move -

That the Bill be now read a second time.

The primary purpose of the Lotteries Commission is to provide funding to hospitals, the arts and sporting organisations, and community groups in Western Australia. Recent business planning and market research show that in order to maintain and increase the current levels of funding, the Lotteries Commission will need to introduce new games over the next three years. Because of the maturity of the market, it is unrealistic to expect any further significant growth in revenues from the core products of lotto and instant lotteries. This is especially true in Western Australia, where our per capita sales of lotto were No 1 in the world in 1997.

The current Act is very prescriptive in the products that the commission may offer to the public. It also limits opportunities to form business partnerships to the lotteries organisations of the other Australian States, and only for the purposes of jointly operating games of lotto. The commission is in partnership with other members of the Australian lottery industry in the Australian and national lotto blocs. Eighty per cent of its income comes from that business partnership. The bloc has several new games in market research, none of which the Western Australian lotteries could join because of legislative limitations. If Western Australia is to keep up with its bloc partners, it is imperative that the legislation be changed.

Because the complete Lotteries Commission Act is under review, as required under the 1990 Act, the current amendments are quite limited. Although ideally it would have been preferable to await the outcome of the comprehensive review, the timing is such that to meet funding goals, it is essential that the Act be amended immediately.

The Bill seeks to make amendments in four areas. Firstly, the Bill provides a very general definition of lotteries which will allow for the introduction of new lotteries products in Western Australia as the markets demand. The commission will continue to conduct games of lotto, instant lotteries, and soccer and football pools, but these will be included under the general definition. New games can be implemented only with the approval of the Minister. The commission is very aware of government policy and community attitudes in relation to the expansion of gaming and gambling in the community. All new product development has been undertaken in this context. The new products being considered are expected to appeal to existing players, as well as to attract current non-players. They can be sold immediately through current distribution networks. As with current lotteries products, there is no evidence that any of the products in research will create social problems or add to problem gambling in the

community. The Lotteries Commission currently offers a sports lottery, soccer pools, which generates less than \$2m in sales each year. A new definition for sports lotteries has been included for the first time in the amended Act. Many overseas lotteries, particularly in Europe and Scandinavia, have been operating sports lotteries successfully since the early 1950s. It is expected that sports lotteries based on sports of interest to Western Australians will bring in new income and customers for the commission.

The definition of a ticket has also been amended to take into account the possibility of purchasing a lottery ticket via the telephone or other electronic means. Electronic commerce is seen by the commission to be a logical extension of current business practices. Online service delivery will provide the opportunity to improve customer services in regional and remote areas, assist in the development of new markets and reduce the costs of distributing business and product information to both the retail sales network and the customer.

The Bill also extends the range of organisations and jurisdictions with which the commission can make an agreement to conduct lotteries games. A designated authority is now a person as set out in the Interpretation Act 1984 and includes a "public body, company, or association or body of persons, corporate or unincorporate". With approval from the Minister, the commission will be able to establish business partnerships with other organisations if opportunities exist for revenue generation. The functions and powers of the commission have now been streamlined to reflect these changes.

Two further amendments have been sought. The first is to restrict the sale of all lotteries products to persons over the age of 16 years. At present the Act restricts the sale of instant lotteries to those over the age of 16 years. The Act is silent on age restrictions for other lotteries products. The amendments will mean that all lotteries, including lotto or soccer pools, can be sold only to persons over the age of 16 years. The other minor amendment will enable the commission to operate subsidiary bank accounts, in addition to the main account, and operate these accounts within normal commercial principles and these accounts may be overdrawn only under terms and conditions determined by the Treasurer. This is not a significant matter, but the opportunity to introduce other legislative amendments allows this matter to be dealt with now.

As the Parliament is aware, the profits from lotteries in Western Australia have always been directed to community and charitable purposes ever since the commission was established in 1933. It is anticipated that overall the amendments will enable increased returns to hospitals, the arts and sport as well as the general community.

There is general widespread acceptance of the present arrangements for the distribution of lotteries revenues. Market research has found that there is strong support for the proceeds from lotteries to be distributed for community benefit. This Government also believes it is very important that the profits from lotteries remain for charitable and community benefit, and the track record of the commission in managing its funding responsibilities has been exemplary.

The formal legislative review of the Lotteries Commission Act 1990 will give consideration to any changes to be made to the distribution formulae. Thus, in the immediate future all the proceeds from new games will continue to be distributed to hospitals, arts and sport and the general community in the same proportions as were established in the 1990 legislation. The 1990 Act prescribes that up to 27 per cent of sales turnover is to be directed to these beneficiaries, based on a formula that assumes 60 per cent of sales turnover is returned in prizes to lotto and instant lotteries players. These amendments require that the method of calculating the distribution between beneficiaries be altered to allow for games that may have different levels of returns to players. Currently all games return 60 per cent, which allows a distribution based on sales turnover. However, with games that return, for example, anything between 40 and 70 per cent to players, a different method of calculation is required. The amendment proposes a method based on net subscriptions; that is, subscriptions less prizes. The new formula does not alter the ratio between the amounts the various beneficiaries receive or the actual amounts they would have received under the old formula.

The commission is very conscious of its social responsibilities. It will recommend only new games that have no demonstrable likelihood of causing problem gaming. All games currently under research and development are essentially extensions of existing games. The ultimate object of all new games is to maintain funding to the community. There will also be the additional benefit of contributing to the support of small business through the commission's retail distribution network, and providing a significant commercial opportunity for the other businesses that work in conjunction with the commission to sell lotteries throughout the State. I commend the Bill to the House.

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

BILLS (2) - RETURNED

1. Charitable Trusts Amendment Bill.
2. Guardianship and Administration Amendment Bill.

Bills returned from the Assembly without amendment.

AUDITOR GENERAL'S REPORT ON AGRICULTURE WA

Motion

HON KIM CHANCE (Agricultural) [12.44 am]: I move -

That the House -

- (a) note with concern the Auditor General's report tabled today in which the Auditor General refers to accounting records at Agriculture WA which were so inaccurate and incomplete the Auditor General was unable to sign off the agency's financial statements and issued a "Disclaimer", the ultimate censure available to him; and
- (b) refer the question of the financial competence and administrative efficiency of Agriculture WA to the Standing Committee on Estimates and Financial Operations for its consideration and report.

I note the late hour that this motion begins. I do not intend to spend a great deal of time on this issue. My understanding is that other members will also be relatively brief in their contributions, to the extent that they may have one. The brevity of this debate must not be taken as indicative of any lack of seriousness in the situation that we were confronted with today upon the tabling of the Auditor General's report. This motion calls on us to note with concern. How could we possibly not be concerned with the magnitude of the step that the Auditor General took when he printed that report? Yesterday's *The West Australian* implied that the Acting Premier was actually more concerned with the premature release of the media statement than with the content of the report itself.

Hon E.J. Charlton: That is because the Auditor General did not honour his responsibility, which is to report to the Parliament and not to the people of the State by way of an open press release.

Hon KIM CHANCE: I quite accept what the Minister for Transport says. I also understand that the Auditor General has expressed his regret at the error that was made in his office. However, to suggest for a moment that the problem that we are facing is greater to the extent of the early exposure of the report than the report's contents -

Hon Ljiljanna Ravlich: It is a joke.

Hon KIM CHANCE: It really is a joke. That is precisely why we must not only be concerned about what happened here but also act on that concern. That refers to the second part of this motion.

If the Acting Premier's attitude is indicative of what might be the whole of government position on this debacle, we might just as well admit that as the custodians of the Budget in this Parliament we have thrown responsible administration and accountable government out the window; we do not care any more. If we are more concerned about a minor error which led to a media statement relating to a report going out a couple of days earlier than the report's contents, we really do have a serious problem. I do not need to repeat what the Auditor General wrote in that media statement because it is in the motion. It caused the Auditor General to issue a disclaimer, which is the ultimate censure available to him. Of course, it is not restricted to Agriculture Western Australia alone. He was equally less than impressed with the standards of some 90 agencies' statements, which were so poor that considerable time had to be spent by his staff correcting errors which totalled over \$550m and advising agencies on accounting matters, responsibility for which squarely rested with the management of those agencies. Let us not get off on the track that this is about only Agriculture Western Australia. That is certainly what the motion refers to.

The PRESIDENT: That is exactly right. We will not get off the track, because the scope of the motion is narrow, as Hon Kim Chance has just agreed. It is about Agriculture Western Australia. That does not mean that the member cannot refer in passing to some other matters, but that is what we are talking about.

Hon KIM CHANCE: I assure you, Mr President, that I will not. This motion is narrow, and deliberately so, because I do not think we can burden that standing committee with the huge task of tracking down all of that. The reason for our concentration on Agriculture Western Australia is that it seems to be clearly identified as by far the worst example of the problem that we have here. However, let there be no illusion that this is a stand alone case. We clearly have a very serious problem - a problem that in other Governments and other Parliaments around the world would have resulted in the Minister for Primary Industry standing down. That certainly would have been the case in Westminster. I realise that we do not have that tradition in Western Australia.

Hon E.J. Charlton: We certainly did not have it in the 1980s when you lost billions and no-one stood down.

The PRESIDENT: Order! The Minister for Transport will get his opportunity in due course.

Hon KIM CHANCE: Despite the seriousness of that situation, which in the Parliament of Westminster would have resulted in the Minister standing down, or at least which might have extended further than the Minister, the response

from the Deputy Premier, who was at the time the Acting Premier of this State, was to say that he was more concerned that the media statement went out a day or two early. That is an absolute disgrace, and it is a disgrace that will come back to haunt this Government, because, despite its rhetoric, it has demonstrated that it does not give a damn about financial responsibility.

The Minister for Transport has spoken about the 1980s. I remember when the situations were reversed and when the Leader of the House, Hon Joe Berinson, was under fearsome attack about some cost overruns at Canning Vale Prison. Those members who are now on that side of the House hammered Hon Joe Berinson unmercifully when they were in opposition.

Hon E.J. Charlton: Is there any cost overrun here?

Hon KIM CHANCE: How could we tell? That is the problem. The books that this Government keeps are so damned incompetent that we could not tell. That is the issue, yet the Deputy Premier thinks it is more important to worry about a press release being put out a couple of days early. It is a nonsense. Hon Joe Berinson sat there day after day dealing with the question of cost overruns at Canning Vale Prison - and I do not doubt for a moment that it was serious - but when the boot is on the other foot, members opposite say it does not matter. Fortunately, the remainder of this Parliament is not as cavalier about financial responsibility as is the Executive. We regard this issue as being so serious that we are prepared to sit even at this late hour for a short time to ensure that this issue is dealt with properly by the appropriate committee of this House.

It is not simply an issue about a single agency fouling up its transition to a new accounting system. If that was all it was, I would be quite happy to leave this matter now and raise it after Easter. We are talking about a problem which involves 90 agencies and \$550m-worth of errors, yet the Government does not seem to care. It seems more concerned about shooting the messenger. Why is that the case?

We are told that these problems arose from the transfer of the accounting system from a centralised government accounting system to a series of sometimes quite incompatible privately contracted and, it seems, wholly unproved software systems. Packages were then allowed to run without the appropriate parallel backup from the old system to monitor the new system's performance. That was a classic and fundamental error of judgment and management.

In Agriculture Western Australia's case, this system - somewhat inappropriately called Smartstream - was installed by the contractors on 1 July 1996. The Minister for Primary Industry advises that throughout the financial year to June 1997, the system performed well short of the required standards, including matters such as the duplication of transactions. This contractor devolved, ideologically correct accounting system was obviously a dud from the very start.

Hon Derrick Tomlinson: That is not what Pearson said. He said any software package needs to be engineered to suit the specific purpose.

Hon KIM CHANCE: I have spoken to Mr Pearson tonight, and to the CEO of Agriculture Western Australia and the new manager of financial operations, as have a number of members of this place. After having spoken to them, it became very clear to me that the system did not work and the problems manifested themselves from the very beginning.

Hon Derrick Tomlinson: Why then does the Auditor General use this package?

Hon KIM CHANCE: No doubt he has had it engineered to his needs.

Hon Derrick Tomlinson: It is not a dud. You have just confirmed what I said.

Hon KIM CHANCE: Perhaps the member does not understand.

Several members interjected.

The PRESIDENT: Hon Kim Chance will address the Chair.

Hon KIM CHANCE: It should be very clear to members that a system that is competent in some circumstances can be incompetent in others.

Agriculture Western Australia is an immensely complex arrangement in terms of its financial management system and the demands made on it. The Auditor General's office would require a simple unit. However, to try to drive a system as big as Agriculture Western Australia with a machine that is competent in the Auditor General's office is asking for trouble. Clearly the system did not have the power or flexibility to perform what was asked of it.

This wonderful system, which contractors installed at the beginning of last financial year, obviously gave trouble right

from the start. We were not to learn about those problems until such time as the Auditor General informed us. Why is that so? On 28 May 1997 - that is, 11 months into the 1996-97 financial year - I asked the following question in the Estimates Committee -

Is it accepted that the current system of issuing departmental statements of accounts is sufficient to ensure accuracy?

The answer I received was -

Yes. Financial management system provides the facility to generate debtor recovery letters - agency customised - and the agency intends to take advantage of this tool for debtor management.

Why was I led to believe that, despite some difficulties - I acknowledge that the other part of the answer acknowledged some difficulties - everything was on an even keel? This was not an off the cuff answer; it was an answer given to a question on notice. This is not a simple error that resulted from an answer that was perhaps considered in too little time to be accurate.

Why was I not told then, when it must surely have been known - bearing in mind that when I asked that question it was 11 months into that financial year - that the \$2m system which contractors had installed at Agriculture WA had essentially failed? Why was I told that both creditor and debtor accounts were virtually up-to-date when that was clearly not correct? It must have been known that it was not correct when I was told that. The Auditor General tells us that there were initially outstanding debts of \$2.5m which had not been followed up, yet I was told that everything was on an even keel. Why was I told that the maximum outstanding creditor payments at any site was four days, well within the 30 day limit required?

The Auditor General tells us that overpayments in six months totalled over \$550 000. Even in the Minister's statement yesterday, there is cause for concern. Let me go to one element of the Minister's statement. He said -

In terms of a key response to the audit report, a multi-point plan has been developed between the office of the Auditor General and Agriculture Western Australia.

It includes -

The secondment of office of Auditor General staff to work with Agriculture Western Australia staff in its implementation.

This means the implementation of the multipoint plan. The Auditor General told us tonight that an officer of the Auditor General's Office is on secondment to Agriculture WA, but he has nothing to do with the implementation of the multipoint plan; he is simply there on secondment to Agriculture WA, as are some 10 or 15 other people, to learn something about the agencies that they are working in. It has nothing to do with the problems raised in the Auditor General's report. So why is it there listed as the first point of the things which the Minister has done to correct the problems which have come up?

Hon E.J. Charlton: You are saying he went down there on secondment but had nothing to do with the plan.

Hon KIM CHANCE: He is there to learn something about how the client systems work; he has nothing to do with the implementation of the multipoint plan. He is there on secondment, as are a number of other people.

Hon E.J. Charlton: To work on Agriculture WA or to do what?

Hon KIM CHANCE: He is actually paid by Agriculture WA presumably to learn something about how Agriculture WA works, but he is not there, as the implication strongly exists in this, to work towards a response to the issues raised by the Auditor General. He was there anyway.

Hon E.J. Charlton: That might be a matter of interpretation.

Hon KIM CHANCE: It is perhaps something for the Minister to take up because it would seem to me that that implication is a misrepresentation. We have this suggestion also in the Minister's response where he says -

Let me say at the outset that the concerns expressed by the Auditor General in relation to Agriculture Western Australia in no way relate to either a suspicion or indication of any misappropriation or loss of funds.

As I said earlier, how the hell would we know, when a trial balance is \$34m out, if there has been any misappropriation of funds? That is the issue we are talking about.

Hon Simon O'Brien: Who made the statement - is it the Auditor General?

Hon KIM CHANCE: No; I was quoting from the ministerial statement, and I thank the member for raising that point, because I needed to state that.

I was quoting the ministerial statement of Tuesday, 7 April 1998 made by the Minister for Primary Industry, titled "Response to the Auditor General".

Hon E.J. Charlton: The Auditor General also said he thought there was no money missing.

Hon KIM CHANCE: The Minister said that there probably has been no misappropriation. It is most unlikely that it has happened. That is the issue.

Hon Simon O'Brien: It would be interesting if the Auditor General said that he does not believe any money is missing, as he should know, rather than saying there are problems with the books.

Hon KIM CHANCE: He said -

Despite regular comment in previous management letters to agencies and reports to Parliament, information technology control weaknesses remained in a significant number of agencies increasing the risk of unauthorised transactions . . .

The Minister said there is no suspicion of misappropriation. My point is that we do not know.

Hon E.J. Charlton: We do not know whether it happened in the Auditor General's Department until we get somebody to investigate him.

Hon KIM CHANCE: Who guards the guardians?

The Auditor General's comments are the most serious possible. I might have misled the House when I said earlier that this is the first time a disclaimer has been made by the Auditor General. I am informed that it happened last year in respect of the Harvey-Yarloop Hospital Board. It is fair to say in respect of a large industry that this is probably the first time it has happened.

Hon Barry House: No, it happened with the South West Development Authority back in 1988.

Hon KIM CHANCE: I thank the member for that information.

Hon Simon O'Brien: There was a doozey for SECWA in 1988 or 1989.

Hon KIM CHANCE: It is still a very serious issue, even if it is not the first. It is clear that a number of disaster recovery actions have already been undertaken, including the repackaging of the whole financial management system. The Minister said in the other place today that that could even go so far as to cause the scrapping of the current system. We hope that that would not be necessary and that we can overcome the problems. I wish Agriculture Western Australia well in that regard. I have already noted that substantial changes have occurred in the corporate service directorate - again this is drawn from the Minister's speech - including the appointment of a new manager of financial services. I met that gentleman tonight and he seems a very nice fellow.

Why do I get the uncomfortable feeling that the people who were demoted and moved aside are scapegoats? I do not know why I get that feeling. I get the feeling that the chiefs who made the error have shot the Indians who implemented that error. It is a nasty, uncomfortable feeling.

Hon E.J. Charlton: It is your terrible mind.

Hon KIM CHANCE: It seems to have been the Indians who were shot. The issue of demotion of some junior staff in the department is now a matter of industrial disputation between Agriculture Western Australia and the Civil Service Association. We need not go into that in any fine detail.

The House needs to ask at least four questions in this regard: Who made the decision to move from the central accounting system to the contracted systems within agencies? Who signed off the decision to implement this version of Smartstream? What responsibility did the Minister take for getting on top of the problem when it first began to manifest itself from the start of the financial year? Who advised me incorrectly near the end of the financial year that the fundamental debt and credit controls were up to date?

Another issue arises: This is something I found only a few minutes ago. It puts in a nutshell what is the problem. I quote from *Hansard*, at page E668 of the Standing Committee on Estimates and Financial Operations of Wednesday, 28 May. I asked -

Is the retained revenue, other than that held in the trust account, held in a suspense account?

I was answered by Mr Wilson from Agriculture WA -

Under the new financial arrangements with Treasury, from 1 July next year the money will be put in against the appropriation. It is retained against the expenditure. The expenditure and revenue operate through the same bank account.

I said -

Therefore, it is not held in a suspense account?

The answer was, no.

At page 36 of the Auditor General's report he found that revenue collections and invoice debtor details were not processed for several months due to delays in implementing the accounts receivable module; during this period all revenues collected were posted to a suspense account.

I asked that question to determine whether suspense accounts had been used for that purpose. I was told no and why the answer was no. What does the Auditor General tell us about where those funds were going? They were going into a suspense account. Why was I told that? Clearly the use of a suspense account - this is why I asked the question in May last year - indicated that a serious problem existed there somewhere; yet we were told the funds were not going into a suspense account. Why was I told that?

In not one case is the person responsible for the actions outlined in those questions the same person who suffered demotion or sacking as a result of this debacle. In every case the answer rests with those higher up the scale. It begins with the Government and it works its way down through the Minister to the most senior management levels of Agriculture WA.

Hon E.J. Charlton: Do you think the chief executive officer should go?

Hon KIM CHANCE: I do not think he should go. I am surprised Hon Eric Charlton has asked me that question. If he really wants my opinion off the cuff and without education, before the finance and estimates committee has examined this issue, I believe the CEO probably did the best he could. He has an impossible job trying to make Agriculture WA work through the reforms Hon Eric Charlton's Government has foisted on him. His Government has left Agriculture WA, once the best department in the whole of the Public Service, with the support of its client group historically at levels of around 80 per cent, without morale or the capacity to deliver its services.

Hon E.J. Charlton: This is more a political problem.

Hon KIM CHANCE: The Minister asked me the question. Will he deny now that there is a major morale problem in Agriculture WA?

Hon E.J. Charlton: I am pleased I asked the question because now I know what the motion is all about.

Hon Ken Travers: The department will get back to its great heights once Hon Kim Chance is the Minister.

Hon KIM CHANCE: I hope it is possible to reform it somehow. Agriculture WA has problems but I will certainly not blame the chief executive officer for them. This issue must be referred for consideration by the Standing Committee on Estimates and Financial Operations. In these extraordinary circumstances this is the very least we can do. My colleagues and I have considered a number of options which might have sheeted home the responsibility for this situation rather more directly and brutally. In the end, we have rejected those more severe options if for no other reason than to pre-empt what the estimates and finance committee may be able to tell us as a result of its investigations.

However, the House should not interpret that as an indication of a lack of will by the Australian Labor Party to resolve this issue. The Auditor General has brought down the strongest form of censure that is available to him. If we did less than is asked for in this motion we would stand condemned for concealing vital information from the public. It is as simple as that. I urge members to support this motion to refer this matter to the committee to undertake an inquiry.

HON HELEN HODGSON (North Metropolitan) [1.15 am]: I have decided that at this hour it is probably not wise to enlighten the House with comments on audit procedures generally. Members will be relieved to hear that I have only a few comments to make. The Australian Democrats support the referral of this matter to the Estimates and Financial Operations Committee.

The qualified report from the Auditor General is an extremely significant event. If Agriculture WA were a public company, by now we would already have seen the consequences of a qualified audit report and the way the shareholders were reacting to it. It is generally accepted that when a problem is identified by auditors, companies

do whatever they can to ensure that any adverse opinion is resolved before it reaches that point. It is unfortunate that in this case that has not been possible.

Hon E.J. Charlton: Why?

Hon HELEN HODGSON: I will come to that.

I thank the Auditor General and the Minister's staff for providing briefings on this issue at fairly short notice today. I accept some of the representations made to me about the difficulties that the computer system has placed on the department, but that does not resolve the issue as a whole. The fact that the computer system has caused problems simply highlights the management issues as part of the implementation of the system. The system purchased was in limited use in this State. The tests run on it were not adequate. The limitations of the system were not known until it was brought into full operation in the department. Management decisions aggravated that, because the decisions to apply resources to the new system, to the exclusion of the old system, meant that no backups were in place. Although those decisions were justified at the time, it is a fundamental breach of normal, accepted practice in those situations.

An important point must be made about the way in which an audit operates. The auditor is not part of a financial team preparing statements. To say that the statements were being prepared and the auditor was looking at the same data, and amended statements were being provided to the auditor at the same time, should not happen. The auditor is supposed to be presented with a set of finalised, prepared financial statements so that he can comment on the accuracy of the statements. That is a basic, fundamental premise in any basic auditing statement.

I understand that the Minister was briefed last August about the fact that the financial statements were to be qualified in this way. Therefore, I find it a little precious to hear that he was concerned that he was briefed on the contents of this report only last Friday. He knew six months ago that a problem existed. He knew the matter would be reported to the House in due course, probably through the tabling of the department's annual report. A general report of the Auditor General pre-empted the tabling of those financial statements. However, it would come to this place some time, and it would be addressed. It is important that it is addressed, because we are responsible to the people of Western Australia to ensure that these matters are addressed. We ultimately act in a role similar to the board of directors of a public company and we are saying that there are problems that need to be looked at and ultimately addressed.

There are lessons that the public sector as a whole can learn from what went wrong in this case. It needs to be properly investigated and it is appropriate that the Estimates Committee of this place be authorised by this House to undertake that investigation.

HON BARRY HOUSE (South West) [1.20 am]: This debate and some of the events of the past couple of days have highlighted one of the fundamental issues about accountability; that is, who watches the watcher?

Hon Ken Travers: He's one of the Jeff Kennett mob - get rid of them!

Hon BARRY HOUSE: I am not saying that. The Auditor General, like a few other officers, is accountable to this Parliament. However, this Auditor General seems to be more concerned with getting his message across to Channel Nine and *The West Australian* than to the Parliament.

Some of the Auditor General's statements in the report indicate that he appreciates his responsibility to the Parliament; however, he does not necessarily follow through on them. The cover page of the report states -

Through Performance Auditing enable the Auditor General to meet Parliament's need for independent and impartial . . .

His letter to the Speaker of the Assembly states, "I submit to Parliament the Portfolio Report". Further in the report the "Glossary of Audit Terms" indicates that he knows his role. He states that the Auditor General's report is the vehicle used to report to the Parliament. He states that the general report is the vehicle used to report to the Parliament on matters arising from the powers, duties, and functions of the Auditor General. However, the Auditor General does not necessarily follow through on that. In the "Executive Summary" under "Other Significant Issues" he notes timeliness and quality of reporting. Perhaps he should look at himself as well as the agencies on which he comments.

An acknowledgment in his covering letter to the Speaker notes -

This opportunity is again taken to acknowledge the professionalism and continued efforts of my staff in their commitment to public sector audit which results in this Report.

The professionalism that the Auditor General purports to exhibit when he scrutinises government agencies is not

adhered to within his own department. Releasing statements to media outlets a couple of days before the report is seen by the Parliament, the body to which he is responsible, is irresponsible and as the people to whom he is responsible perhaps we should consider a motion of censure rather than the motion Hon Kim Chance has moved.

Several members interjected.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [1.23 am]: It is one thing to move a motion, but as soon as another member of the Parliament to which the Auditor General is required to report reiterates the Auditor's responsibilities there is a hue and cry from members opposite. Members opposite should not have any problem with his demanding that; it is fair and square.

Hon Bob Thomas: He was making a value judgment.

Hon E.J. CHARLTON: Over a cup of tea or a cool drink with the Auditor General, we should suggest to him that he brief members of Parliament before he makes his report to the Parliament. The Minister for Primary Industry has acknowledged publicly in his ministerial response that he is not trying to walk away from the unsatisfactory situation which exists with the current accounting system. As anyone who has been in a similar position will know, we are dependent on a process that has been put in place to complete the tasks that have been set out.

Hon Bob Thomas: That is not the Westminster system.

Hon E.J. CHARLTON: Every business in Australia in the past few years has continually been upgrading its accounting systems and databases to provide -

Hon E.R.J. Dermer: The Westminster system demands accountability.

Hon E.J. CHARLTON: We are talking about the same thing. Obviously members opposite want this process done in longhand, to edit everything in a cashbook which will show all the ins and outs of the department. That is how it was done once. The change has been to put the data on computer and to have a system with which at the drop of a hat - that is an old farmers' saying - people can get an update of the situation daily.

Hon Ljiljanna Ravlich: You cannot get it.

Hon E.J. CHARLTON: That is right. At the moment we still cannot get that. The Minister for Primary Industry went from an old-fashioned financial management system to the introduction of one which was intended to provide the information being sought. People may say that it was the wrong system and, therefore, bad management. That is a fair comment. However, it was not some predetermined decision that was put in place to mislead the Parliament, to hide the financial affairs of Agriculture Western Australia. No-one wants to know about the department's ongoing financial transactions more than the people in that department.

Hon Ljiljanna Ravlich: Then you will support the inquiry.

Hon E.J. CHARLTON: If those opposite want to have an inquiry, that is fair enough. In this place it is fair to get the facts right and stick to them, and not, as Hon Kim Chance did, imply that this has happened solely because of a change of policy within Agriculture Western Australia covering how agricultural services are provided. That is erroneous, and I do not agree with it. If this new accounting system had been put into Agriculture Western Australia five or 10 years ago, we would have had the same result as we are getting today.

It has been acknowledged that it is not working. The new system is required to relate expenditure to the source of funds. This accountability is necessary to demonstrate to industry where its money is spent. Most of the money that goes to Agriculture Western Australia comes from the private sector, not from government coffers. Industry wants to know where its money went. The Parliament has already heard from the Minister. Surely a motion such as this should have been moved in the other place, where the Minister is located. Agriculture Western Australia is working with contractors to rectify the problem. It is not the result of something being contracted out; it has to do with the supply of the equipment. The staff at Agriculture Western Australia asked the people who own this product to install it to ensure it was up and running. Every other government department and private operator does the same. Departments buy equipment having decided that it will do the task, and it remains to be seen whether they are right or wrong.

Hon Ljiljanna Ravlich: Usually you do the homework first.

Hon E.J. CHARLTON: Of course. The Minister has acknowledged that. Nobody is arguing with that.

The PRESIDENT: Order! Hon Ljiljanna Ravlich will have an opportunity to speak shortly.

Hon E.J. CHARLTON: The concerns raised by the Auditor General have not identified any suspicion or indication of misappropriation of money. The acknowledged problems with the Smartstream financial accounting system at

the end of the 1996-97 financial year meant the initial trial balance did not balance to the extent of \$34m. That is not acceptable. With the assistance of an officer from the Auditor General's Office - I will be interested to hear what the Minister says about that assistance, and I will report it to this House - within days that difference was reduced to \$4.6m, and that downward trend has continued. As the officer has gone through the process with the staff, they have identified where the money was transacted in Agriculture WA.

Hon Kim Chance: Do you know there have been four different trial balances?

Hon E.J. CHARLTON: Yes, that is right.

Hon Ken Travers: It is down to \$4m.

Hon E.J. CHARLTON: If the system does not have the capacity to deliver -

Hon Ken Travers: That is the Government.

Hon E.J. CHARLTON: Hon Ken Travers can do better than that. He is not a silly man so he should not say silly things such as that. The system was not working and further questions had to be put into the system to get some answers. Because of the difficulties with the process, the accounting system for 1996-97 remains unreconciled to the extent of \$1.2m. A team of accountants, including independent accountants, is continuing to work on the issue.

The acknowledged problems with the Smartstream financial accounting system at the end of the 1996-97 financial year meant that the initial trial balance did not balance, and staff have gone through that process. The key response to the audit report is a multipoint plan, which has been developed between the Office of the Auditor General and Agriculture WA. It includes the secondment of an officer from the Auditor General's staff to work with Agriculture WA staff on its implementation. The person from the Auditor General's staff is not there simply to be part of Agriculture WA for work experience; he is there to see how the operation is running and how the system is working. I have had experience with the Office of the Auditor General with the changes to the public transport system. When changes were made, the first figures the Auditor General came up with as savings were not the same as those arrived at at the end. I am not being critical, but the Auditor General's staff get a piece of paper with a report and look through it.

I totally agree with Hon Helen Hodgson who said that when auditors are given the papers they should be able to decipher them and work out the situation. They should be able to give them a tick or to question certain matters. I do not think government departments are run in the same way as businesses are, but they should be. The whole government accounting system within the departments has had a major shake-up, and more is needed. In this day and age, despite all the new technology, when a new system is installed the chances that it will not work properly at first are nine out of 10.

Hon Helen Hodgson: That is why you need back-ups.

Hon E.J. CHARLTON: Exactly. That is why I said I agreed with the member. Some people believe that a salesman comes along and says, "We have this new beautiful accounting system which can do the job a thousand times quicker than your old accounting system, so install it." People do not have the backup because they put all their confidence in the new system. If it does not work they are in a mess. That is exactly what has happened. If the House intends to send this question off to a committee, that is okay.

We need people who have their finger on the pulse and the capacity to oversee accounting operations in government departments. We are sending boys on a man's errand, as it were, with some of the new technology. There is also an absolute need to have business or accounting personnel who are capable of overseeing these multimillion dollar operations in government departments. If we all said that is something we should bend our minds to, let us agree on that. However, to imply that this matter is the result of incompetence from the Minister down is being a bit unfair on all the people who work in Agriculture Western Australia.

The issue raised by Hon Kim Chance that this has all come about because of a lack of morale and all those other factors is a separate issue. If we want to debate that some day, let us debate it. Like many other things in life, Agriculture Western Australia is there to service agriculture, not itself. The fundamental changes Hon Monty House has made are to ensure that it does. Similarly, I said that MetroBus was not there to serve its employees but to move passengers around. We must get back to the core business. The core business of Agriculture Western Australia is to serve the agricultural industry and all those operations that go with it. There is no need whatsoever to send this question off to a committee.

Hon Bob Thomas interjected.

The PRESIDENT: Order!

Hon E.J. CHARLTON: The need is for the Government and the opposition parties to agree that the right personnel and systems be put in place to ensure that the accounting procedures of government as a whole and of the departments are first class. As Hon Max Evans said earlier, 120 people and five accountants make one wonder whether the Auditor General's department is properly resourced to do its job.

HON CHRISTINE SHARP (South West) [1.38 am]: This afternoon I met briefly with the Director General of Agriculture Western Australia, who explained to me his account of the events that have taken place with the accounting system in the department. He talked about how the department introduced a very sophisticated software system. Departmental officers considered they were buying a turn-key operation. They felt greatly let down by it. When they complained to the manufacturers of the system, they were told the responsibility rested with the department. They have found subsequently that there have been problems with this database operation throughout the world. At present reinstallation is occurring in the department. He also said that nothing had been hidden; that these issues had been dealt with fully with the Auditor General; that there is a complete disclosure of these problems in the annual report of Agriculture Western Australia.

I suggested to the director general, when he had explained to me his side of the events that we are now discussing, that I was prepared to accept that what had happened was a genuine software problem, that no bad faith or misconduct was necessarily involved, and that I could accept his regret. However, if serious concerns have been raised by the Auditor General, it is in everybody's interests, including those of the director general and Agriculture Western Australia, to have those concerns properly investigated by the Parliament so that the matter can be cleared up. If the matter is cleared up and it is found that what happened was regrettable but has now passed, that will be in the best interests of Agriculture Western Australia. Therefore, on behalf of the Greens (WA) I will support the motion.

HON KIM CHANCE (Agricultural) [1.40 am]: I thank members for their contribution. I wish to add only one thing in respect of the Auditor General's report. Members may have noted, having had some little time now to go through the report, that the Health Department is not featured in the report. That is because the Health Department still has not put in its figures to the Auditor General; so I guarantee there will be another chapter to this story.

Question put and a division taken with the following result -

Ayes (12)

Hon Kim Chance
Hon E.R.J. Dermer
Hon John Halden

Hon Tom Helm
Hon Helen Hodgson
Hon Norm Kelly

Hon Ljiljana Ravlich
Hon J.A. Scott
Hon Christine Sharp

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (11)

Hon E.J. Charlton
Hon B.K. Donaldson
Hon Max Evans
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon M.D. Nixon

Hon Simon O'Brien
Hon Greg Smith

Hon Derrick Tomlinson
Hon Muriel Patterson
(*Teller*)

Pairs

Hon Tom Stephens
Hon N.D. Griffiths
Hon Mark Nevill
Hon Cheryl Davenport
Hon J.A. Cowdell

Hon N.F. Moore
Hon M.J. Criddle
Hon B.M. Scott
Hon W.N. Stretch
Hon Peter Foss

Question thus passed.

ADJOURNMENT OF THE HOUSE

HON E.J. CHARLTON (Agricultural - Minister for Transport) [1.44 am]: I move -

That the House do now adjourn.

Sale of High Schools - Adjournment Debate

HON E.R.J. DERMER (North Metropolitan) [1.45 am]: I rise to bring to the attention of the House the Minister for Education's destructive intention towards the high schools of the western suburbs. The Minister's long term intention clearly is to deprive the students and families of those suburbs of viable access to state high school education - to deprive them of the option and effective choice of state high school education.

As I have demonstrated in the House in recent weeks, the Minister's determination regarding western suburbs high school education is based on a consideration of real estate values; that is, consideration of potential for capital realisation. It is capital realised by selling the high schools from under the feet of the students. The Minister has refused repeatedly to enter into genuine consultation with parents in the western suburbs. He has refused to give serious consideration to the education objectives and programs developed by the parents of Scarborough and the other western suburbs senior high schools.

The Minister's obvious objective is to sell the real estate of these high schools to maximise the financial return for his department. That objective is obvious from any reading of the front page article of the *Subiaco Post* of 4 and 5 April. The article reports the Director General of Education's intention to close City Beach, Swanbourne and Scarborough Senior High Schools. The article further reports that the sale of these three school sites will reap an estimated \$31m and \$17.3m, or 56 per cent of the money, is to be reinvested in western suburbs high school education. In the local area planning framework, published by the department in September last year, it was clearly stated that up to two-thirds of the net amount made from the sale of the school site can be used to fund improvements to schools in that district. When I went to school 56 per cent was a poor excuse for two-thirds.

The Minister's objective is obviously to sell the schools in order to maximise the financial return to his department. Only one excuse is offered for this distorted objective; that is, a temporarily diminished demand for student enrolment in some of these high schools. Of course, that diminished demand in particular suburbs is temporary. Demand for school enrolment naturally follows a cyclical pattern and is consistent with the demographic cycle in those suburbs. Where demand for school places may be subdued today, the demographic cycle will ensure that that demand will increase in the future. A useful indicator for the near future demand is the current demand for primary school education. The enrolment rate in the primary schools that contribute students to those high schools indicates an increasing demand. There is sound reason to anticipate increased future demand for high school education among the communities serviced by Swanbourne and Scarborough Senior High Schools.

The Minister may pursue his determination, bent on the sale of the western suburbs high schools, and he may realise his \$31m from the sale of these community assets. However, what will he do when a new peak is reached in the demographic cycle for high school education in the western suburbs?

The Minister may be focused on his \$31m. The Minister may be focused almost to the point of obsession. The Minister must refocus, now, and on the future. A responsible Minister would focus on one simple question: If the sale of three western suburbs senior high schools in 1998 will realise \$31m, how much will it cost to restore the provision of state high school education in the western suburbs when the demand from the normal demographic cycle reaches its new peak? How much will it cost to re-purchase the western suburbs senior high schools real estate for the provision of schools in five, 10 or 15 years' time? If he sells the three schools today, how much will it cost to re-purchase that real estate? How much will it cost to rebuild those schools? How much will it cost to re-establish that education service? How much will be the future cost to the public purse? In five, 10 or 15 years the Minister will no longer be the Minister, but we will all live with the consequence of his ill advised policy. It is not credible to liquidate schools today, either financially or educationally. Is it credible to liquidate schools today with a view to reinvesting more money in the future to re-open those schools when the demand increases?

Given that such destruction and reinvestment is neither a financially nor educationally viable policy, what is the Minister's real intention? The Minister's real intention is of course insidious. The Minister's intention is to undermine the provision of state high school education in the western suburbs. The assumption is made that families in the western suburbs can afford and would prefer private school education. Both assumptions are clearly wrong. Many families in the western suburbs cannot afford private school education, although this fact is sadly lost among the counsels of this particular State Government. Many students and families in the western suburbs actively seek out the special educational values which are available through senior high schools such as Scarborough and Swanbourne. As I said at the outset, the Minister's long term intention is clearly to deprive the families and students of the western suburbs of an effective choice to choose state high school education.

Question put and passed.

House adjourned at 1.52 am (Thursday)

QUESTIONS ON NOTICE

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

WESTERN POTATOES' INVESTIGATIONS

1300. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Primary Industry:

With respect to investigations carried out by, or on behalf of, Western Potatoes at Yangetti Road, Keysbrook in 1997/1998 -

- (1) When did such investigations commence?
- (2) What is the cost to date of the investigations?
- (3) Who was engaged to carry out the investigations and at what cost?
- (4) What is the result of the investigations?

Hon E.J. CHARLTON replied:

- (1) In the second week of December, 1997.
- (2) The cost of the investigation to date is \$268,616.
- (3) Westcheck Investigations were engaged by Western Potatoes to carry out surveillance at Yangetti Road, Keysbrook, and other properties where potatoes were grown for export and/or processing. This was carried out to ensure compliance with the Marketing of Potatoes Act to monitor the potatoes grown in these areas to ensure that they were dug and delivered for export and/or processing.
- (4) As a result of the surveillance, there has been a potential savings of around \$2 million to the industry by preventing Galati's export and processing potatoes from entering the domestic ware market. The estimated tonnage of potatoes grown under domestic licence that would have been dumped if Galati's export and processing potatoes had been allowed to enter the domestic market is around 3,800 tonnes.

GOOD START PROGRAM

1346. Hon NORM KELLY to the Leader of the House representing the Minister for Education:

With respect to the Government's Good Start Program -

- (1) How much funding has the Education Department provided for "inclusion" support for children of culturally and linguistically diverse backgrounds for -
 - (a) 1995/96;
 - (b) 1996/97; and
 - (c) 1997/98?
- (2) How many students have received "inclusion" support in four year old programs for -
 - (a) 1995/96;
 - (b) 1996/97; and
 - (c) 1997/98?

Hon N.F. MOORE replied:

For the member's information I refer to the use of the term "Good Start Program" and advise that it is now called the Early Childhood Education Program.

- (1) The Commonwealth provides funding for support for children from culturally and linguistically diverse backgrounds. This support is provided to compulsory school age permanent residents within their first two years (primary) and first three years (secondary) of schooling. The level of support is not determined on year levels. This funding is provided on calendar basis. Total funding provided to Western Australia:

1995	\$6.4 million
1996	\$6.0 million

1997	\$6.1 million
1998	\$6.1 million

(2) Numbers of four year old students who have received language support:

1995	18 students
1996	38 students
1997	30 students
1998	3 students (Year to date)

THE GRAIN POOL OF WA

Contract with WAGR

1398. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Primary Industry:

In relation to the Grain Pool of WA's contract with the firm WAGR for the transportation of grain by rail, can the Minister for Primary Industry advise -

- (1) What was the value of the contract?
- (2) Was a business case conducted?
- (3) Did it include a comprehensive cost benefit analysis?
- (4) If so, what did it show?
- (5) If not, why not?
- (6) What were the identified inherent risks?
- (7) What other options were considered?
- (8) Was a due diligence check carried out on the contractor before the above contract was awarded?
- (9) If yes, did it include a check of the contractor's financial background?
- (10) Who carried out the financial background check?
- (11) If the contractor is a company -
 - (a) when was the company formed; and
 - (b) what is its share capitalization?
- (12) Who are the directors of the company?
- (13) Are any of the company directors Ministers or senior public servants?

Hon E.J. CHARLTON replied:

I draw the member's attention to the acronym WAGR and advise that it is the old name for Westrail

- (1)-(13) The contract between the Grain Pool of WA and WAGR is based on commercial considerations that best meet the needs of the company, the grain growers, and Western Australia. It is estimated that the value of the contract in 1997/98 will be between \$85-87(Aust) million in 1997/98, for all grains.

STRATEGIC PLAN FOR ABORIGINAL EDUCATION AND TRAINING

1436. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

With reference to the Western Australian Strategic Plan for Aboriginal Education and Training -

- (1) How many departments or agencies will be required to implement this plan?
- (2) How many departments or agencies have already implemented this plan?
- (3) Is there a date by which all departments or agencies are required to have implemented this plan?
- (4) If yes, what is this date?
- (5) If not, why not?

Hon N.F. MOORE replied:

- (1) The plan is to be implemented by the Education Department and the Department of Training. In addition, the Catholic Education Office, the Association of Independent Schools and all universities have agreed to implement this plan.
- (2) The Education Department of WA, Catholic Education Office, Association of Independent Schools, all universities, WA Department of Training are currently implementing the plan.
- (3) No. The strategic plan is a rolling plan for the period 1997-1999 and all departments and agencies are to report to the Aboriginal Education and Training Council (AETC) on each priority on an annual basis. These reports will be correlated with a survey and consultation with Aboriginal people carried out by the AETC each year. The final report will then be made available to the Ministers responsible for education and training, to the providers and to key Aboriginal groups including the Aboriginal Justice Commission. The AETC monitoring report for 1997 is currently being developed and will be available in May 1998.
- (4) Not applicable.
- (5) The strategic plan is a rolling plan for the years 1997-1999 and each department and agency will incorporate different aspects of it within their own operational plans over that period of time depending on their own circumstances. It is expected that all departments and agencies would be able to demonstrate considerable achievement of the stated outcomes by the end of 1999.

STUBBS TERRACE HOSPITAL

1473. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Health:

- (1) Is the Minister for Health aware that patients at Stubbs Terrace Hospital were admitted for a 10-12 week treatment in October 1997 when it was known that the hospital would close in December 1997 before the treatment was complete?
- (2) Is the Minister aware of any patients who have not been readmitted to complete their treatment?
- (3) Were all patient files at Princess Margaret Hospital over the closure period when patients had been directed there for emergency treatment?
- (4) If not, why not?

Hon MAX EVANS replied:

- (1) It was known that closure was pending but no definite date was known at that time. It was felt better to provide care for the children rather than to terminate the programme. The children stayed different periods of time. Clinical requirements determined the length of stay.
- (2) I am aware that one parent was unhappy that her child's treatment had not been completed. This parent has met with the Director, Psychological Clinical Care Unit KEMH/PMH, the Executive Director Nursing KEMH/PMH and the Parent Advocate PMH. Assurances have been provided that, if her consulting psychiatrist feels there is a clinical need for readmission of her child, Stubbs Terrace is happy to take the child back. Stubbs Tce is happy to take back any child who is referred by their treating psychiatrist.
- (3) No.
- (4) Some files were at KEMH medical records department being coded. A decision was made to retain the files at KEMH for the period of the Stubbs refurbishment for purposes of safekeeping. All files were accessible during this time.

QUESTIONS WITHOUT NOTICE

PATRICK THE AUSTRALIAN STEVEDORE

1403. Hon TOM STEPHENS to the Minister for Transport:

- (1) Is the Minister aware that the court today has declared the sacking of Patrick The Australian Stevedore's workers to be illegal?
- (2) Does the Minister condone the actions of the Fremantle Port Authority in allowing substantial modification to the wharf in order to facilitate this illegal action?

- (3) Does the Minister support the sacking of Western Australian workers in the transport industry and replacing them with casual labour from overseas?

Hon E.J. CHARLTON replied:

- (1)-(3) Yes.

DRIVER'S LICENCE LICENSING SYSTEM

1404. Hon TOM STEPHENS to the Minister for Transport:

I refer to the Auditor General's agency audit which criticises the security of the Department of Transport's licensing system which processes drivers' licence transactions. The Auditor General has found that it is possible for unauthorised current and former employees of the department to access the licences.

- (1) Does this information include the names, addresses, gender, age and conviction of licence holders?
- (2) What action will the Minister take to ensure that the privacy and security of Western Australian licence holders is attended to as a matter of urgency?

Hon E.J. CHARLTON replied:

- (1)-(2) I do not know whether the Leader of the Opposition has had a couple of days to go through the Auditor General's report - like the rest of Western Australia - before I had the chance to see it or whether he read it in the past few minutes.

Hon Tom Stephens: It has been in the Assembly since 11 o'clock this morning. The Auditor General was in dialogue with the Minister's department before this report was prepared.

Hon N.F. Moore: He is in dialogue with everybody.

Hon E.J. CHARLTON: I read the comments in the Auditor General's report on the security of licence information. I will ask that question of the department. However, it is probably more important to recognise the changes that the department has implemented since it took over the licensing procedures from the police in the past couple of years, rather than dwell on this matter. It is a serious issue.

Hon Ljiljanna Ravlich: What is the answer?

Hon E.J. CHARLTON: I have already given it: I will ask the department a question about it. New technology is being introduced for licensing to ensure not only that we have security but also that information can be accessed from that databank in a way that will protect the community. As members know, we used that information to determine taxi drivers' credibility some time ago.

REGIONAL FOREST AGREEMENT STEERING COMMITTEE

1405. Hon NORM KELLY to the Minister representing the Minister for the Environment:

Further to the Minister's response to question on notice 1420, page 123 of the comprehensive regional assessment released in February 1998 states that independent reports on the response of species and ecosystems to disturbance "are available separately on request".

- (1) Why do those publicly funded independent reports require clearance by the Regional Forest Agreement Steering Committee prior to being made available to the public?
- (2) Why has there been such a lengthy delay in obtaining clearance?
- (3) Has the steering committee made or recommended any changes to these reports prior to giving clearance?
- (4) Will all of these reports be publicly available prior to the RFA options/directions paper being released?
- (5) Apart from Dr Christensen's report, are any other reports that the CRA steering committee states are available not available?
- (6) If so, why are they unavailable?

Hon MAX EVANS replied:

I thank the member for some notice of this question. As the answer requires research I ask the member to place the question on notice.

CITY OF WANNEROO REPORT

1406. Hon J.A. SCOTT to the Minister representing the Minister for Local Government:

- (1) Did the Minister for Local Government provide copies of the inquiry panel report into the City of Wanneroo to each of the suspended councillors before tabling the report in Parliament?
- (2) Is the Minister required to provide the report to the suspended councillors before making the report public?
- (3) If the Minister is required to provide the report to suspended councillors, why did he not do so?
- (4) Is the Minister bound by the Local Government Act?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1)-(4) Section 8.23 of the Local Government Act requires the Minister to provide a copy of the inquiry report to the relevant local government - in this case to the Commissioners of the City of Wanneroo, the suspended councillors and the public.

After taking advice from the Solicitor General the Minister determined to table the report and seek Parliament's approval for its publication. Arrangements were made for personal deliveries of copies of the reports to the commissioners and suspended councillors as soon as Parliament gave its authority for the printing of the report.

PRINCESS MARGARET HOSPITAL FOR CHILDREN

1407. Hon J.A. COWDELL to the Minister representing the Minister for Health:

- (1) How many children who had elective surgery scheduled at Princess Margaret Hospital for Children for the approaching school holidays have had, or will have, that surgery cancelled?
- (2) How many of these children come from (a) the metropolitan area and (b) non-metropolitan areas?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Fifty-nine.
- (2) (a) Forty-seven.
(b) Twelve.

FERRETS

1408. Hon GIZ WATSON to the Minister representing the Minister for the Environment:

- (1) Is the Minister aware of the known impact of ferrets on the population of native fauna and the danger to humans?
- (2) Is there any investigation and/or monitoring of both captive and wild populations of ferrets in Western Australia?
- (3) Are there any controls on ferret introduction, breeding, reproduction and escape into the natural environment?
- (4) If not, why not?
- (5) Will the Minister investigate measures to require that all ferrets be sterilised and therefore reduce the impact of the escape of ferrets into the natural environment?
- (6) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Ferrets - a form of the pole cat, *Mustela putorius furo* - are known to impact on fauna in New Zealand and to have established in Tasmania. From time to time they are located in the wild in Western Australia, but have never established here as a significant feral animal. It is not known why ferrets have not established

in the past, despite being kept widely in rural areas since at least the 1920s. I am not aware that the current pet population of ferrets poses any significant danger to humans.

- (2) Ferrets are subject to import controls by the Commonwealth Government and the coordination of their import and keeping status is maintained through the Vertebrate Pests Committee, which comprises representatives from commonwealth and state feral animal management agencies. The VPC has concluded, given the long history of keeping of ferrets and the lack of evidence of significant agricultural or environmental impacts from the species in Australia, that ferrets should be classified as species for which there is unrestricted entry - other than quarantine requirements - and keeping. Ferrets are not native to Western Australia. They are subject to the requirements of the Agriculture and Related Resources Protection Act, administered by the Minister for Primary Industry. Under the 12 December 1997 gazette listing of declared animals pursuant to that Act, the Minister declared ferrets to be animals exempt from declaration.
- (3)-(4) There are no current controls on the keeping or breeding of ferrets in Western Australia. The Wildlife Conservation Act does, however, contain provisions making it unlawful to release a feral animal, including a ferret, into the wild or keep it for the purpose of releasing it.
- (5) No.
- (6) Published reports and available information suggest that ferrets are not significant environmental pests and do not appear to be able to survive for long enough in the wild in Western Australia to form significant feral populations. Unless information comes to light to demonstrate that ferrets are, or are likely to become, significant environmental pests, there would be nothing to be gained from such measures.

OLD GROWTH FORESTS RULE SET

1409. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:

Further to my question without notice 105 of 1998 -

- (1) Will the Minister for the Environment please provide the "elements of the rule set for old growth" as used in the comprehensive regional assessment process?
- (2) How many hectares of forest were assessed using the old growth rule set?
- (3) How many hectares of forest satisfied the old growth rule set in relation to past logging disturbance?
- (4) How many hectares of forest satisfied all elements of the old growth rule set other than dieback presence?
- (5) How many hectares of forest were found to be affected by dieback to the extent that they could not be defined as old growth?
- (6) Has the Commonwealth Government endorsed the discounting of these areas of forest due to dieback?

Hon MAX EVANS replied:

I thank the member for some notice of this question. This question was received yesterday. Members will appreciate the amount of research required to provide an answer. Therefore, I request the question be placed on notice. As I said in answer to a lengthy, involved question yesterday, sometimes the answers cannot be prepared at the drop of a hat.

The PRESIDENT: Order! Is the Minister saying the same question was asked yesterday?

Hon MAX EVANS: No. The question requires a considerable amount of research for an answer to be prepared. The answer, which was prepared yesterday on receipt of the question, requested that the member place the question on notice on that basis.

WESTERN ROCK LOBSTER FISHING 7/10 RULE

1410. Hon GREG SMITH to the Minister representing the Minister for Fisheries:

I refer to the western rock lobster fishing 7/10 rule, and ask -

- (1) Given the rule has been abolished, can the Minister advise whether the change to the rule will increase the social, biological and conservation benefits to the community and rock lobster industry; and, if so, in what respect?

- (2) What effect would changing the 150 pot rule, from a maximum pot holding to a maximum pot usage, have on the rock lobster industry?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) The decision to remove the 7/10 rule was based on advice from the Rock Lobster Industry Advisory Committee, with the broad support of the industry. The industry supported this measure as a means of providing licensees with greater flexibility in their decisions concerning boat replacement, the leasing of pots and ongoing investment.
- (2) Predictions of the effect on the rock lobster industry of changing the 150 pot rule from a maximum pot holding to a maximum pot usage would be speculative as the industry is managed by a package of measures.

ANTI-CORRUPTION COMMISSION'S SEARCH PROCEDURES

1411. Hon TOM STEPHENS to the Leader of the House representing the Premier:

- (1) In view of today's media reports relating to the search of a private home by the Anti-Corruption Commission, does the ACC have procedures for the guidance of its officers and investigators in relation to -
- (a) entry to persons' private residences;
 - (b) the treatment of persons found on those premises;
 - (c) the searching of persons found on those premises; and
 - (d) the recording of any material taken from those premises?
- (2) Are those procedures in writing?
- (3) Will the Leader of the House table a copy of the procedures?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(3) All searches are governed by the terms of the warrant issued. In addition, the Anti-Corruption Commission has procedures for the guidance of its officers in relation to the entry and search of premises and the recording of items seized during such searches. These procedures are contained in written operational orders prepared specifically for each occasion on which a search warrant is to be executed. These operational orders contain clear and precise guidelines relative to the particular search or searches to be undertaken and cover such issues as situation, mission, execution, administration and logistics, command and communications, matters for special consideration and search procedures.

Each officer involved in a search is issued a copy of the operational order. All officers are also required to attend an operational briefing conducted by a senior commission officer prior to the operation commencing.

The operational orders prepared by the commission are classified as highly protected documents as they contain highly sensitive and confidential information and, therefore, are not able to be tabled in the House.

The Anti-Corruption Commission has strict requirements on members of its personnel with respect to their treatment of persons with whom they come in contact. These are contained in the Public Sector Code of Ethics issued by the Public Sector Standards Commission and adopted by the ACC, and its own code of conduct. Strict compliance with these codes is a term of the contract of employment of each ACC officer.

AUDITOR GENERAL'S REPORT ON THE OFFICE OF THE VALUER GENERAL

1412. Hon HELEN HODGSON to the Minister for Finance:

I refer to the report of the Auditor General on ministerial portfolios which indicates that the report on the Office of the Valuer General was qualified for non-compliance with Australian Accounting Standard 29, in accordance with the Treasury Instruction. What action has the Minister taken in respect of this matter?

Hon MAX EVANS replied:

I have not read anything in this report, other than the comments in the media release. The Auditor General is supposed to see Ministers. Last night the Minister for Primary Industry told me that the accounts were signed off

on 28 October. The Auditor General should have been to see him before he signed off the accounts disclaimer. The Auditor General saw the Minister last Friday and told him what had happened. As I said, the Auditor General is supposed to see the Ministers to discuss these things. I do not think we have Treasury Instructions. I have trouble reading them, let alone understanding them, and I am trying to get them rewritten in simple English. I will find out what is happening.

Hon Tom Stephens: Is he adequately resourced?

Hon MAX EVANS: I would not like to have a business with 128-odd staff with five chartered accountants or auditors to start with. He knows my views on that. If the member puts the question on notice, I will find out the information for her.

TELSTRA TELECOMMUNICATIONS BASE AT LANDSDALE

1413. Hon RAY HALLIGAN to the Minister representing the Minister for Planning:

What powers does the Minister for Planning have to intervene between rezoning decisions of local councils and the requirements of the federal communications Act? In particular, I refer to the planning problems surrounding the Telstra telecommunications base at Landsdale.

Hon N.F. MOORE replied:

On behalf of the Attorney General, I thank the member for some notice of this question. The rezoning of land under a local government authority's town planning scheme requires the approval of the Minister for Planning under section 7 of the Town Planning and Development Act. In respect of a situation such as the Telstra telecommunications base at Landsdale the Minister for Planning has the power to refuse a request to rezone the site when such a rezoning would be inconsistent with orderly and proper planning.

SCHOOL CLEANERS' AND GARDENERS' WAGE INCREASE

1414. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

In the light of the Industrial Relations Commission's decision last week awarding school cleaners and gardeners a 13 per cent wage increase backdated to August 1997, and given the Minister's assurance to the Federated Miscellaneous Workers Union that "once the decisions have been handed down, the department will proceed to implement them", can the Minister advise on what date school cleaners and gardeners will receive the wage increase in their pay?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The Western Australian Industrial Relations Commission has issued only a proposed order. There are other formal processes - speaking to the minutes - to be concluded prior to the official issuing of an order. The Education Department will respond once the official order is issued.

AUSTRALIND BYPASS MEDIAN STRIP

1415. Hon BOB THOMAS to the Minister for Transport:

- (1) Did the Minister or senior officers of Main Roads Western Australia direct or instruct Main Roads' staff in Bunbury to agree to the consultant's proposal to a crossover of the median on the Australind bypass?
- (2) If so, why has the Minister overridden his instruction of 1994 that there should be "fencing and curbing of the median from Vittoria Road to Craddock Drive provided to prevent illegal crossing of the median"?
- (3) Can the Minister confirm that the new port access road will be constructed in close proximity to the Shell Gateway Service Station?

Hon E.J. CHARLTON replied:

- (1)-(3) No-one instructed Main Roads to approve that opening in the median strip. It was recommended to Main Roads' head office in Perth, following the application from Bunbury, and the person in charge of Main Roads' Perth office approved it. He did not direct or tell anyone to do anything; he simply approved it, because he is the person who has the responsibility to make those decisions.

Hon Bob Thomas would know that the port access road is in close proximity, but the final design of that road has not yet been completed.

Hon Bob Thomas: Which street will it be in?

Hon E.J. CHARLTON: I do not know off the top of my head, but I will find that out.

This question is rather opportune, and I will mention this so that we get a little balance in these repetitive questions that are being asked about the median strip. In mid-1997, I received a request from the member for Peel, Mr Norm Marlborough, for assistance on behalf of a developer of a service station in Rockingham Road, Naval Base, who wanted Main Roads to review its position that direct access to Rockingham Road was not appropriate. As a result, a design was agreed to which accommodated the access request while maintaining safe and efficient traffic operations. Mr Marlborough requested me to ask Main Roads to revise the situation; it did, and it gave approval.

In 1998 - this year - Mr Clive Brown MLA wrote to me on behalf of a retail outlet in Carramar Village with regard to a decision by Main Roads not to allow a median break in Benara Road adjacent to that shopping centre. As a result, a median opening will go in there as well, which Main Roads approved.

Members on both sides of the Parliament have sought, as we all do, quite properly, some assistance from the Minister or from the local member with regard to a decision that has been made, for whatever reason. In the case of the requests by Mr Norm Marlborough and Mr Clive Brown, I responded by asking Main Roads to have another look at the matter; and in both cases, those members had their requests approved - no ifs, no buts. It is a disgrace that Hon Bob Thomas would try to get media coverage all over the south west and insinuate that some improper practice took place with regard to this median opening. If Hon Bob Thomas or anyone else asks me to have a matter reviewed, it is always my pleasure to respond to those members who make such requests.

GEORGE WESTON FOODS, SPEARWOOD

Zoning

1416. Hon SIMON O'BRIEN to the Minister representing the Minister for Planning:

What is the current zoning of the George Weston Foods site in Spearwood; and is there any move to change this zoning?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The current zoning of the George Weston site in Spearwood under the City of Cockburn town planning scheme No 2 is "industry - special B". Under the metropolitan region scheme, the site is zoned urban. No current proposal is before the commission to change the zoning of the George Weston site in Spearwood.

FOUR LANE ROAD THROUGH CLAREMONT

1417. Hon J.A. SCOTT to the Leader of House representing the Premier:

Will the Premier confirm that the Government will not build a four lane road through Claremont in the next 10 years, as stated by Colin Barnett, the member for Cottesloe?

The PRESIDENT: Order! Before I call the Leader of the House, one issue that has caused me some concern in recent days is members apparently implying that the Ministers in this House are, by some miracle, carrying out the responsibilities of Ministers in the other House. I use this question by way of example. The question asked if the Premier was prepared to do something. The Leader of the House represents the Premier, and the question must be framed in that representative capacity. Having said that, I invite the Leader of the House to consider the answer to that question and, if he has one, to deliver it to the House.

Hon N.F. MOORE replied:

The member should place the question on notice and the Premier will provide an answer.

VICTORIAN TRUCKING COMPANY'S LICENCE EXEMPTION

1418. Hon KEN TRAVERS to the Minister for Transport:

- (1) Why did the Department of Transport grant to a Victorian interstate trucking company an exemption from section 16 of the Road Traffic Act?
- (2) Is the Minister aware that this company can now offer intrastate services at below cost and thereby destroy the business of small regional companies?

- (3) Has the Minister or his office been approached by the company or by the Department of Transport with regard to the grant of this exemption?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1),(3) Under section 16 of the Road Traffic Act, the director general may approve the use of an out of state registered commercial vehicle within Western Australia. Each application for such approval is treated on its merits. In some instances this may be due to the expiration of the eastern States licence.
- (2) If the member were more specific with regard to the company in question, I might be able to provide some specific information. A national vehicle licensing system is in existence that imposes one charge across Australia. An operator who wants to operate within Western Australia currently receives a rebate of that licence. An operator with an eastern States licence who was operating intrastate would probably be at a disadvantage compared with local operators, because local operators would get that discount. If the member wants more clarification, I ask him to please give me the details.

GOVERNMENT MEDIA OFFICE

Provision of News Items Free to Private Agencies

1419. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I refer to the Premier's answer to question without notice 998 in the Assembly on 1 April with regard to the provision of media monitoring services and reports free of charge to any private public relations businesses.

- (1) Has the Premier made the inquiries he undertook to make?
- (2) Can the Premier now provide an answer to the question?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(2) The Government Media Office provides media monitoring services to all Ministers' offices and some government agencies. For instance, the Anti-Corruption Commission requested and receives news summaries, transcripts and cuttings on issues relevant to its operations. The Premier is not aware of any instances where this information has been provided free of charge to private public relations companies. The Director of the Government Media Office has issued an instruction that if such practices have occurred in the past, they shall cease immediately.

CO-OPERATIVE BULK HANDLING LTD

Alterations to Memorandum and Articles of Association

1420. Hon KIM CHANCE to the Minister representing the Minister for Primary Industry:

- (1) Is it correct that the Crown Solicitor has provided advice to the Ministry of Fair Trading to the effect that the proposed alterations to the memorandum and articles of Co-operative Bulk Handling Ltd in 1997 were in direct contravention of the Bulk Handling Act and the Companies (Co-operative) Act?
- (2) If so, did form H, signed on behalf of CBH, have the effect of misleading the Minister and possibly other government Ministers?
- (3) What is the position of the officers and/or directors of Co-operative Bulk Handling if they have attempted to register these apparently irregular proposed alterations to their memorandum and articles of association?
- (4) What remedial action, if any, will the Minister take to ensure that any alteration to the memorandum and articles of Co-operative Bulk Handling is in compliance with the Bulk Handling Act and the Companies (Co-operative) Act?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

I am advised that this should be directed to the Minister for Fair Trading.

TIMBER INDUSTRY

*Forest Reserve System***1421. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:**

Given that the Executive Director of the Department of Conservation and Land Management has provided the Forest Industries Federation of Western Australia with a preliminary analysis of the proposal of the Western Australian Forest Alliance for a forest reserve system and a sustainable timber industry -

- (1) Will the Minister release the analysis in full? If not, why not?
- (2) Was the analysis conducted by CALM officers alone?
- (3) Were Commonwealth Government regional forest agreement officers also involved in carrying out the analysis? If so, who?

Hon MAX EVANS replied:

I thank the member for some notice of this question. As it requires research I request the question be placed on notice.

ESPERANCE PORT AUTHORITY

*Purchase of Power Station***1422. Hon GIZ WATSON to the Minister for Transport:**

With reference to answers to questions 146 of 31 March 1998, 1220 of 3 November 1993 and 1228 of 9 November 1993, re the proposed purchase and establishment of a power station by the Esperance Port Authority associated with the establishment of an iron ore loadout facility for the iron ore coming from the Koolyanobbing mine, can the Minister answer -

- (1) Why the Esperance Port Authority is now purchasing a power station at a cost of \$270 000 and not, as the Minister identified in answers to questions 1220 and 1228, accessing power provided by private enterprise?
- (2) Where will the funds for the purchase, maintenance and running costs of a diesel powered generator come from?
- (3) If the funds are being supplied by the State, what repayment structure is in place for the capital used in this purchase?
- (4) What is the projected unit cost of electricity, inclusive of repayments, maintenance and running costs of this power plant?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1)-(4) The authority is producing its own power at an estimated cost of 19¢ to 21¢ per unit. Private enterprise was asked to tender and the cost per unit was approximately 26¢ per unit.

The power station was purchased from internally generated funds. Maintenance and running costs will be met from funds that would normally be paid out to purchase electricity from Western Power at 32.35¢ per unit and the on selling of power to Co-operative Bulk Handling, which uses approximately 60 per cent of the port's power, Summit Fertilizers, Outokumpu Mining, Koolyanobbing Iron, Western Mining Corporation and Black Swan Nickel.

Just to make it clear to the member, the Esperance Port Authority has bought a power plant to provide power to its port users at a cost lower than those port users would have paid by buying it from Western Power. They have done that to ensure that the throughput of the Esperance Port will continue. If it was foolish enough to pay the increased power charges, that would have an effect on the viability of the users.

PUBLIC DENTAL HEALTH SERVICES

*Utilisation***1423. Hon NORM KELLY to the Minister representing the Minister for Health:**

- (1) What are the utilisation rates of public dental health services by those who are eligible?

- (2) Have these rates increased in the past five years; if so, by how much?
- (3) What is the per capita amount spent in the school dental health program?
- (4) What is the per capita amount spent for public dental health services for the elderly and disabled?
- (5) How many dentists provide public dental health services to people in nursing homes and hostels throughout the State?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1)
 - (a) Children: Approximately 90 per cent of eligible preschool and primary school children access the school dental service. Approximately 70 per cent of eligible high school children access the school dental service.
 - (b) Adults: Approximately 20 per cent of eligible adults accessed public dental care in 1996-97.
 - (2) Yes.
 - (a) Children: While preprimary and primary school children's utilisation rates have remained relatively unchanged, high school children's utilisation rates have increased from about 50 per cent to about 70 per cent.
 - (b) Adults: Utilisation peaked in 1995-96 at approximately 25 per cent and fell again when the commonwealth dental health program was terminated.
 - (3) 1996-97: \$62.04.
 - (4) This information is not separately identified for this group of patients. However, the cost of care for adults, including the elderly and disabled, is approximately \$66 per emergency course of treatment and approximately \$290 per general course of treatment.
 - (5) 1.1 FTE public dentists work in the area. Nursing and hostel patients in the country can also receive care from about 70 dentists and nine dental prosthetists who participate in the country patients' dental subsidy scheme. Ambulatory nursing home or hostel patients can also receive care by accessing services provided by around 60 public dentists at public dental clinics.
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